

ROMANIA  
MINISTRY OF INTERNAL AFFAIRS



ANTI-CORRUPTION GENERAL  
DIRECTORATE



# BEST PRACTICES MANUAL

ON STRENGTHENING REGIONAL COOPERATION  
TO PREVENT AND COMBAT CORRUPTION  
AT THE EU EXTERNAL BOUNDARIES



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## 1. Introduction

Within the European Union, corruption is not just a national issue, since it is a widespread international phenomenon, with repercussions on the principles on which the EU operates. Corruption can affect the democratic institutions of the Member States, therefore violating the criteria for the EU accession.

Given that the fight against corruption is no longer only a national priority, but a European priority, the European Union considers preventing and combating corruption as a key element for supporting the freedom, security and justice area in Europe. Recognizing that corruption is difficult to eradicate, the European Commission recommended the Member States since 2002, within the Communication on a comprehensive EU policy against corruption, to develop new tools and to appoint more specialised personnel members in the anti-corruption field.

To support these efforts, the European Commission has approved a Community action program to promote activities for the protection of the Community's financial interests (programme Hercule II, managed by the European Anti-Fraud Office). The programme Hercule II was established to promote activities to combat fraud affecting the European Union's financial interests, including cigarette smuggling and counterfeiting.

The programme provides technical, legislative assistance, organization of training courses, seminars and conferences to support the fight against fraud, corruption and other illegal activities, and developing and implementing policies to prevent and detect fraud.

In the month of June 2011, the European Commission adopted a package of anti-corruption measures in response to requests from Member States to establish common criteria and indicators based on existing systems, to evaluate anti-corruption measures in the European Union and the European Parliament to allow monitoring of Member States efforts.

The involvement of neighbouring states, Serbia and Moldova, in the European project funded by Hercules II (2007-2013) of the European Union, under which this manual was developed, in addition to providing a regional project, focuses on trans-border issues related to corruption at the external borders of the European Union to establish an anti-corruption cooperation network.

### 1.1. Project overview

The project ***'Strengthening regional cooperation to prevent and combat corruption at the EU external boundaries'***, implemented by the Romanian Anti-corruption General Directorate, in partnership with Internal Affairs Sector of Serbia and the National Anti-

Corruption Centre of Moldova, was funded by the programme Hercules II (2007-2013) of the European Union.

The project ***'Strengthening regional cooperation to prevent and combat corruption at the EU external boundaries'*** implemented during the interval January-August 2013, had the following **main objectives**:

- facilitating, encouraging and developing international cooperation in the fight against fraud and corruption affecting the EU's financial interests, including the fight against cigarette smuggling, by exchange of experience between the authorities of the Member States and the candidate countries and disseminating general operational knowledge in these areas.
- creating networks between Romania, Moldova and Serbia to facilitate the exchange of information, experience and best practices in the fight against fraud and corruption;
- developing common methods to prevent fraud and corruption and promoting a better understanding of these areas.

**The project results** consisted mainly of strengthening the cooperation and information exchange between anti-corruption structures from Moldova, Serbia and Romania, at regional level, at the EU's external border, improving the expertise of those involved in preventing and combating corruption in identifying system deficiencies to prevent and combat fraud and corruption and developing proposals to address them. Project results will be disseminated by anti-corruption structures in partner countries and other EU countries and the EPAC - European Partners Against Corruption / EACN - European Anti-Corruption Network, as to further adapt their national character.

They were made by four bilateral visits for personnel experience exchange between the AGD and each of the two partners, based on the promotion of best practices in preventing and combating corruption, plus individual work to develop the best practices manual. A joint roundtable allowed the discussion and completion for the contribution of each partner, to achieve a unitary manual.

## **1.2. Objective of the manual**

The manual herein is the direct result of the four experience exchange meetings between Romanian, Moldovan and Serbian experts, beings discussed at the roundtable held during May 28<sup>th</sup> -30<sup>th</sup> 2013.

Improving the expertise of those involved in preventing and fighting corruption was reflected in the preparation of this best practices manual from the experience of the three countries involved in the fight against corruption.

The manual is designed as a useful tool for all professionals involved in trans-border cooperation in preventing and combating corruption within the law enforcement system. As a result, it will be updated periodically, taking into account the developments in legislation and best practices, nationally and internationally, as well as of practical experience covered.



The final version of the manual, written in English, Serbian and Romanian will be made available to law enforcement authorities in Romania, Serbia and the Republic of Moldova.

The English version of the manual will be sent to the contact points of the EPAC European Partners Against Corruption / EACN European Anti-Corruption Network, for the dissemination of good practices and the sustainability of the project by supporting other members and candidates in their efforts to combat corruption.

## **2. Overview of partner institutions, of the activity and of the obtained results, with examples of best practices**

### **2.1. The Anti-corruption General Directorate**

2.1. The Anti-corruption General Directorate was established under Law no. 161/2005 and is the specialized structure of the Ministry of Internal Affairs for the prevention and combating corruption among the ministry personnel. Since June 12<sup>th</sup> 2013, the D.G.A. has been the structure of the Ministry of Internal Affairs, with legal standing, specialised in preventing and combating corruption, by adopting the Government Emergency Ordinance no. 59 on the establishment of effective measures of prevention and fight against corruption. Since this manual was written before this change, it does not reflect the organizational changes of the AGD.

The establishment of this directorate was supported by the European Union, by granting support from specialists from Great Britain and Spain, by means of the Programme PHARE 2002.

We hereby state that the Ministry of Internal Affairs is the largest structure within the Government of Romania, having 130,000 employees, comprising of the most significant law enforcement agencies: the Romanian Police, the Border Police, the Gendarmerie, the Emergency Response Inspectorate, etc.

The Anti-corruption General Directorate established cooperation rules with public and private bodies aiming to prevent and combat corruption in the Romanian society.

Their personnel operates in accordance with domestic and international legal provisions to which Romania is a party, in compliance with the principles of objectivity, confidentiality and impartiality, and with the human rights and freedoms in conducting investigations.

They have a strong proactive character of anticipating and identifying the vulnerabilities and risk factors, following their removal in order to provide the Ministry of Internal Affairs personnel with a quality a public service, uncorrupted by corruption acts.

The Anti-corruption General Directorate promotes within its activity the integrity, honesty and professionalism, as standard both for its own personnel, as well as for the personnel of the Ministry of Internal Affairs.

#### **2.1.1. Legal base and programmatic documents**

The prevention and combating of corruption in Romanian, as well as the activity of the Anti-corruption General Directorate, are regulated by:

- **Law no. 78 as of May 8<sup>th</sup> 2000** on preventing, discovering and sanctioning of corruption acts;
- **Law no. 364 as of December 30<sup>th</sup> 2004** on the organization and functioning of the judicial police;
- **Law no. 161 as of May 30<sup>th</sup> 2005** establishing measures to prevent and combat corruption in the Ministry of Internal Affairs;
- **Emergency Ordinance no. 120 as of September 1<sup>st</sup> 2005** on the operationalization of the Anti-corruption General Directorate within the Ministry of Internal Affairs, ratified by Law no. 383 as of December 16<sup>th</sup> 2005;
- **M.A.I. Order no. 275 as of December 20<sup>th</sup> 2010** on the organization and functioning regulation of the Anti-corruption General Directorate.
- **Government Emergency Ordinance no. 59 as of June 12<sup>th</sup> 2013** establishing measures for improving the prevention and fight against corruption

The main programmatic document with incidence in the competence field of the Anti-corruption General Directorate is the Government Decision no. 215/2012 on approving the **National Anti-corruption Strategy** for the interval 2012-2015, a programmatic document to which the D.G.A. contributed substantially in the elaboration.

In this sense, at ministry level, was issued the Minister Order no. 174 as of July 16<sup>th</sup> 2012 on approving the **Sectoral action plan** for implementation, at the level of the Ministry of Internal Affairs (M.A.I.), of the National Anti-corruption Strategy for the interval 2012 – 2015, as well as for the approval of the **Inventory of preventive anti-corruption measures and assessment indicators**.

The Anti-Corruption General Directorate has a multiannual institutional evolution document tracing the sustainability lines of its own activity, namely the **Institutional development strategy of the D.G.A. 2010-2013**. Furthermore, the institution contributed to the elaboration and implementation of the **Strategic plan of the M.A.I. 2010-2013**, of the **National Strategy for Public Order** (Government Decision no. 1.040/2010) and of the objectives set by the **Governing Programme** (Parliament Decision no. 15 as of May 07<sup>th</sup> 2012 for granting trust in the Government).

## 2.1.2. Organization

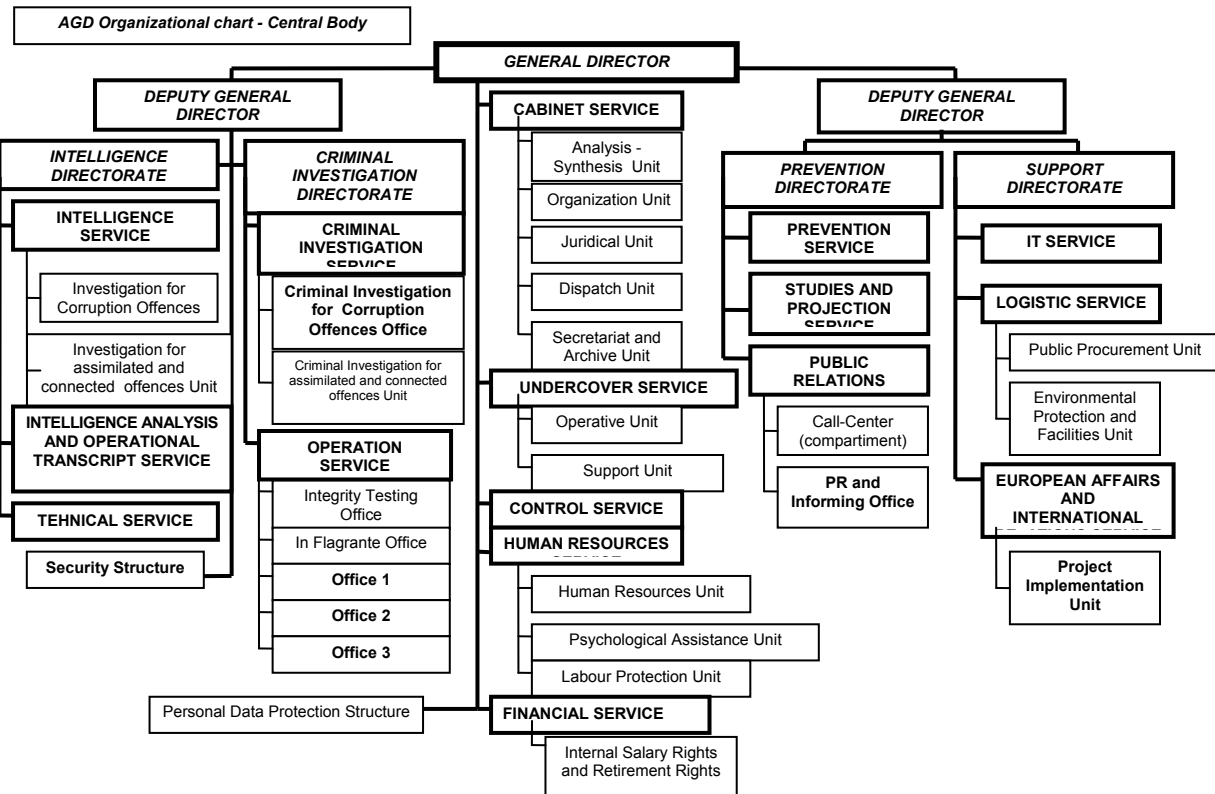
The Anti-corruption General Directorate is directly subordinated, from an administrative point of view, to the minister of internal affairs. Under procedural aspects, having the quality of legal police, the officers of the Anti-corruption General Directorate are coordinated by the case prosecutor, in case of conducting investigations.

The Anti-corruption General Directorate comprises, at **central level**, of four directorates (the Inquiries Directorate, the Investigation Directorate, the Prevention Directorate and the Support Directorate) and a series of support structures, under direct

subordination to the general director (Human Resources, Legal Department, Special Service, Cabinet, etc.).

At **territorial level** there are 42 Services having employees with attributions for inquiries, investigations and preventing corruption.

The territorial anti-corruption services have the territorial competence corresponding to the counties where they carry out their activity, developing preliminary and criminal investigation documents related to corruption offences, according to legal competences.



### 2.1.3. Tasks

The main **tasks** of the Anti-corruption General Directorate are as follows:

- ✓ Carries out activities for preventing corruption acts within the personnel of the Ministry of Internal Affairs and coordinates raising awareness campaigns within the population as compared to corruption risks;
- ✓ Carries out activities for the receipt of citizen complaints/requests regarding corruption acts or deeds of the ministry personnel, as well as public relation activities, specific to the competent issues;
- ✓ Carries out legal police activities, according to the law;
- ✓ Organizes and carries out professional integrity testing activities for the ministry personnel;
- ✓ Establishes and manages the unit database on internal corruption acts and deeds;
- ✓ Analyses the evolution of internal corruption acts and deeds, based upon which strategy documents and methodologies in the field are drawn up; informs the Ministry of Internal Affairs or other qualified factors, according to the law.
- ✓ Carries out international cooperation and European affairs activities, in the field against corruption, according to the interests of the Ministry of Internal Affairs.

### 2.1.4. Activity carried out, results and best practices

The activity of the AGD is centred on two major coordinates: prevention and mitigation of corruption.

- **The prevention activity** comprises:
  - Prevention meetings and training seminars with the ministry personnel, where aspects related to the role and attributions of the AGD, corruption offences and administrative and criminal measures, risk factors and vulnerable corruption areas and the obligations of civil servants are discussed;
  - Conducting polls and awareness campaigns for citizens;
  - Elaborating risk and strategic analysis, based upon which measures for eliminating the causes and factors generating corruption are suggested.

Within such activities, the AGD collaborates, based upon certain protocols, with other structures of the ministry, (Romanian Police, Border Police, Gendarmerie, etc.), with specialised institutions, such as the Institute for Research and Prevention of Crime, NGOs, mass-media, but also directly with the citizens.

- Regarding the **activity of combating corruption**, as a legal police structure, the AGD fulfils the following stages of the investigation:
  - Receiving notices (complaints, denunciations, ex-officio notices) on potential corruption offences;
  - Verification, development/processing and exploitation of information;

- Conducting all procedural activities for achieving probation based upon the delegation of the case prosecutor.
- The AGD may submit an ex-officio petition on the existence of corruption acts or acts corresponding/similar to corruption.

**After receiving notices, the officers of the Anti-corruption General Directorate** proceed to checking the information comprised within, by specific investigation, operative surveillance, integrity testing methods or by consulting the relevant data bases (passports, criminal records, statements of assets, driver's licenses, Trade Register and other data bases).

In accordance with the Criminal procedure code, if sufficient evidence and information on the possibility of a corruption offense is obtained, the AGD shall notify prosecutors within the Prosecutor's Offices competent from material and territorial point of view.

Subsequently, the case prosecutor appoints legal police officers of the AGD, shall conduct **criminal research activities** concerning:

- Operative documenting, according to the offence type and suspect quality;
- Hearing of suspects for criminal offences, witnesses and other parties;
- Using undercover investigators;
- Conducting on-site investigations, searches and action for catching in the act under the prosecutor's surveillance;
- Collection of relevant objects and documents related to the investigated offences.

The following are details on any aspect of the activity of the National Anti-corruption Directorate.

#### *2.1.4.1. Studies on the corruption phenomenon*

The studies activity concerning the corruption phenomenon is coordinated and performed, at the level of the National Anti-corruption Directorate, by means of the Studies and anti-corruption projection service, having the following main attributions:

- a) initiates, designs and conducts, at national level and territorial profile, according to specific methodologies, studies and polls within the personnel of the M.A.I. and the population, for analysing and diagnosing corruption at institutional level; these can be established in collaboration with M.A.I. structures, with other central and local public institutions, as well as individual and legal entities;
- b) conducts, according to specific methodologies, analyses and case studies for identifying individual, organisational and external factors providing a basis for corruption acts committed by the M.A.I. personnel;
- c) develops and updates the specific methodology on the identification, description, estimation, prevention, control, review and periodic monitoring of risk factors and

professional practices generating or potentially favouring the acts of corruption within the M.A.I. personnel and structure;

According to the tasks set, the service activities can be organised in two main categories:

#### **2.1.4.1.1. Activities carried out in the context of risk management and vulnerabilities to corruption within M.A.I. specific fields of activity**

Starting from the establishment of the AGD, identifying risks and vulnerabilities to corruption in Mai institutions/structures has been a constant of our activity, and during the Twinning PHARE 2006 project 'Continuing the battle against corruption in public administration' were created the premises of drawing up a specific methodology in the field.

For ensuring the conceptual and methodological framework required for the performance of this goal, the AGD developed and sent to the institutions/structures of the ministry the Methodology on identifying risks and vulnerabilities to corruption. Being implemented within all competent structures and the fields of activity within the ministry's responsibility, it was adopted as amending the Conception on the prevention activity for corruption acts within the M.A.I. structures for the interval 2009–2012.

##### **a) *The methodological coordinates of the risk analysis and vulnerabilities to corruption***

In light of the above, the main novelties ***brought by the 'Methodology on identifying risks and vulnerabilities to corruption', adopted in November 2009 and applied at the level of the entire ministry starting with the year 2010***, are represented by:

- Performing a scan of corruption risks within the organisational components and MAI specific fields of activity, compliant with a **standardised analysis framework** (namely a methodology);
- The approach assumed the **training and consultation with all interested parties** (components of the M.A.I., various employee categories, external partners or beneficiaries of the specialised public services), being actively associated within the process as *Working groups for preventing corruption*;
- The activities conducted at the level of each structure have had **considerable autonomy**, the intervention of AGD specialised personnel (Service Studies and Anti-corruption Projections, namely prevention officers within anti-corruption county structures) being limited to creating technical competences of advisors for integrity/ the working group, monitoring activities performed within each of the stages of implementing the Methodology, namely support or guidance for clarification and solving inherent problems;
- If the methods or techniques used prior for identifying corruption risks had a strong *reactive character* (consisting of *further assessment of achieving such risks* by committing corruption acts), the approach suggested by means of the Methodology



is, in essence, **proactive**, assuming a systematic effort for estimating the vulnerability of defence mechanisms against corruption (embedded in the institution structure, procedures, rules and regulations), for identifying and describing areas characterised by corruption risks, the goal being represented by the elaboration and application of prevention/control measures to protect the area against the possibility of transforming risks in corruption acts;

The stages assumed by the Methodology:

*(1) Drawing up the management activity for corruption risks*

*(2) Identifying and describing risks*

Activities within this stage aim to highlight the threats and vulnerabilities to corruption, aiming to give visibility to potential problems before they turn into real problems.

To achieve this objective, the methodology uses the following procedures to identify specific areas at risk (vulnerable) to corruption:

*a. Assessment of the internal normative framework of the institution*

In assessing the internal normative framework, the Group members have focused on the legal provisions regarding activities at risk of corruption, represented by regulations, procedures, mentions, guides, programmes and corruption prevention plans, as well as any other documents basing the conducting of certain activities.

*b. Interviewing the management of the institution/components*

During the identification of corruption risks, the group members should obtain relevant data and information through inquiries of management and other categories of managers within the institution components to clarify or identify their views on corruption risks and how they are identified, described and managed.

*c. Consultations with internal audit and control structures*

In making use of these sources of information, Group members can understand how these components of the institution shall exercise the powers of supervision and intervention in preventing corruption, as well as indices of the potential risks of corruption.

*d. Analysis of corruption cases*

The analysis of current and typical cases of corruption committed by employees of the institution aims at identifying inefficiencies in the management of the institution and identifying its capacity or potential to prevent a certain phenomenon.

*e. Assessing the activity and the specific work situations of employees*

To validate the information obtained from institution components leaders, group members will undertake questioning employees about threats and vulnerabilities to corruption perceived as present in their professional activity and work environment.

The Corruption risks identification and description chart, which will be established as the final point of this stage, will be a general one and will have to review and describe the main recurrent risks for each type or field of activity, highlighting in support of further stages of assessment and risk control, the causes / sources and their effects / consequences.

### *(3) Risk assessment*

Within this stage, starting from the list of corruption risks identified and described, was performed an assessment of the critical character of each of these, taking into account all the performance mechanisms and the relation to other risk areas.

The assessment of attributes for each corruption risk assumes the assessment of the performance **probability** and of the **impact** (consequences) on objectives (activities, expected results, professional performance of personnel) if these are carried out.

Exposure to risks of corruption represents the consequences, as a combination of probability and impact, which an institution can experience in relation to established objectives, where the risk of corruption would materialize and is used to determine the priority, i.e. the intervention term by instituting preventive measures.

### *(4) determining (planning) control measures*

After identifying, describing and assess corruption risks, it is required to establish the type of response for each risk, this referring to inherent risks (for those who have not been conceived and have not applied control measures), or to residual risks (for control), of those that continue to persist even after the implementation of such measures.

The risk control requires that, at the level of the institution / component, it is possible to mitigate the likelihood of occurrence or the impact if the risk would occur, any measure adopted in this context integrating a system known as **internal control**. It involves four major intervention strategies:

- removing/avoiding corruption risks;
- treatment / mitigation of corruption risks;
- transferring the risks of corruption;
- continuous monitoring (acceptance) corruption risks.

### *(5) periodic monitoring and reassessment*

According to the Methodology, this stage completes the cycle comprising of the identification, description, assessment and risk prevention/control, assuming the monitoring/reassessment of the risks of corruption, at a frequency determined by their prevention plan, aiming at analyzing the results and determining actions to approach be taken in the future.

Within all the ministry structures, at central and territorial level, the data and information comprised in the Corruption risk registries have laid the basis for performing **Corruption prevention annual plans**, at the end of the calendar cycle, such plans being reviewed in the sense of *assessing* the measure for actions aiming to reduce/prevent risks and vulnerabilities to corruption have lead, *in fact*, to this, in the limit of deadlines, responsibilities and budgets agreed, the analysis underlining the reasons causing non-performance of several of them.

***b) 'Elaboration of the Report on risks and vulnerabilities to corruption identified in the activity of M.A.I. institutions/structures'***

Taking into account the methodological framework mentioned and the activities carried out at the level of all MAI structures, during the entire year 2010, in the month of March 2011 was developed the 'Report on risks and vulnerabilities to corruption identified in the activity of M.A.I. institutions/structures'.

The document provided an inventory of the corruption risks identified in the general and specific fields of activity of the ministry components, the description of circumstances which favoured corruption manifestation, the description of the main impact dimensions of the corruption risks on their specific objectives and an inventory of general and specific measures, currently applied for corruption risk control.

The document was sent to the central Body units, to general inspectorates (similar), institutions, agencies and ministry authorities, thus existing a large consulting process regarding lists filling and corruption risks description, their clarification and, respectively, the evaluation of the opportunity and efficacy of existing or proposed for control measures.

Consultation results fully justified the usefulness of the initiative, both from the perspective of updating the information regarding risks and vulnerabilities to corruption existing in the ministry components activity and in the normative specific or incident framework content, and from the perspective of receiving useful suggestions/comments in order to improve the document content.

### ***c) Monitoring the implementation of control measures regarding the corruption risks***

The main actions initiated were in achieving a permanent contact with the representatives of M.A.I. structures within the activities of work groups in order to prevent corruption, being deployed approximately 940 activities to which attended over 3500 ministry employees (data for the years 2011 and 2012).

Upon demand or when, during deployed activities, additional training needs were identified, D.G.A. deployed activities on clarifying the role, responsibilities and methods of identification and corruption risk control (approximately 130 activities, supposing over 800 participants).

At the same time, the activities deployed were focused on amplifying the decision factors responsibility regarding the effective application of measures mentioned in the corruption risks registries/ corruption prevention plans, being realised **periodic assessments of actions results and measures set forth in order to prevent/control the corruption risks**.

Nonetheless, it is to mention the fact that AGD has already received funding and initiated the activities in order to implement the project „Improving MAI capacity of identifying risks and vulnerabilities about corruption, using IT solutions" (funded by the European Commission through the Programme of prevention and fighting against criminality 2007—2013), according to which a software application shall be created and implemented in all M.A.I. structures capable of taking over the entire documentation elaborated according to the Management Methodology of corruption risks, in electronic format. The application shall

facilitate data assessment process, reducing the potential bureaucracy and shall provide guidelines of good practice in order to prevent the corruption in all M.A.I. activity fields.

***d) Implementation of the Methodology of identifying corruption risks and vulnerabilities in other public institutions***

In order to underline the results corresponding to the corruption risks monitoring activity at MAI level, we consider that there are to be taken into consideration the appreciations mainly positive expressed by the European Commission<sup>1</sup>, within the Cooperation and Verification Mechanism and the independent auditors performing the evaluation<sup>2</sup> of anti-corruption national strategies implemented at national level during 2005-2010.

Also, it is to mention the fact that the current anti-corruption national strategy took over the management plan on corruption risks developed at M.A.I. level, considering it a good practice in the corruption prevention field and it proposed to be testes and extended at the level of the other public institutions.

In order to implement this measure, our institution took an active role, undertaking already endeavours, in collaboration with the technical secretariat of SNA, in order to identify cooperation availability and regulation (concretised at the beginning of 2013 by concluding collaboration protocols) with four public institutions: Ministry of Health, Ministry of National Education, Ministry of Justice – National Administration of Penitentiaries and the Ministry of Public Finance – National Agency for Fiscal Administration [ANAF].

At the same time, AGD deployed several consulting activities with specialists of the above-mentioned institutions, in order to plan formation activities, but to set forth the regulation type and the content according to which the Methodology provided by the AGD shall be implemented. It is admirable the will manifested at the level of those institutions, confirmed by the decision of adopting the Methodology by administrative acts with normative nature (minister order at the level of the Ministry of Health and Ministry of National Education, respectively president order – A.N.A.F., currently in approval process).

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<sup>1</sup> Commission report towards the European Parliament and Council regarding the progress realised by Romania within the cooperation and verification mechanism, July 18<sup>th</sup> 2012, Technical report: „of 2009, DGA used a clear system for risk assessment in order to identify the vulnerable fields where priority actions are needed. The risk identification methodology was implemented at the level of all MAI structures”. The new anti-corruption national strategy offers the possibility of a significant change regarding the commitment of all governmental agencies in applying proactive policies in order to block the corruption and identify the problems when they occur. The best available practices, like in the case of the Ministry of Internal Affairs, could be extended to other sectors with high risk and substantial impact on the budget.

<sup>2</sup> Independent Audit: „But there are also some examples of positive results: the implication of a great number of management personnel in the elaboration of the Report regarding the corruption risks and vulnerabilities, as well as the amelioration of the quality of actions and measures proposed in the corruption prevention plans elaborated by MAI structures in 2010. Recommendation: To ensure that DGA (MAI) and the MJ [Ministry of Justice] cooperate in order to disseminate MAI experience regarding the implementation of the methodology for the assessment of corruption risk.

#### 2.1.4.1.2. Studies, researches and surveys regarding corruption problem

1. The research project ***Diagnosis study regarding the corruption phenomenon in the local public administration (code SMIS 16469)***, deployed in cooperation with the Central Unit for Public Administration Reformation:

2. In April 2012 the study „***Evaluation of efficiency and addressability of activities for the corruption prevention within MAI – January 2006 – December 2011***” was finalised, its results and conclusions being valorised within current activities, especially regarding the project of MAI order on corruption prevention and the reviewed form of the Management methodology for corruption risks.

The study systematically assessed the prevention activity deployed by D.G.A. during a period of 6 years from the incorporation. The aspects mentioned within its sections do not represent in any way an assessment of the performances related to the Prevention Direction organisational components, the document aiming to provide rather a framework for the analysis of the efficiency of measures initiated within the different actions directions mentioned during the report and, especially, to suggest the priorities created on medium and long term.

3. Starting with 2006, it was introduced at MAI level as annual practice ***the study about the MAI employees' perception regarding the issue related to corruption and the impact of prevention actions***, this approach offering important guidelines regarding the multiannual dynamics of the phenomenon.

Regarding the last study of this type (realised in September 2012), as compared to the surveys deployed in the period 2008-2010, most of the indicators related to MAI institutional context and professional environment reach significant increases of positive opinion. They are aiming both at the direction adopted by the Ministry of Internal Affairs, and the policies in the field or the superior and average management.

4. In December 2012 it was finalised the study ***Efficiency of anti-corruption phone line 0800.806.806***, its purpose being represented by realising a quantitative analysis of calls registered at the anti-corruption line within the period August 1<sup>st</sup> 2006 – June 30<sup>th</sup> 2012, in order to provide guidelines allowing the assessment of progress realised within the activities of complaints reception and specific consultancy, to fundament the decisions regarding the functioning of the future call – centre type system.

5. In December 2012 it was realised the final reception of the ***study regarding the corruption phenomenon perception in Romania at the level of MAI structures***, realised by a company specialised in public surveys, based on a significant sample at national level, the study having a maximum allowable error of  $\pm 2.9\%$  (1153 respondents). The activity was deployed within the project „*Campaign contributing to the modification of the culture regarding giving / taking bribe for administrative services*”, the service personnel providing the elaboration of a **research report** (*Collection and analysis of existing studies regarding corrupt payment for M.A.I. personnel services*) on which it was based the elaboration of the

**technical data sheet** for the acquisition of the service provider „survey performance“, as well as for the fulfilment of the research objectives and providing the compliance with the contract stipulations.

6. In March 2013 it was realised the study the ***Perception over the corruption within educational institutions of the Ministry of Internal Affairs***, its general objective being to obtain, by means of quantitative and qualitative data, using the perspective of pupils, students and didactic personnel, a representative image for the corruption perception within the initial formation institutions of M.A.I employees.

7. In April 2013 it was realised the ***study Manifestation of corruption risks in the activity of obtaining driving licences and vehicles registration*** (qualitative research of cases registered at AGD level regarding the corruption of certain employees of the structures related to driving licences regime and vehicle registration), having the following specific objectives: (1) the identification of **actual forms of corruption manifestation**: operation methods used, organisation of criminal groups, actual ways for the materialisation of corruption risks, assessment of the existing threats; (2) identification and assessment of the **efficacy of prevention/control measures related to corruption risks** used nowadays in this activity domain and (3) identification and formulation of proposals **prevention/control measures related to corruption risks** applicable to the structures submitted to the study.

#### *2.1.4.2. Corruption prevention*

As a priority of the Anti-corruption General Direction, prevention of corruption acts within the Ministry of Internal Affairs is focused on changing the attitude of the institution personnel regarding corruption and on improving the general level of integrity and performance at work.

The Prevention service within D.G.A. provides the organisation, coordination and deployment of prevention activities regarding corruption acts within MAI structures, which represent the main method of reducing corruption acts and number of personnel involved.

By the activity deployed it is aimed to inform and train MAI personnel regarding:

- Knowing the legislation specific to corruption field;
- Acknowledging the main measures by which a public servant may be protected against the implication in corruption facts;
- Acknowledging the existing danger generated from the implication of MAI personnel and citizens in corruption facts;

The personnel which deploys its activity in the corruption prevention field is formed by a team of officers specialised in deploying different types of preventive activities initiated by the institution, having communication skills, lecturer capacities, as well as experience in personnel training and awareness.

#### **2.1.4.2.1. Main faculties of Prevention Service:**

- plans, organises and deploys training/information activities in the field of corruption acts prevention aiming at the ministry personnel;
- creates/participates to the elaboration of internal policy documents, national/sectoral strategy etc., in the field of prevention of corruption acts by the ministry personnel;
- initiates, organises and deploys specific prevention actions for the awareness of citizens regarding the danger on the implication in corruption acts; realises actions of sensitising the MAI personnel and the citizens regarding the corruption phenomenon;
- elaborates articles, analyses, materials specific to the field of corruption acts prevention by the ministry personnel
- elaborates, son each semester, the documentary and information report regarding the activity of preventing and combating the corruption and assures its dissemination;
- elaborates corruption prevention specific themes, in order to introduce them in documents specific to the initial and continuous professional formation related to MAI personnel;
- collaborates with AGD and MAI structures, with other public authorities and institutions, with NGO-s, as well as with the representatives of civil society in organising and deploying corruption prevention activities;
- informs, on each trimester, MAI structures regarding the main activities of preventing and combating corruption deployed by the AGD within the ministry personnel;
- initiates and maintains partnerships with public institutions, NGO-s or other organisations deploying corruption prevention activities.

#### **2.1.4.2.2. Priorities in the field of preventing corruption acts:**

- ⇒ Coordination and implementation of the National Anti-corruption Strategy in the period 2012 – 2015 and of the MAI order no. 174/2012 regarding MAI sectoral action Plan;
- ⇒ Elaboration, on each semester, of AGD Documentary and Information Report regarding the activity of preventing and combating corruption. The reports are printed in 1,000 original copies, 500 for each edition and they are available for all MAI structures and institutions.
- ⇒ Development of partnership relations with civil society (NGO-s, representatives of certain professional categories etc.) and its attraction in supporting programs or information campaigns with preventive character.

#### **2.1.4.2.3. Main prevention activities deployed:**

- training/information of MAI personnel regarding the objectives of the national anti-corruption Strategy in the period 2012 - 2015, the Inventory of anti-corruption preventive measures and assessment indicators; new elements brought by the public policy documents in the anti-corruption field;
- training/information in the field of preventing corruption acts, as well as of complying with ethics and professional deontology, respectively of creating a honest behaviour of personnel from:
  - fields with high risk of corruption (Sectors and Points of passing the border, Criminal Investigations, Fraud Investigation, Public Order, Road traffic Police, Driving licences and registration regime, purchases and medical),
  - MAI educational institutions;
  - Management personnel within the Ministry of Internal Affairs.
- Common actions of disseminating good practices in the field of corruption acts prevention, having as parties Anti-corruption General Direction and County Councils;
- Elaboration of information and awareness materials
  - audio-video – films regarding MAI personnel behaviour in different situations related to corruption field, posted on MAI site [www.multimedia.mai.gov.ro](http://www.multimedia.mai.gov.ro) in order to be used in deploying anti-corruption information and training activities;
  - posting, posters, flyers, brochures, calendars, banners with preventive messages;
- training/information of „integrity councillors” and members of anti-corruption work groups within MAI structures;

#### **2.1.4.2.4. Issue presented to MAI personnel within specialised activities of corruption prevention:**

- ⇒ Integrity, morality, ethics and professional deontology, conditions *sine qua non* for the correct fulfilment of work obligations;
- ⇒ Legislation applicable in the field of prevention and combating corruption acts;
- ⇒ Public servants are held to immediately notify the prosecutor or the criminal pursuit body should they acknowledge about crimes regarding the service within which they deploy tasks;
- ⇒ Increase of civil spirit by knowing and applying the legal provisions regarding the integrity indicators (Law no. 571/2004 on the protection of personnel within public authorities, public institutions and other units signalling law contravention);
- ⇒ Organising and deploying integrity tests, following the legislative modifications occurred;



- ⇒ Presenting real situations about the implication of MAI personnel in corruption acts (flagrant actions, integrity tests, spots etc.);
- ⇒ The method of resolving exercises, cases, dilemma etc., by the participants;
- ⇒ Risks and vulnerabilities related to corruption specific to MAI structures.

#### **2.1.4.2.5. The whistleblowers**

The *Civil Convention on Corruption*, adopted by the Council of Europe on 14.11.1999, at Strasbourg and ratified by the Romanian Parliament by Law no. 147/ 01.04.2002, provides at article 9 that *each Party has provisions within its internal legislation regarding adequate protection against any unjustified sanction applied to employees who, in good faith and based on correct suspicions, denounce corruption deeds to the relevant/responsible persons or authorities.*

In order to grant a legal framework according to article 9 of the mentioned Convention, the Romanian Parliament adopted Law no. 571/14.12.2004 *on the protection of the personnel within public institutions and authorities who report on trespassing of legal provisions.*

This Law defines the whistleblower as the person who reported on breaching of the legal framework within public authorities, public institutions and other units and who is employed within one of the public authorities and institutions of the central public administration, the local public administration, the Parliament, the Presidential Administration, the Government, the autonomous administrative authorities, public institutions in the field of culture, education, health and social assistance, national companies, autonomous authorities with national and local coverage, as well as national companies with state capital.

Also, the warning/report of public interest is defined as the notification filed in good faith on any deed which implies trespassing of a law in force, of deontology and of the principles of good administration, efficiency, effectiveness, economy and transparency.

According to article 5 of Law no. 571/2004, the notification by the whistleblower on breaching of laws, on deeds provided by law as disciplinary offences, minor crimes or crimes, must be on the following aspects:

- corruption crimes, crimes assimilated to corruption, crimes in direct relation with corruption, forgery, crimes with regards to professional duties or in relation with the professional duties;
- crimes against the financial interests of EU;
- preferential or discriminatory practices while exercising the professional attributions within the units where the whistleblower is employed;
- trespassing the provisions on incompatibilities and conflict of interests;
- abuse of material or human resources;
- political interest while exercising professional duties, except the persons appointed politically in official positions;

- trespassing the legal provisions on access to information and on transparent decision making;
- trespassing the legal provisions on public procurements and grants;
- incompetence and negligence while exercising professional attributions;
- unjust evaluation of the personnel within the process of selection, recruiting, promoting and sanctioning;
- trespassing of administrative procedures or establishing internal procedures beyond the legal provisions in force;
- issuing administrative documents or other, in order to serve personal or group interests;
- fraudulent use of public and private patrimony of the units within which the whistleblower is employed;
- breaching the legal provisions on the principle of good administration and sheltering public interest.

As regards the protection of whistleblowers, the law provides that, for the disciplinary commission or other similar bodies, the whistleblowers of public interest are beneficiaries of the good faith presumption until the contrary is established, in the sense that it is presumed that the person filed a notification being convinced of the realistic circumstances of the state – of – play and of the fact that the reported deed constitutes a breaching of the laws in force.

Also, at the request of the whistleblower who is under disciplinary investigation for filing a notification, the disciplinary commissions or other similar bodies are compelled to acknowledge the media and a representative of the relevant trade union or other professional association. The announce is made on the web page of the respective public authority/institution or other budgetary unit, at least 3 working days prior to the debate, or else the commission's report and the disciplinary sanctions taken will become null and void.

If the person reported by the whistleblower is his/her superior, directly or indirectly, or has attributions to control, inspect and evaluate the whistleblower, the disciplinary commission or other similar bodies have the obligation to protect the whistleblower, by not revealing his/her identity.

If the notifications of public interest are with regards to corruption crimes, crimes assimilated to corruption, crimes in direct relation with corruption, forgery, crimes with regards to professional duties or in relation with the professional duties and crimes against the financial interests of EU's Communities, the identity of the whistleblower will be protected ex officio.

As regards the litigations on the relations within the working process, the Court may order the annulment of disciplinary or administrative sanctions applied following a notification of public interest, made in good faith.

The Court verifies if the sanction applied to the whistleblower for a disciplinary offence is proportional, by comparing it to similar cases encountered within the respective public authority/institution or other budgetary unit, in order to eliminate the possibility of ulterior and indirect sanctioning of the whistleblowers, who are protected by law.

The Anti-corruption General Directorate requested from all structures of the Ministry of Internal Affairs a nominal list of the personnel who reported on breaching of the legislation in force between 01.01.2006 – 01.07.2012 and established a data base with this information.

In this sense, 10 institutions of the Ministry of Internal Affairs reported that they have evidence of **383** whistleblowers and of **631** reports.

As the centralized data were analyzed, it was ascertained that there is no whistleblower within the Ministry of Internal Affairs who was applied disciplinary or administrative sanctions subsequent to filing a notification of public interest.

#### *2.1.4.3. Integrity testing of MAI personnel*

The professional integrity test represents a method of identification, assessment and elimination of vulnerabilities and risks determining M.A.I. personnel to perform corruption acts and includes the creation of virtual situations, similar the ones the M.A.I. personnel encounters when performing work tasks, materialised by dissimulated operations, circumstantiated by its behaviour, in order to set forth adopted reactions and conduct.

The test has as objective the prevention and identification of corruption acts related to M.A.I. personnel, as well as of factors leading to their performance.

The test shall be deployed complying with human fundamental rights and freedoms, with human and professional dignity of subjects submitted to the catching in the act.

The testing activity aiming at affecting the authority, prestige, image of tested persons or legal interests related to the position held by them.

The testing activity is forbidden to provoke the person to be tested in order to perform criminal and/or disciplinary acts. By provoking we understand D.G.A. policemen action of inciting or instigating the performance of disciplinary crimes/deviations.

#### **2.1.4.3.1. Stages in the professional integrity testing**

##### **a) Reception and previous documentation of data and information**

The demands of structures subordinated to the General Anti-corruption Direction regarding professional integrity testing is centred at the level of Operations Service, which shall assess the opportunity of performing the catching in the act activities.

Before the testing activity a preliminary documentation regarding the potential vulnerabilities issued from the activity is normally performed. The documentation shall be realised on purpose, including by means of investigations and monitoring on operative moments.

##### **b) Organisation of the testing activity**

The organisation of professional integrity testing activity assumes:

- Setting forth the vulnerabilities activity categories submitted to professional integrity testing;

- Realisation of a preliminary documentation regarding the potential vulnerabilities related to the activity;
- Conception and realisation of virtual situation, setting forth the personnel and the means used to the actual the catching in the act, included in the testing plan.

The virtual situation included two or several hypothetical options, adapted to real modalities and conditions of deploying professional activity and related to the personnel conduct, depending on its possible reactions.

### **c) Preparation of the testing activity**

In order to appropriately perform the professional integrity the testing activity the following activities shall be deployed:

- Preparation of designed personnel, which supposes the processing of the testing plan, training for each participant in order to acknowledge the activities to be performed (behaviour, conduct, addressing manner, action method in unpredictable situations, communication means and modalities with the other team members, etc.);
- Providing the necessary logistics, preparing and installing technical means in order to realise audio-video registrations, and the activities deployed during the catching in the act by the person or persons assigned in testing plan;
- Procuring documents and papers necessary for the realisation and support of legend conspiracy (identity cards, driving licences, registration plates, passports, residence permits under cover, authorisations from different companies, birth certificates, etc.)
- Providing goods and values (cash amounts, alcoholic drinks, cigarettes, coffee, etc.) which may be used in the catching in the act activity.
- Mentioning in a protocol the goods and values used, description of characteristics, particularities, quantities, series and elements which may individualise and identify them.

Should unpredicted situations interfere in the professional integrity the testing plan, uncovered by backup options, the officer who leads and coordinates the testing shall be immediately notified, deciding upon the opportunity of continuing or interrupting the activity.

The testing interruption may be decided in the following situations:

- a) cases of force majeure generated by health condition, mission and/or unpredicted actions;
- b) logistic deficiencies which may not be immediately removed;
- c) intervention of the risk of committing physical violence against the tester;
- d) other situations denoting removal of the scope for which the testing was decided.

#### **d) Completing the testing**

Upon the completion of activities within the professional integrity testing plan, the action coordinator officer shall elaborate a Report addressed to D.G.A. management, including the aspects resulted following the test.

If, upon professional testing it is ascertained the occurrence of criminal acts by the M.A.I. personnel, the Operation Service shall inform Investigations Service, for the notification *ex officio*, according to Criminal Procedure Code. In this case, the tested person is informed regarding the integrity test performed on him/her only upon the criminal file finalisation.

Should the tested person requested or received money or other goods used in testing activity and, following the notification, the competent organs ascertain that the fact does not represent a crime, D.G.A. will inform the head of the structure/institution including the person submitted to testing, which decides disciplinary and/or administrative measures, according to legal provisions.

#### **2.1.4.4. Public relations**

The activity of public relations related to the General Anti-corruption Direction is deployed on three main directions for interaction with citizens:

- a) Reception and solving claims;
- b) Audiences /citizens consultancy;
- c) Managing the „anti-corruption green line” type telephone line.

Regarding the communication between the General Anti-corruption Direction and citizens, there are very important the communication reports in writing, resulted from the solicitation right performance.

The solicitation right is stipulated in the Constitution, representing a principal right of the citizen. According to article 51 paragraph 1 of the fundamental law, citizens have the right to access public authorities by solicitations formulated only on behalf of signatory parties.”

The solicitation right represents the right of any person of notifying, communicating to the General Anti-corruption Direction, by petitions, a fact or a state of things and of requesting institutional intervention. The performance of solicitation right represents an efficient way of solving the problems of a person or for several persons, this right being classified in the rights-warranties category.

This right, in order to have practical value, has to be attached to efficiency warranties, the most important being the obligation of the General Anti-Corruption Direction of answering to the petitioner. In this regard, the Constitution stipulates, in article 51 paragraph 4, the obligation of public authorities of answering to petitions, within the terms and conditions fixed by law.

Petitions solving in a correct and honest way lead to the amelioration of the image held by the General Anti-corruption Direction, according to citizens’ opinion.

The legal basis for the activity of petitions reception and solving is the GO no. 27/2002 on the regulation of petitions solving activity, approved as amended and supplemented by Law no. 233/2002.

The petition was defined as being the **request, reclamation, notification or proposal formulated in writing or by e-mail, by means of which a citizen or an organisation legally established may transmit to central and local public authorities, decentralised public services of ministries and other central bodies within administrative-territorial units, national societies, companies of county or local interest, as well as autonomous administrations.**

By the minister of internal affairs order (O.M.A.I. 190/ 2004), the General Anti-corruption Direction receives and solves citizens petitions in which are condemned corruption acts performed by the personnel of the Ministry of Internal Affairs.

The General Anti-corruption Direction developed a system of public relations formed by officers and police agents with superior studies in legal sciences field, so that any notification sent in time, from the establishment, as of 2005 up to present, received an optimal solution and correctly funded from legal point of view.

The statistics of receiving and solving petitions toward D.G.A. confirms the citizens' trust in our institutions, which, subsequently, is addressed in great number.

Thus, since 2005 up to present, the population sent to D.G.A. **14,680 petitions**, leading to the elaboration of **707 criminal files**, the complaints being related to the corruption acts performance by M.A.I. personnel.

How many citizens enter in contact with the General Anti-corruption Direction?

By accessing the site [www.mai-AGD.ro](http://www.mai-AGD.ro), section e-Petitie.

Also, the petitions may be sent in electronic format at the e-mail addresses [petitii.AGD@mai.gov.ro](mailto:petitii.AGD@mai.gov.ro), [relpub.AGD@mai.gov.ro](mailto:relpub.AGD@mai.gov.ro), or [AGD\\_interne@yahoo.com](mailto:AGD_interne@yahoo.com).

Nonetheless, the notification may be sent by means of Poșta Română [Romanian Post Institution] at the address Șos. Olteniței no. 390A, sector 4, Bucharest or at the registered offices of county structures.

The efficiency of work activity with the public represents the reflexion of the General Anti-corruption Direction in relation with citizens, this being the reason why there were trained specialised workers in this field. The organisational structure and professional formation of public relations workers generated an efficient and optimal distribution, of the time granted for public audiences and actual time spent working with the public. To this, there are to be added certain conditions related to the manner of fulfilling the attributions mentioned in the job description and the permanent improvement of the relation public servant- citizen.

D.G.A. personnel assigned to provide the public relation fulfils certain obligations issued from the ethic standard imposed to this activity, namely:

- a) to demonstrate discipline, both in relation with citizens, and within the institution in which is deployed the activity;

- b) to be calm, polite and respectful during the entire period of public relation contact;
- c) to show a positive attitude and patience in the relation with citizens;
- d) to use an appropriate and correct language from a grammatical point of view;
- e) to keep the confidentiality of all information relevant obtained from the citizen;
- f) to formulate legal answers, complete and correct and to make sure that they are understood by the citizen;
- g) to guide the citizen to the special service in order to obtain detailed information which is not included in the competences of assistance structure;
- h) to interrupt the public relation activity only if the citizen uses a trivial language, if threats are used against it or if the citizen uses verbal/physical violence.

**In the period 2005 - 2013, the number of persons requesting an audience, as well as the of persons assisted is 9,896**, the problems arisen being complex and multiple, from complaints about corruption acts, up to civil cases or other litigations exceeded from D.G.A. competences and for which citizens were appropriately directed by our officers.

#### **2.1.4.4.1. Anti-corruption Hotline**

**The Anti-corruption Hotline** is a free telephone service, set at the citizens' disposal by the General Anti-corruption Direction, in order to offer the possibility of reclaiming corruption facts performed by the Ministry of Internal Affairs employees and to obtain information about the application of laws in the anti-corruption field.

The legal basis for establishing a service of this kind is found in the GD no. 1723/ 2004 *on the approval of the Programme of measures for combating bureaucracy in public relations activity*, setting forth, as a *medium term measure*, in the task of central and local public administration authorities: „*extending of Hotline type telephone lines, in order to offer to natural entities the possibility of getting information related to the application of the legislation specific to each activity field*”.

The Anti-corruption Hotline belonging to the General Anti-corruption Direction may be reached from any in land or mobile telephone network of Romania, being, in this regard, an extremely easy method for any Romanian or foreign citizen, of entering in direct contact with a specialised telephone operator.

The Anti-corruption Green Line, by its two components – the call taken over by the operator and voice mail- provides 24 h, 7 days registration of all notifications and requests for information from the citizens.

The non-stop functioning of the Anti-corruption Hotline and complete and professional guidelines offered to all citizens by operators specialised in telephone counselling and reception of complaints determined, constantly, that more and more citizens call in several times at the number 0800.806.806.

Imagined since its operation, on October 31<sup>st</sup> 2005, **as a prevention method of corruption acts**, the Anti-corruption Hotline aimed at encouraging citizens to notify corruption

offences, generating a proactive involvement of the entire civil society in D.G.A. effort for preventing and combating corruption.

The practice demonstrate us in the 8 (eight) years of functioning of Anti-corruption Hotline service, that citizens who directly call this service complain about corruption acts, request a series of information about other M.A.I. structures, about structures within the Public Ministry or other central and local public authorities, or about institutions having attributions in the corruption combating field. At the same time, the persons calling expose or request to the phone operator a series of data, information unrelated to the field of preventing and combating corruption, but with other types of crimes, contraventions, breaches of deontological norms or even civil nature issues.

The Anti-corruption Hotline is a public service set at the disposal of citizens, in order to answer to their needs to communicate with the representative of a state institution specialised in preventing and combating corruption and to obtain an answer or guideline for solving problems.

Filtering the message without preconceptions, the capacity of understanding the citizen calling, the transformation of the specialised language in simple words, in order to be understood by the dialogue partner and nonetheless, the application of all knowledge previously acquired as M.A.I. employees surely lead to obtaining a positive feedback from the citizens for this telephone service.

Telephone complaints are not regulated in the Romanian legislation, nor in criminal matter, neither in the civil matter. This is the reason why the General Anti-corruption Direction created an internal specific methodology, in which there a series of measures fixing any call received at the Anti-corruption Hotline were included.

The main principle on which this methodology was based was represented by the provisions of art. 221 paragraph 1 of the Criminal Procedure Code, setting forth the notification ways of the criminal pursuit bodies. The telephone notification performed at Anti-corruption Hotline phone service is not a real complaint in the sense of the criminal law, but a phone complaint indicating the performance of a corruption offence or another crime, determining the notified body to undertake appropriate measures.

As a general rule, Hotline calls are classified by the service which received them for solving, applying one of the following solutions:

- a) ***registration in order to valorise the calls in which a corruption act was reclaimed,***
  - this solution is applied if the person calling did not mention his/her identity or presented a false identity or if the person calling has a known identity, even if complaining about some potential criminal facts, does not assume the declarations on the phone, refuses to be contacted or does not want to formulate a petition/complaint /denunciation in this regard.
- b) ***elaboration and sending an information*** to the competent institution;



- the solution is adopted if the anonymous caller or with known identity notifies the performance of criminal acts in its competence *other than D.G.A. competence*;
- c) are followed by the **submission of a petition or complaint/denunciation**;
- there shall be applied rules set forth for solving petitions or the ones from the Criminal Procedure Code.

From the operation of Anti-corruption Hotline service up to present, the citizens called **64,953** times the phone line put at their disposal, elaborating **320 criminal files** and performing **34 flagrant activities**.

#### *2.1.4.5. Developing and assessing information regarding corruption acts*

The General Anti-corruption Direction obtains, develops and assesses information and performs investigations necessary for finding, documenting and combating corruption acts.

The information managed by the central structure or county AGD structures comes from different sources and communication channels:

- informative reports 5x5x5 format;
- notifications or informing notes issued from other M.A.I. or other structures;
- mass-media articles, Hotline calls, anonymous petitions, e-mails, etc.

Employees especially assigned at D.G.A. level for investigating certain corruption acts shall open a case, after getting the information or receiving other information from another structure.

Preliminary checks may include:

- competence verification;
- verification of suspected persons in the data base;
- if the signalled person or the person to whom is made reference is known, job attributions, operation method;
- contacting the sender of information in order to obtain additional data;
- contacting the potential support persons;
- any other activities which may lead to the clarification of the state of fact, by keeping the conspiracy of AGD interest toward the signalled person or fact.

Normally, the first activity deployed is the exploitation of data bases available at D.G.A. level, regarding the persons, auto means, companies etc., representing the investigative activity object.

Subsequently, in order to apply the other investigative activities set forth, depending on the particularities of existing information, data which are to be obtained and persons who are to be contacted shall be identified.

The methods and means used shall include:

- obtaining, on purpose, official documents and papers with demonstrative value, according to the law provisions;
- obtaining, on purpose, photos and audio-video recordings;

- requesting data and information from institutions with attributions in the informative field;
- analytical support from the part of the information assessment structure: existing data and information, relational maps or operational analyses, if applicable;
- verifications regarding the persons documented to the structures with control attributions within M.A.I., respectively if they were submitted to controls, previous or administrative pursuits etc.;
- clarifying the legal status of persons submitted to the investigation by studying the history of potential criminal files in which the respective person was under pursuit and obtaining, in photocopy, of decided solutions;
- investigations regarding the material situation of the documented person, in order to set forth potential irregularities between collected incomes and held goods;
- specific activities for the documentation by requesting the performance of operative monitoring by specialised structures;
- investigation within the environment of documented person by using specific means and techniques;
- setting forth the involvement of the documented person in deploying commercial activities and managing companies by means of interposed persons;
- on purpose performance of verifications based on diverse thematic, requested to other institutions with attributions of control or inspection, in order to reach the aimed purpose;
- technical support from the part of structures with attributions in handling operative techniques within the General Anti-corruption Direction or outside it.

In order to turn the obtained information into evidence, taking into account the fact that the pieces of evidence are still information bearing the trace of a fact or event, it may be applied an assimilation of information sources with the evidence sources.

In this regard, several requirements are to be complied with:

a) operative nature:

- Protection of informing sources identity.
- Protection of means and methods of obtaining the information.
- Avoiding any affirmation without facts support

b) legal nature:

- Competence verification.
- Permits and approvals.
- Providing facts and circumstances clarifying what, who, where, when, how?

Thus, after correlating information with the probation object, the following situations are distinguished:

- Information with the capacity of proving the material element of the crime (action or inaction) shall represent direct evidence (ex: incriminating action observed by the witness or the incriminating action caught in a photo or video)

- Information unrelated to the probation object shall represent clues, with the value of indirect evidence.

Subsequently, taking into account the quality of D.G.A. employees as judicial police officers, it is aimed the transformation of information into evidence means, in order to be used in the criminal law suit:

- for information issued from public sources– documents, acknowledgement acts, documentation by technical means, etc.;
- for the information issued from secret sources:
  - a) Institution of covered investigator – protocols, documentation by technical means;
  - b) Witness identification and their indication to judicial bodies - statements;
  - c) Identification of material and written evidence;
  - d) By control activities, expertises.

#### *2.1.4.6. Use of special investigation methods*

##### **2.1.4.6.1. Operative monitoring**

Operative monitoring is a method of informative-operative work by means of which there are obtained, on purpose, data and information regarding persons, facts, states of fact, circumstances, places and mediums of operative interest.

This is performed as follows:

- a) receiving the operative monitoring request from central and territorial AGD structures, approved by the unit management.
- b) verifying data and information provided by the requesting formation.
- c) obtaining other interest information by using data bases.
- d) deploying documentation and field recognition activities.
- e) setting forth the action plan, number of vehicles and employees necessary for deploying the mission in optimal conditions.
- f) elaborating documents and materials necessary for deploying the action (work orders, emission-reception posts, photo-video instruments, money funds, preparation of available vehicles).
- g) the head of the monitoring team shall nominally assign the employees participating to the mission, elaborates the action plan with measures and responsibilities regarding the participants and the action method and is responsible for the optimal deployment of the action.
- h) transfer of the tam in the interest area and installing the monitoring device.
- i) observing on purpose the interest aspects and recording the operative moments by photo/video-filming, according to the requesting party demands.
- j) setting forth the withdrawal legend and action methods if the mission is made public.

- k) elaborating the report note regarding the mission performed, its sending for approval by hierarchical managers and, subsequently, its sending to requesting structure.

The operative monitoring report note shall including the following elements:

- clear and exact information regarding the monitoring objective;
- data and facts set forth shall be typed chronologically, using a simple language, avoiding expressions or terms which may affect facts understanding;
- information presentation shall be correct and objective;
- if information obtained were verified by several sources, being written as exactly as possible (without eliminations or additions);
- there shall be mentioned detail elements completing the collection of evidence helping to the correct interpretation of facts and circumstances;
- there shall be avoided deductions, appreciations or unjustified hypothesis, in order to eliminate confusions.

#### **2.1.4.6.2. Undercover investigators**

Undercover investigators are operative employees within the judicial police especially assigned in this regard. These investigators acting under a different identity as compared to the real one may be used in order to collect information and obtain evidence means regarding the existence of a corruption offence and the identification of persons and structures supposing they committed a corruption offence.

##### **2.1.4.6.2.1. Legal framework**

The most important regulations of the current legal framework regarding the usage of investigators on cover for practitioners are art. 26 of the Law 78/2000 and art. 224 of the current criminal procedure code.

Even if there are no express legal provisions, in the judicial practice of Romanian and other member states judicial bodies it was accepted that Undercover investigators may be part and parcel of legal reports using the granted identity and they may, also, enter in private spaces with the permission of the entitled person. As well, it is allowed the possession of covering documents. This instrument has been successfully used for several years in the European Union in the fight against serious criminality, in which victims, witnesses and perpetrators are often hard to identify, a similar situation being applied to corruption.

Thus, investigators' authorisation may be decided only if the crime cannot be discovered or the perpetrators cannot be identified by other means than using undercover investigations (*ultima ratio*).

Taking into account the limited number of Undercover investigators and the costs such operations imply, the decision of deploying an undercover investigation shall be taken after

assessing the possibility of using investigator with a real identity, according to the conditions regulated by art. 26 paragraph 3 of the Law no. 78/2000. The equipment, rights and obligations related to investigators with real identity are similar to those belonging to Undercover investigators, and their employment is useful especially in occasional missions, when the objective of tactical measures on short term seems achievable and the aimed person does not have the possibility of checking the investigator identity.

Also, we may take into account the possibility of using as undercover investigator a judicial police employee who does not belong to a specialised structure.

#### 2.1.4.6.2.2. Operating conditions

Undercover investigators may be employed according to art. 26 of the Law 78/2000 and art. 224 of the current Criminal procedure code. The purpose of undercover investigator mission is represented by:

- Collecting data and other information regarding the existence of offences and perpetrators identification
- Clarifying and identifying perpetrators and offence groups structures
- Obtaining information regarding work methods and perpetrators influence zones
- Recognising corruption offences planned from their preliminary stage
- Obtaining guidelines in order to continue opened inquiries
- Obtaining evidence means necessary for establishing the truth.

An undercover mission shall be based preferably on:

- Approach oriented toward suspects and corruption focal points
- Infiltration oriented toward offence structures
- Negotiation with suspects
- Evidence supplementation and searching for several approaches for other opened inquiries
- Recognition of offences planned from their preliminary stage.

#### 2.1.4.6.2.3. Prosecutor responsibilities

The prosecutor shall verify if there are entitled the preliminary conditions stipulated by law and to decide regarding the opportunity of using an undercover investigator.

The prosecutor may request the employment of an undercover investigator in the corruption cases directly from the AGD. This decision shall be taken after assessing all the circumstances of the case and the possibility of using an investigator with real identity or an undercover investigator who is not integrated in the specialised structure.

Within a trustful cooperation there are discussed all the reasons for using the undercover investigator.

The investigator main mission shall be obtaining information based on which other evidence means may be administrated, so that the audience as a witness take place only if necessary.

The prosecutor and the judge shall always try, if possible, to avoid the hearing of the undercover investigator, taking into account the fact that the audience of an undercover investigator may attract the impossibility of using him in other cases, so that it shall be analysed in each file if the other evidence means administrated are sufficient for setting forth the situation *de facto*.

The authorisation act shall mention the reasons justifying the measure application, a detailed description of the aimed purpose and the limits within which the investigator may act. The clues justifying the suspicion regarding the performance of an offence shall be expressly mentioned, with reference to the information source and the elements determining the judicial body to rely on them, when the source is anonymous.

After issuing the authorisation ordinance, AGD creates an operational concept and assigns a connection person between the prosecutor and the undercover investigator. Confidentiality is essential for the prosecutor and AGD.

The contact person, mentioned at point **2.1.4.6.6** of the manual herein, is defined by art. 18 paragraph 1 let. c and paragraph 2 and art. 19 paragraph 2 of the law 39/2003 on preventing and combating organised crime.

#### 2.1.4.6.2.4. AGD responsibilities

AGD administrates personal and material premises for using Undercover investigators.

Undercover investigators shall be especially selected, trained and carefully prepared for their tasks. Scene typical behaviour and the equipment appropriate for the environment are mandatory conditions for the mission.

The creation of a **personal background** represents the departure point of any mission.

The real name, work place, address and other personal and family aspects are changed with fictive information.

There are allowed the production, modification and usage of necessary documents (identity card, etc.). Modifications in public registries are not allowed, taking into account the credibility of those registries.

In order to provide the security of the undercover investigator, it is necessary to continuously assess the legend structure.

There shall be taken into account the following aspects:

- References related to previous activity (work and personal)
- Taking into account previous activity fields
- Operation deployed based on the legend (identity under cover)
- Relation with new aimed domains

- Used logistics (up to present)
- The employment of the undercover investigator abroad shall be performed according to the provisions regarding the international judicial assistance and requires the approval of the competent authority from the respective state.

AGD has „a special prudence and diligence obligation” toward the undercover investigator. AGD is responsible for the mission of an undercover investigator.

The security of the undercover investigator represents an essential condition. The risks intervened during the mission, especially for the relatives and family of the undercover investigator shall be taken into consideration by protective measures.

The undercover investigator may be heard as protected witness, for example by video-conference, and the protocols and evidence provided shall be introduced in the inquiry file, by consulting the prosecutor and the contact person, so that identity revealing shall not be possible.

In order to assure the investigator identity protection, the decision of hearing him/her shall be taken only when considering that the other evidence means administrated in the case are not sufficient for establishing the truth.

#### 2.1.4.6.2.5. Criminalist tasks of the undercover investigator

An undercover investigator shall always aim at obtaining evidence means and information. He shall aim also at providing approaches for subsequent activities; in operational stages, especially, he shall behave so that his/her real identity won't be discovered by third parties.

Typical results of the action of an undercover investigator shall be:

- Obtaining phone numbers in order to start or extend phone monitoring
- Investigating apartments or storehouses in order to request search warrants
- Identifying participants to an offence in order to undertake pursuit measures
- Investigating bank accounts for the financial information units
- Introducing several Undercover investigators (pioneer)
- Identifying witnesses and victims
- Obtaining audio-video recordings

#### 2.1.4.6.2.6. Tasks of the „contact person”

„The contact person” monitors all the missions of the Undercover investigators (maximum two at the same time).

Before implementing operative measures, it is necessary the consultation with all units directly involved. The purpose, duration, dimension and tactical concept of the mission under cover shall be coordinated with the unit responsible for the investigation. The characteristics specific to the mission shall also be communicated to the head of the investigation unit.

During the mission, the contact person is responsible of taking care of the undercover investigator.

The activity of the contact person mainly supposes:

- Developing a mission idea together with the undercover investigator
- Guiding/leading the undercover investigator
- Help/support during the entire mission
- Compilation and clarification of information obtained by the undercover investigator
- Interrogation of the undercover investigator without recording personal data
- Submitting the declaration as a witness indirectly, at the hearing within the main court
- Constant exchange of information with the investigation unit, with the prosecutor responsible for the case and with the direct monitor involved related to the status with investigations under cover

„The contact person” shall immediately inform its superior about the monitoring of the undercover investigator, but constantly about the mission as well.

#### **2.1.4.6.3. Operations for catching in the act**

According to art. 465 of the criminal procedure code, catching in the act is the criminal offence identified in the moment of performance, immediately after the performance or whose perpetrator, immediately after performance, is under pursuit by the injured person, eye witnesses or public voice or is caught nearby the place of offence with weapons, instruments or other objects meant to deem him/her participant to the offence. In the case of a flagrant mission, any person is entitled to catch the perpetrator and bring him before authorities.

According to art. 466 Criminal procedure code the special procedure is applied for catching in the act offences when following conditions are cumulatively fulfilled:

- ❖ The offence of catching in the act shall be punished by law with imprisonment over an year and no more than 12 years, as well the aggravated forms of those offences;
- ❖ The offences of catching in the act have to be performed in municipalities or cities, transport means, fairs, markets, ports, airports or rail stations, even if they don't belong to the territorial units above mentioned, as well as in any crowded place.

The special procedure of pursuit and trial of flagrant offences shall be applied in the following cases:

- ❖ For offences committed by minors;
- ❖ For offences for which the initiation of the criminal action is performed only upon previous complaint of the injured person;

Regarding the acknowledgement of flagrant offence, the notified criminal pursuit body elaborates a protocol representing the act by means of which it is decided the initiation of criminal pursuit, representing evidence means at the same time.



*Within the protocol there are described the observations regarding the performed act, the defendant's statements, the victim statements, ocular witness statements and the statements of the other persons heard as well as any other evidence identified.*

Within the urgent procedure we see certain particularities regarding preventive measures, so that the defendant arrest is mandatory being performed for maximum 24 hours.

After elaborating all documents necessary in order to establish the truth in the criminal case analysed, the criminal pursuit body shall submit the file together with the defendant to the prosecutor, proceeding to the verification of criminal pursuit works and passing a decision in no more than 2 days from the reception. The prosecutor may decide the interpellation, release from criminal prosecution or non-suit or the rendering of the case in order to be completed or remade the criminal prosecution, when is to be adopted the normal procedure.

Trial activity deployed in the case of flagrant offences in the trial stage is, mainly, submitted to normal procedure, following the stages of any normal suit.

The regulation of apprehending the accused in the act of committing the offence and of escorting the detained at AGD structure headquarters, respectively at the prosecutor's office headquarters where the inquiry is performed, as well as the vehicles used and the assets retained, shall be realised complying with the procedural norms in force.

Thus, after receiving the solicitation of executing the catching in the act operation from AGD central and territorial structures, approved by the head of unit, it follows the verification of data and information provided by the requesting formation, the collection by the officer of the General Anticorruption Direction of other information important in the case by using data bases, in parallel with deploying documentary and field recognition activities.

The head of unit, in collaboration with the head of the apprehension team, sets forth the action plan, the number of employees and vehicles necessary for the deployment of the mission in optimal conditions. There shall be mandatory named the date and hour for starting the action, taking into account the time necessary for installing the device and realising the apprehension, identifying and reducing the risk factors. There shall be set forth withdrawal legends and action ways if the mission is revealed.

In the following stage, the previously created team shall prepare the documents and materials necessary for deploying the action (service orders, weapons, immobilization means, emission-reception posts, photo-video devices, money funds, preparation of available vehicles). Depending on the operative situation, employees from the intervention team shall wear vests with the inscription "M.A.I. - D.G.A." and balaclavas. The leader of the action shall perform the training for the employees participating to the mission, presenting in detail the situation *de facto* and mentioning each person attributions. It implies establishing the location in which it will be formed the command point, including the prosecutor, the head of the catching in the act team, the head of the surveillance team, the head of the technical team and, depending on the situation, the heads of other units participating to the action.

Depending on the communications of the surveillance team, the catching in the act team shall go in the interest zone and install the device. It is to be mentioned that during catching in

the act operation there will have priority the security of AGD workers and citizens from the area and it will be taken into account the protection of materials/goods/amounts of money used in the action.

Catching in the act operation shall start upon the express decision of the mission coordinator (who may transfer the decision power to the intervention team leader).

Upon the intervention, the head of the catching in the act team (or a judicial police employee assigned by him) shall proceed at declining the quality of AGD employees, subsequently being immobilized and searched the respective persons. If the persons who are to be detained complain or threaten using white or deadly weapons, the weapons available shall be used, complying with the legal provisions in force. After the intervention, the detained persons shall be escorted at the prosecutor's office/AGD structure headquarters where the inquiry is held, and the vehicles used and the goods retained shall be transported to the same location, complying with the procedural norms for fixation and retention.

Upon the catching in the act action finalisation, the technique used shall be recovered and the teams will be withdrawn from the area.

The prosecutor or a person assigned by him shall elaborate the acknowledgement protocol for the flagrant offence. The catching in the act operation is completed when filling in the mission notification, activity registered by the head of catching in the act team.

#### **2.1.4.6.4. Use of special techniques in investigating corruption acts**

**Technical Service** within the Investigations Department is the structure habilitated to execute authorisations and ordinances for audio/video environmental intercepting/recording during operative missions deployed by D.G.A., at central and territorial level.

**The operative technique** includes electronic devices (audio or video), optical, electronic-optical or of other nature used for the documentation and registration on a physical support (optical or magnetic) of data and information, conversations, communications and images, based on procedural legal documents.

Activities in which is involved the Technical Service

- Technical support during operative missions: divestments, integrity tests, flagrant activities, documentations, operative surveillance, dissimulation and masking of the operative technique.
- Other activities:
  - elaboration of technical specifications in order to procure operative technique;
  - elaboration of photo sheets, criminalist activities;
  - administration and maintenance of audio/video archive belonging to the General Anti-corruption Direction;
  - films and photographs of the search;

#### 2.1.4.6.4.1. Types of operative technique used

Taking into account the current evolution manifested in the specific activity for preventing, discovering and sanctioning corruption facts, as well in the deployment of investigative missions supposing audio surveillance and monitoring of a certain target or of the officers working undercover it is necessary the use of a special technique having the following functional characteristics:

- audio/video digital recorders with reduced dimensions, high performances, especially designed for undercover missions (body worn).
- very high capacity of storing audio-video recordings;
- recording devices easy and fast to configure from Windows software whose settings may be checked by means of a coloured LCD display;
- versatile video-recorder offering advanced options such as Ethernet interface, external memory SSD or Hard Drive type;
- audio-video remote control wireless equipment with transmission capacities over the GSM type cellular networks.
- small cameras, coloured or black/white for audio/video digital recorders, with night view options;
- digital systems for audio transmission in real time of audio signals collected from the action place by the command point or the catching in the act/intervention team. The spread digital spectrum and the shift of vision provide a high level solution for critical audio transmissions which are not to be detected, intercepted or disturbed.
- Surveillance video cameras with high resolution, for day and night use based on laser illumination.
- Digital audio systems for emission-reception with the capacity of downloading audio data recorded at a very high speed, without errors or data loss, coding and recording on memory cards.
- Audio processing systems integrating capacities of analysis and processing both hardware and software of files generated by the recording on analogical and digital mediums.

The special technique was selected based on performance criteria (viability in operation, dimensions, experience when used by similar users, possibility of obtaining superior results) in order to successfully fulfil the operative missions, assure the conspiracy and compatibility with the equipment available within AGD.

Currently, within the Technical Service there is an operative technique for audio and video recording and intercepting, this type of technique available supposing the rapprochement to the action place of officers undercover or the complainants' equipment with such techniques.

If for D.G.A. investigators the obtained results are appropriate because they know the operative technique usage, for the complainants, the obtained results are not always as expected, leading to the loss of operative moments or even to the mission failure.

High quality technical equipment generates superior results:

- from the point of view of audio/video recordings quality performed during the operative missions;
- the risk of revealing the missions is diminished because the surveillance technical team does not depend of the persons involved in the mission;
- the protection of officers and complainants involved in the mission is increased;
- the costs are very diminished, and as well the number of officers necessary for deploying the missions.

From the point of view of the usage, there may be established three main operative technique types, namely:

- mobile means for audio-video recordings, body worn, dissimulated on the clothes of investigators undercover or complainants;
- fix means for audio-video recording, with a great capacity of storing information- they may be installed in locations, offices, by dissimulation in greater dimensions objects;
- wireless or GSM transmission means.

#### *2.1.4.7. Investigating corruption offenses*

General Anti-corruption Direction is subordinated to the Ministry of Internal Affairs and it deploys its activity according to the provisions of the Romanian Constitution, Criminal code, Criminal procedure code, laws, treaties and international conventions, Romanian Government decisions, orders and guidelines from the Ministry of Internal Affairs, so that it will not affect the human rights and freedoms, assuring the full neutrality toward any intromission or interest, promoting objectivity, reality, legality and absolute responsibility in its actions.

The material competence of the General Anti-corruption Direction the investigation of the corruption offences, assimilated to corruption or in direct connection with corruption, as they are incriminated by the Criminal code and by the Law no. 78/2000 on preventing, discovering and sanctioning corruption acts, as amended and supplemented.

In order to fulfil afferent attributions, General Anti-corruption Direction other structures within the Ministry of Internal Affairs and collaborates regarding common interest issues, according to laws, ordinances, Government decisions, orders, agreements and protocols signed by the Ministry of Internal Affairs with national and international institutions and bodies.

According to the provisions of the Law no. 161/2005 and GEO no. 120/2005, officers within this service are part and parcel of the judicial police, being nominally assigned by the order of the Ministry of Internal Affairs, with the authorisation of the State Prosecutor attached to the High Court of Cassation and Justice.

The Emergency Ordinance no. 120/2005, approved and modified by the Law no. 383/2005 and subsequently amended and supplemented by GEO no. 59/2013, stipulates in art. 1 the fact that: „Judicial police employees within the General Anti-corruption Direction within the Ministry of Internal Affairs performs, according to the law, activities for preventing and discovering corruption acts, as well as criminal prosecution acts decided by the competent prosecutor regarding the following categories of offences:

- a. Offences stipulated by art. 254-257 of the Criminal Code
- b. Offence stipulated by the Law no. 78/2000 on preventing, discovering and sanctioning of corruption acts, as amended and supplemented.."

It appears that the judicial police employees within the General Anti-corruption Direction deploy their activity under the direct coordination, monitoring and immediate control of the prosecutor, according to the provisions of the criminal procedure code.

Attributions of the Anti-corruption General Directorate rated to the criminal investigation of corruption offences:

- performing activities of discovering corruption deeds, according to the law;
- performing criminal investigation activities ordered by the prosecutor in corruption cases;
- receiving intelligence on corruption deeds;
- performing preliminary activities in order to initiate criminal prosecution in corruption cases, according to the law;
- immediate notification of the Anti-corruption National Directorate or other competent Prosecutor's Offices on perpetration of criminal offences and supporting the designated prosecutors to perform the investigations;
- accomplishing attributions of judicial police, in AGD's area of competence, according to the law.

AGD Anti-corruption County Services and Bucharest Anti-corruption Service accomplish functional attributions, according to the territorial competence.

#### 2.1.5. Activities related to the protection of the European Union's financial interests

According to the Court of Justice of European Communities, the structure "*European Union financial interests*" are referring to:

- incomes and expenses included in the budgets of bodies, offices, agencies and also provisioned in art. 268 of the Treaty;
- incomes and expenses bond to be performed in relation to EC budget, directly or indirectly by means of budgets handled by community institutions.

According to article 53b paragraph (2) of the Regulation (EC, Euratom) no. 1605/2002 of the Council regarding the financial regulation applicable to European Communities, member states are responsible for preventing and solving irregularities and fraud in the administrated fields.

The convention regarding the protection of financial interests (PIF) represents the Council act as of July 26<sup>th</sup> 1995 regarding the protection of financial interests related to the European Communities and the three additional protocols, out of which we focus on the first one, on the criminal sanctioning of active and passive corruption acts and of national and community public servants and secondly, on sanctioning money laundry, criminal liability of legal entities for fraud, active and passive corruption and money laundry.

In case of irregularity or fraud suspicion, the Commission shall be informed according to personal reporting procedures. The regulation no. 2988/95 of the Council as of December 18<sup>th</sup> 1995 on the protection of financial interests related to European Communities defines those terms as follows:

The *irregularity* represents any breach of a provision from the funding agreement or relevant national laws resulting from an action or omission of an economical operator which has or would have affected the Community budget by an unjustified expense category.

The *deviation* is represented by any breach of a provision of community law, following an action or omission of an economical operator which can or could affect the Community general budget or the budgets administrated by them, both by reducing or losing the incomes from personal sources, directly collected on behalf of Communities, and by unjustified expenses.

The *fraud suspicion* represents an irregularity subject to a preliminary administrative inquiry which generated the initiation of procedures at national level in order to establish the intention presence.

*Fraud* represents an irregularity committed on purpose, becoming an offence (fact stipulated in the criminal law, committed on purpose, representing a social danger). Frauds against European Commission financial interests are divided into:

1. Voluntary manipulation of financial statements (for example, incorrect reporting of incomes)
2. Any type of tangible and intangible assets stealing (for example, expense illicit compensations)
3. Corruption (for example, bribe, manipulation of offer demand procedures, non-declaration of interest conflicts, fund stealing)

The *corruption act* represents the abusive usage of public authority, in order to satisfy personal or group interests; corruption represents an offence.

The General Anti-corruption Direction has competences also in investigating corruption offences and afferent against the European Union financial interests. One of the investigated cases in described in the appendix.

In Romania, the main ways of committing frauds against the European Union financial interests were mainly represented by:

- **Usage of false supporting documents** in relation with the Contracting Authority, aiming at hiding the non-compliance with the eligibility conditions for companies accessing community funds or illicit usage of these funds.
- **Changing the funds destination by the beneficiaries**, especially for paying the beneficiary debts to the state budget or to other providers, purchasing goods which do not serve to the project scopes, paying the salaries for the beneficiary personnel, other payments for the beneficiary current activity, alimenter bank accounts different from the ones envisaged for the project implementation etc.
- **Non-compliance of the public procurement norms**, including the interests conflict, at the auctions for assigning the goods, services or works provider.

All the three main ways of committing the above frauds are associated with corruption facts (giving or receiving “valuable objects” in order to influence an official act or a commercial decision).

*Any tangible benefit offered or received in order to corrupt the receiver may represent bribe.* Specific „valuable objects” given or received as a bribe, include *inter alia*: gifts whose value overpasses the limits established by organisations/companies, „loans” (irrespective of the reimbursement or not), use of credit cards, exceeded payment of procurements (for example, a 500,000 EUR payment for an apartment with the value of 200,000 EUR), free use or in exchange of a preferential rent of an apartment, free use of a rented vehicle, cash payments, payment by cheque or bank transfer of fictive „fees or honoraria”, representing seldom a percent previously established from the obtained contract, and paid by an intermediary or shield-company<sup>3</sup> created by the receiver, as well as holding secret participations within the corrupt contracting or selling company).

After assigning a contract, the bribery takes place especially as illegal commissions, meaning that after receiving a payment, the contractor pays or gives back a percent previously consented from each collected amount. Regardless the bribe payment type, the prices are usually artificially increased or the quality of goods and services is reduced, in order to recover the amounts paid.

Bribe facilitates other fraud types, such as invoice falsification, fictive expenses recording or non-compliance with the contractual provisions.

*The influence traffic* in the field of contracts and public procurement is often reflected in: subjective selection, for example unjustified procurements from one single source (there may be several contracts assigned under the budget for public procurements), unjustified excessive prices, products purchased in excessive number, acceptance of low quality and delay or absence of deliveries.

Fraud indicators in the investigation of corruption and afferent offences against the European Union financial interests are presented in the appendix.

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<sup>3</sup> A front organization is a real company, but with operations and assets which do not exist.

## 2.2. Internal Affairs Sector from Serbia

### 2.2.1. Legal framework and programming documents

Police oversight in the Republic of Serbia is regulated by Police law (2005) and can be external and internal.

- **External police oversight** – conducts national Assembly, Government, competent judicial authorities, state authorities competent for specific affairs of monitoring and other lawfully authorized authorities and bodies
- **Internal police oversight** – conducts Internal Affairs Sector.

Internal Affairs Sector existed earlier as the Inspector General's Service (IGS) of the Department of Public Safety (DPS) within the Ministry of Interior of the Republic of Serbia. Inspector General's Service was formally founded on 12 March 2001, when Police Code of Procedure for the Inspector General's Service of the DPS was adopted. However, the actual process of setting up the Service did not begin until June 2003, with the naming of the first Inspector General in Ministry. When Police Law started to be enforced in 2006, DPS of Mol was transformed into General Police Directorate and General Inspectorate became Internal Affairs Sector.

The legal basis for the procedures of the Sector is in accordance with the laws and regulations defining the manner of police conduct, rights and responsibilities of police officers and other employees of the Ministry. Tasks, competences and powers of Internal Affairs Sector were defined for the first time by Police law (from Article 170 to Article 181).

According to Police Law:

- Internal Police oversight is performed by Internal Affairs Sector.
- Internal Affairs Sector is managed by the head of the Sector.
- The head of Internal Affairs Sector regularly and periodically reports to the Minister on the work of the Sector.

Based on the Law on Police, the Ministry of Interior initiated adoption of a series of sub laws that additionally regulate specific areas and protect rights and freedoms of all citizens, according to the highest international standards:

- Manual on police ethics and manner of performing police tasks
- Rulebook on manner of performing police affairs



- Rulebook on police competences
- Rulebook on technical features, manner and procedure for use of
- enforcement measures
- Manual on procedure of police officers towards juveniles
- Regulation on disciplinary accountability in MoI
- Rulebook on procedure for resolution of complaints

### 2.2.2. Proposed amendments of regulations

In January 2013, IAS sent to the Secretariat a proposal for **amendment of Police Law** in part which refers to competence of IAS (powers, detected problems in enforcing the law and confusion, different interpretation of provisions, etc). Also, IAS sent a draft of the **Manual on the method and forms of internal oversight**, where OSCE Mission to Serbia was involved in giving suggestions and guidelines in line with EU regulations in this area and in the area of human rights. After the adoption of the Manual, IAS will draft a Manual on Work of IAS in line with obligations taken from the Action Plan for Implementation of the Anti-Corruption Strategy.

### 2.2.3. Strategy and the principles of the fight against corruption

The IAS Strategy is to create the staff and technical potential, which will enable sufficient expertise and promptness in detecting and processing corrupt behaviour. With constant upgrading of knowledge and motivation, strengthening the existing and introducing the new work procedures, the Sector contributes to strengthening the prevention in the fight against corruption.

The basic principles guiding the Sector in strengthening its own integrity in the fight against corruption are:

- respecting the Constitution, laws and human rights in the rule of law function
- searching for the new ways of the fight against corruption based on the scientific achievements and recognized practices
- transfer of knowledge and experience to whoever asks for it
- implementation and respect for the work conduct rules (objectiveness, preciseness, verification)
- provision of incentive mechanisms to reward the positive effects achieved in the fight against corruption
- strengthening the ethical principles of the profession, personal reputation and trust.

In its work, the Sector follows the confirmed international principles that represent the basis for the systemic fight against corruption and they are incorporated in the laws adopted by the Republic of Serbia.

Fight against corruption in Serbia is one of the priority tasks of all state agencies/government bodies as well as the Ministry of Interior of the Republic of Serbia and the Police Internal Affairs Sector which is primarily responsible for respect and legality control of the police officers work.

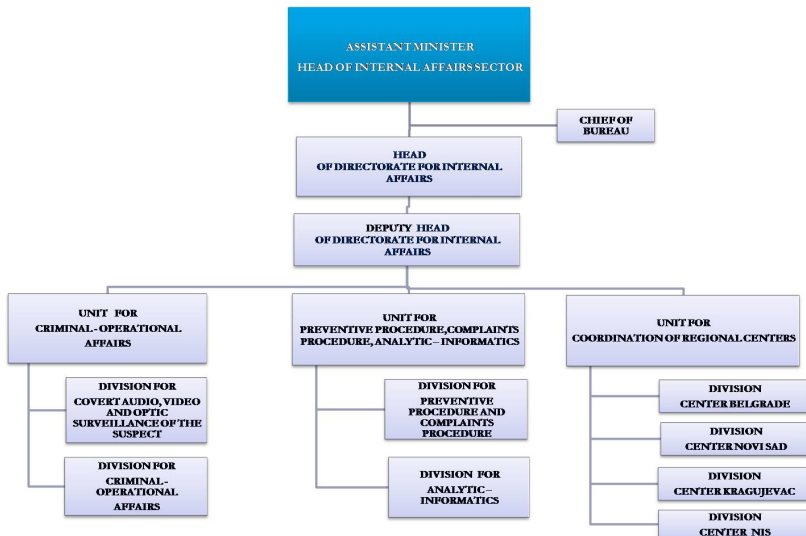
У свим планским и програмским документима Сектора апсолутни приоритет у раду имају активности на откривању и сузбијању корупције.

The program of fight against corruption in the police is based on:

- the provisions of the National strategy for the fight against corruption adopted by the National Parliament of the Republic of Serbia in 2005, and
- Mol Action plan for the implementation of the National strategy for the Fight against Corruption.

The Sector undertakes all legal measures and actions towards all police officers, regardless of their position, rank and title, which directly or indirectly seek or accept money or any other gift in order to conduct an action that should not be conducted or to be refrained from taking actions that are required by the law.

## 2.2.4. Organization



Internal Affairs Sector is composed of the Bureau of Internal Affairs Sector and Directorate for Internal Affairs, which consists of: Unit for Criminal-Operational Affairs, Unit for Preventive Procedure, Complaints procedure, Analytics and Informatics and the Unit for Coordination of Regional Centres.

Unit for Criminal-Operational Affairs is composed of: Division for Covert Audio and Video Surveillance of the Suspect and Division for Criminal-Operational Affairs.

Unit for Preventive Procedure, Complaints Procedure, Analytics and Informatics is composed of: Division for Preventive Procedure and Complaints Procedure and Division for Analytics and Informatics.

Unit for Coordination of Regional Centres is composed of: Division-Centre Belgrade, Division-Centre Novi Sad, Division Centre Nis and Division Centre Kragujevac.

## 2.2.5. Attributions

### 2.2.5.1. Competence

Internal Affairs Sector monitors the legality of police work, especially with regards to respect and protection of human rights while performing police tasks and applying police powers.

The Sector acts on the basis of the proposals, complaints and grievances submitted by individuals and legal entities, as well as written and oral reports of the police and its own initiative or on the basis of collected information and other information.

### 2.2.5.2. Powers

The Sector is managed by Head of Sector, who is also Assistant Minister of Interior appointed by the Government of the Republic of Serbia for the period of 5 years, on the basis of the Law on Civil Servants and previously conducted public competition.

Head of Sector shall report to the Minister of Interior and submit his regular and periodic reports on the work of the Sector.

While conducting controls, the authorized officials of the Sector have all police powers and with regard to their rights and duties, they are equal to other authorized officials.

Police officers are obliged to enable the authorized officials of the Sector to carry out control and provide them with the necessary professional assistance. When conducting control, the authorized officials of the Sector have the powers to:

- 1) have insight into the records, documentation and collections of data obtained, created or issued by the police in accordance with its authority;
- 2) take statements from police officers, the affected individuals and witnesses;
- 3) require from the police and police officers to provide other data and information under their jurisdiction, which are necessary for the performance of internal control;
- 4) have insight into the premises used by the police in its work;

- 5) require certificates and technical and other information about the technical resources used by the police as well as the proof that the police officers are competent to use technical and other resources in their work.

Head of Sector informs the Minister and the Police Director about the results of his research and makes proposals to the Minister on the ways to remove the identified violations as well as proposals to initiate appropriate proceedings to determine accountability.

The Minister controls of the work of Head of Sector, the police officers employed in the Sector and other police officers in the Ministry responsible for the internal control of the police work.

The police officers of the Sector collect verify and analyze operational information and provide evidence, facts and information on criminal offences carried out by police officers. If necessary, they consult competent Basic Public Prosecutor's Offices in order to qualify the offense with the aim of submitting the criminal charges, or report to the competent authority when the collected data and evidence indicate that a police officer or several of them conducted a criminal offense prosecuted ex officio or other punishable offense.<sup>4</sup>

The Sector can also submit a proposal for the suspension of the police officer of the Ministry against whom the Sector initiated criminal proceedings upon being reported about the case and initiate with the competent manager to start the disciplinary procedure for conducting a serious breach of official duties.

The Sector can initiate start of the procedure for determining responsibility for conducting minor breaches of duty, for material accountability of police officers for damages caused to the Ministry, as well as other measures of appropriate intervention.

### *2.2.5.3. Forms and manner of conducting internal oversight of the police*

Everyone is entitled to submit a complaint to the Ministry or the Sector against a police officer if thinking that unlawful or improper action of the police officer violated his rights or freedoms. All complaints and grievances submitted to the Sector by citizens and legal entities, regardless of the status, rank and position of the police officer to whom they refer, are considered priority and processed immediately by performing all necessary checks and the complainants are informed about the determined status.

*Direct verifications* (processing grievances, complaints and notifications of citizens, petitions and other documents)

All grievances relating to the work of police officers and organizational units are processed by the Sector ex officio. The grievances are received in written form, orally to be

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<sup>4</sup> For more information see the appendix entitled: The list of criminal offences for which the Sector submits criminal charges.

included in the record, by telephone, an anonymous call, e-mail, a written notification submitted to the administrative offices of the Ministry and in other ways.

#### *2.2.5.4. Informing and reporting*

Subject to the provisions of the Law on Police and the Instructions on informing and reporting, the Sector is an organizational unit in the system of urgent information forwarding, daily and periodic reporting on security events and happenings, as well as on its work performance, in accordance with the rules on internal organization of the Ministry.

Police officers of the Sector inform and report to their direct superiors in their lines of work.

Managers of the lines of work ensure mutual information forwarding and reporting within their lines of work.

Contents of urgent daily and periodic informing and reporting is ensured by submitting urgent information orally or in writing, by telephone or radio link, as well as the system that enables mutual IT linking.

Head of Sector regularly and periodically reports to the Minister on the work of the Sector.

Head of Sector informs the Minister in timely manner and in writing, on all police actions taken of failed to be taken that he considers to be contrary to the law and undertakes necessary actions in due time.

#### *2.2.5.5. Internal Code of Conduct in the Sector*

In accordance with the laws and regulations, the Sector also applies the following rules in its work:

- rules on receiving, processing and storage of the official mail,
- rules on signing the official mail,
- rules on the use of official vehicles,
- rules on carrying out tasks on duty,
- rules on safe use of the information system, and
- rules on the use of the citizen complaints system
- rules on receiving complaints against the police by the telephone line in IAS
- rules on case management in the Unit for Prevention and Complaints Procedure

2.2.6. Activities carried out, obtained results and best practice examples (detailed on competence fields and attributions)

Internal Affairs Sector conducted the following activities in 2012:

- **Intensified control (preventive) activities** in the regional police directorates of the Sector

- Conducted **analysis of work of directorates** in the headquarters of the Ministry and regional police directorates in order to detect problems
- Suggested **change of regulations** that (were noticed to have) generated corruption in the police
- **Introduced telephone line** and e-mail where citizens can address the Sector
- **Drafted 8 internal rules of procedures in the Sector:** rules regarding the records, signing of official post, on the use of official vehicles, on-call duty and secure use of IT system, use of a system of citizens' complaints , receiving complaints against the police by the telephone line in IAS, case management in the Unit for Prevention and Complaints Procedure
- **Integration of Sector's IT system** in which all working stations in the headquarters and regional centres are connected with the server in the headquarter, which enables secure exchange of post, documents, search of database via protected system.
- **In April 2013**, a final version of Handbook on practical implementation and study of police ethics was drafted as a result of joint work of OSCE, Internal Affairs Sector and Directorate for Police Education. The aim of the Handbook is to provide a basis for expert education of police officers and to be an annex to the basic and specialized training. The final version of the handbook has been sent to be adopted by the Cabinet Ministry and training "train the trainers" will be conducted in September 2013.
- Initiated and conducted complete procedure of adopting the Manual on procedure towards arrested and detained persons which came into force on December 10, 2012 (the activity was conducted in cooperation with the OSCE Mission to Serbia and Uniformed Police Directorate)
- Initiated by IAS, Secretariat started to draft a proposal for the Rules which determine tasks that are not related to the tasks of police officers with aim to eliminate all confusions and wide interpretations of discretionary rights of police officers and managers when conducting police tasks, that is, in interpreting what tasks are related to police work. IAS started this initiative to adopt this Rules since it is of vital importance to fully regulate this area, because IAS employees were not able to act when they detect that police officers conduct tasks which are not related with the tasks of police officers. It is especially significant to point out slight difference between disciplinary and criminal accountability regarding this case.
- Updating and creating an interactive website of Internal Affairs Sector
- Sector's representative participates in drafting National Strategy for the Fight against Corruption
- Established communication with NGO sector (for example Belgrade Centre for Security Studies, Helsinki Committee, etc...

- Continual communication with the Ombudsman and the Commissioner for Information of Public Importance and Personal Data Protection
- Initiated and implemented pilot project of activity called "Have a nice trip" in 2012 with Traffic Police Directorate and Border Police Directorate
- At the suggestion of adviser for gender equality, by the decision of the Minister, in accordance with UN Resolution 1325 (Women-Peace-Security), IAS representative is a member of the analytics team.

#### *2.2.6.1. Proposed project ideas*

In December 2011, IAS presented a project idea: **Creation of database „Complaints, grievances and commendations“** at the Donor's Conference in Belgrade. In January 2013, IAS started the initiative to review possibilities that MoI implements the project. Consultations were conducted with organizational units in the headquarters of the Ministry who should be project leaders (Bureau for Complaints and Grievances, Sector for Analytics, Telecommunications and IT) in order to make an analysis of current capacities, technical resources and after that create a plan for implementation of the project.

##### *Aims:*

- Establish united data record on complaints, grievances and commendations to work of police officers at the Ministry's level (scanning of all submissions, on line access to all submissions, search according to different criteria, analysis of processed data, reports, information, etc.)
- Provide for more rational and efficient citizens' grievances procedure, respectively, provide that a submission is not being dealt by more police directorates or organizational unit of the Ministry at the same time.
- Promote mechanisms of resolving complaints to police work with adequate resources and authorities.

IAS has sent project idea to EU Funded Project Department in April 2013 titled „Strengthening of IT infrastructure for efficient fight against corruption in MoI Serbia“. Aim of this project is to increase analytical capacities and IT infrastructure with the possibility of upgrade in later period that will not interrupt the work. Within the twinning project, UK experts conducted analysis of the current state of IT infrastructure of IAS and made a report with proposal to improve current state and increase security of data that is processed in the database.

Also, IAS also sent project idea titled „Strengthening of capacities of Internal Affairs Sector in Fight against Corruption“. The overall objective of the project is strengthening of institutional capacities and integrity of the Ministry of Interior, through the improvement mechanisms of internal control of the police to effectively combat corruption in their own ranks and specific objective of the project is increasing technical capacities and independence of

the Internal Affairs Sector, and also the level of competence of police officers in the Division for covert audio and video surveillance of the suspect in the use of special investigative methods such special investigative techniques in the fight against corruption.

Priority in work of the Sector had activities on:

- detection and discovering criminal offences with elements of corruption
- organized crime, offences where police officers committed the crime
- complex and serious criminal offenses committed by police officers
- improvement of the organization and quality of operational work
- improving the quality of prevention and procedures
- activities to establish and strengthen professional standards and code of ethics

#### *2.2.6.2. Statistics regarding the IAS activity*

In 2012, IAS filed 133 criminal charges and 5 reports as amendment to criminal charges. Number of criminal charges is 7, 2 % higher than in 2011, the trend is a continuation of slight increase of filed criminal charges which were recorded in the last three years.

	2010.	2011.	2012
<b>Filed criminal charges</b>	111	124	133
<b>Ammendment to criminal charges</b>	10	10	5

Criminal charges of the Sector include 146 police officers and 47 citizens. In the last three years the number of reported police officers has been continually increasing, while at the same time the number of reported citizens has decreased with regard to the last year for 33,8%.

	2010.	2011.	2012
<b>Total number of reported persons</b>	185	200	193
<b>Number of reported employees of Mol</b>	139	129	146
<b>Number of citizens</b>	46	71	47



The largest number of filed criminal charges is the result of operational work of the Sector:

- 71 charges were filed according to operational information and knowledge of employees of the Sector (about 53,3% of the total number of charges)
- 8 criminal charges were filed according to official reports of employees of IAS about the information received from citizens
- 4 criminal charges were filed according to direct charges made by citizens, who filed charges to the Sector to be recorded.

Besides, 10 criminal charges were filed after conducted preventive controls:

- 4 after control in Zaječar;
- 4 after control in Nis (conducted in 2011)
- 2 after control in Subotica

During 2012, Sector received a total of 3621 documents in which citizens, police officers, representatives of state authorities and NGOs filed complaints regarding the work and conduct of police officers.

The last three years have recorded drastic deviation of the number of documents received by the Sector, but it is evident that their number was slightly reduced in the period from 2010 till 2012 –1-2% on annual level.

	2010.	2011.	2012.
Number of <b>received</b> grievances and other documents	3.739	3.695	3.621

#### 2.2.7. Future activities

- Implementation of mechanisms for assessing perception of corruption and monitoring measures taken after analysis
- Improvement of system for management of risks of corruption
- The hierarchy of control
- Improving transparency, information and collaboration with citizens
- Technical measures to improve IT systems in accordance with European standards
- Measures to change the legislative framework
- Diversity of training and curriculum in the area of ethics and professional integrity topics
- Measures of information and reporting

- Strengthening of the coordination of work of bodies dealing with prevention and combating of corruption (inter-sectorial collaboration)
- Development of a integrity testing as a measure of professional integrity testing of police officers

#### 2.2.7.1. IAS prognosis

- **Stronger connections with specific Directorates of the General Police Directorate** (Crime Police Directorate - SBPOK, USP, UGP, etc.) that are expected to give significant data for higher quality work of the Sector with the eventual possibility of joint action in certain cases, strictly taking into account the powers, obligations, autonomy and independence of the Sector.
- **Simplify mechanism for submitting responses to the complainants** when the response is sent by the Bureau for Complaints and Grievances (in the case when the Sector sends response to the Bureau with the report).
- **Finalize the project on establishment of the unique data base** on citizens' complaints, grievances and commendations to the work of police officers on the Ministry's level.
- **Promote cooperation with non-governmental sector and other state authorities** and organizations (Ombudsperson, Commissioner for information of public importance, Agency for fight against corruption, etc.)
- **Promote information system of all employees** about the most important events through daily bulletin and more important dispatch letters, especially those of instructive character that are required for work.
- **Initiating change of positive legislation that indirectly sanction corruption which refer to the use of police powers**, on the basis of the observed failures, poor legislation and procedures, as well as methodologies that generate corruption in order to adopt new regulations.
- Standardization of strict boundaries between disciplinary accountability and other forms of liability.
- Intensifying activities on gathering information on the involvement of police officers with persons engaged in different types of crimes that are required to prove criminal accountability of police officers.
- Intensifying unannounced preventive controls to police directorates, during which in cases when omissions and irregularities in the work are observed, Sector will make recommendations for improving efficiency and quality of work and as needed to provide expert help.
- Drafting for the first time risk assessment on corruption for MoI Serbia (it should be annual risk assessment)

- Initiative towards Secretariat to adopt a rulebook which would regulate tasks incompatible with tasks of police officers
- Initiative for comparative-legal overview of the place and role of IAS (powers and competences with other similar unit in EU)
- Initiative for drafting a document Guide of Good Practice for employees of IAS and the whole Ministry

## 2.2.8. Prevention

Internal Affairs Sector continued strengthening of the function of preventive work of the Sector and intensified unannounced preventive controls in police directorates. IAS conducted preventive controls in Subotica (January 2012), Zaječar (September 2012) and Novi Pazar (end of October and beginning of November 2012). Controls were conducted also in several organizational units in the Police Directorate for the city of Belgrade: PS Barajevo, PS Lazarevac and PS Grocka.

Aim of preventive controls was to propose recommendations for improvement the efficiency and quality of work in cases where oversight and irregularities were determined. Preventive controls included work and proceeding of police officers:

- control of records and proceeding according to requests from public prosecutors
- proceeding according to orders of misdemeanour courts
- control of proceeding in cases of seizure of motor vehicles for suspicion that criminal offence was committed or customs violation,
- control of proceeding in cases of temporary seizure and return of weapons and use of police powers,
- insight in investigated concluded cases and current cases.

After conducted controls in Nis and Novi Pazar, Sector proposed:

- to take disciplinary action for serious misconduct against the 40 police officers
- against 7 for minor misconduct
- to give a warning to a number of police officers about their duty to handle their cases in timely and efficient manner.

Sector proposed a series of other measures that should contribute to rectifying omissions and irregularities, such as:

- to set some records straight in certain police stations
- to eliminate gaps in issuing approval for the purchase of weapons,
- to initiate a procedure to establish fictitious addresses and “passivation” of residence for persons with fictitious addresses, and to take measures of misdemeanour accountability against the persons responsible for not register old and new residential address;
- to provide timely proceeding when performing and sending security checks to the Division Administrative Affairs,

- to provide timely proceeding in the administrative procedure of seizure of weapons
- to ensure timely response to requests of authorized prosecutors to collect necessary information and
- to ensure timely action according to court orders etc...).

#### *2.2.8.1. Proposed measures of IAS*

After detecting that the Sector didn't receive feedback from organizational units of the Ministry whether they proceeded according to measures proposed by Sector after determining the omissions and irregularities, Sector sent urgency letters to the Cabinet Ministry and police directorates to whom the measured referred.

After that, the following information was received:

- some reports (15) of the Sector were not forwarded to police directorates,
- some police directorates sent reports about implemented proposed measures to General Police Directorate which didn't refer it to the Sector;
- some police directorates implemented much milder measures instead of measures proposed by the Sector ;
- instead of measures proposed by the Sector towards police officers whose failures were detected, milder measures were applied – for example, there were summed to report, even though the Sector proposed to initiate disciplinary proceedings for serious violation of duty
- some police directorates deliberately postpone initiation of disciplinary procedure until the criminal proceedings are finalized (which is unnecessary because these are two separate proceedings);
- some police directorates deliberately prolong implementation of proposed measures to avoid them for the reason of obsolesce.

#### **2.2.9. Preventive control of the use of special investigative techniques**

In November 2012, Sector reviewed the use of special investigative techniques, in the Criminal Police Directorate of Mol and 10 regional police directorates which use special investigative methods and actions.

On this occasion, it was determined that:

- organizational units of the General Police Directorate don't have internal rules that would adequately set a methodology of work, procedures for applying special investigative techniques,
- organizational units of the General Police Directorate don't have complete information about the use of these methods and measures

- drafting of transcription of wiretapping is not regulated by regulations,
- provisions of Mandatory operational instruction which regulate the obligation to deliver operational materials to Operational Analytics are not respected, etc.

## 2.2.10. Activities focused on protecting the EU financial interests

### 2.2.10.1. Cooperation documents

In 2012, Sector signed two Protocols on Cooperation, with aim to enhance good practice and standards of internal oversight departments in the region and strengthen efficiency in implementation and respect of ethical norms and standards for police officers:

- in 2012, signed with National Protection Service of the Ministry of Interior of the Republic of Hungary, Protocol On co-operation between The National Protective Service of Hungary and Internal Affairs Sector of the Ministry of Interior of the Republic of Serbia in the fight against corruption and in its prevention
- in October 2012, signed with the Anti-Corruption General Directorate of Ministry of Administration and Interior of Romania, Protocol on co-operation between the Anti-corruption General Directorate within the Ministry of Administration and Interior of Romania and the Internal Affairs Sector within the Ministry of Interior of Serbia, in the field of preventing and countering corruption within their legal competence
- In March 2013, made a final draft of the Memorandum of Understanding between the Ministry of the Interior of the Republic of Serbia and the Ministry of the Interior of the Republic of Bulgaria, which will be signed in 2013.

The purpose of this Memorandum is to improve cooperation of authorities in charge of internal control of the police with aim of prevention and more efficient fight against police corruption and to respect human rights and freedom, especially on border crossing points.

Cooperation between competent departments in the area of internal oversight will include:

- exchange of experiences on implementation of legal regulations, internal organization and method of functioning of the authorities responsible for internal control of the police through envisaged methodology of work,
- analysis and exchange of information on the causes and development trends in fight against corruption and other criminal offences in the police,
- drafting prevention plans, as well as exchange of information about the measures and actions which one competent authority conducted in the area of prevention of corruption and other criminal offences in the Ministry of Interior.
- exchange of experiences concerning the method of committing criminal offences (modus operandi) and methodology of proving criminal offences committed by police officers of the Signatory Parties

- cooperation in the area of education and professional training of police officers in charge of internal control of the police.

#### 2.2.10.2. *Implemented projects*

Internal Affairs Sector and the International Criminal Investigative Training Assistance Program-ICITAP of the U.S. Embassy in Belgrade initiated the project "Joint Border Anti-Corruption Initiative" that began implementation in October 2012 and will run until 2013, with aim to introduce long-term initiative to reduce corruption within Border Police Directorate and Customs Directorate of the Republic of Serbia. Participation in the project beside Internal Affairs Sector, also took the Criminal Police, Border Police, the Internal Control Department within the Customs Directorate, Department for fight against Organized Crime and the Anti-Corruption Unit in the Prosecutor's Office

During 2012 and the beginning of 2013, two project activities were conducted:

1. Completed 6 round tables in 2012. for two representatives of IAS for each roundtable (overview of the current situation, defining training needs)
2. Organized study visit to the USA in March 2013 for the representatives of Internal Affairs Sector, Border Police, Criminal Police, Republic Prosecutor's Office and the Customs Directorate. Aim of the visit was to introduce the participants of the study visit the work of similar departments and best practices used in fight against corruption on the border of Mexico and South California, method of conducting investigation and prosecution of corruption cases related to border crossings. Experiences and good practices of these departments will serve as guidelines for creating program of training for police officers of IAS, Criminal Police, Border Police, the Internal Control Department within the Customs Directorate, Department for fight against Organized Crime and the Anti-Corruption Unit in the Prosecutor's Office and their implementation in the third phase of the project.
3. Implementation of the third phase is planned until 2013. training for Border Police Directorate in the area of prevention of corruption in the police, and training for IAS, the Internal Control Department within the Customs Directorate, Criminal Police, Department for fight against Organized Crime and the Anti-Corruption Unit in the area of fight against corruption and improvement of cooperation between the police and prosecutors in investigation of police corruption, especially on border crossings.

#### 2.2.11. Recommendations

1. Increasing technical capacities and independence of the Internal Affairs Sector, and also the level of competence of police officers in the Division for covert audio and video surveillance of the suspect in the use of special investigative methods such special investigative techniques in the fight against corruption on border crossings.

2. We propose to organize and implement training related to the control of border crossings, with special emphasis on the introduction of integrity testing, using undercover investigators, cover documents and the use of special investigative techniques in detection of corruption criminal offenses (e.g. Romania). Training would be implemented at the operational level where participants would be representatives of departments from Romania, Serbia and Moldova. Also, the best practices would be exchanged in the prevention of police corruption in the region and it would enhance bilateral cooperation in the field of implementation of prevention activities on the control border crossings and discuss the possibility of forming joint investigative teams. All these activities would enable further specialization and coordination of these departments.

3. Providing relevant expertise and continuous specialization of police officers in charge of the fight against corruption.

4. Consider ways of establishing concrete cooperation of above mentioned departments according to agreed mechanisms, for example:

- through a liaison officer of the above mentioned departments or for example through contact heads of departments at the border crossing who would indicate corruption and possible risks
- assessment of legislation, by-laws, procedures and methodology used, analyze legislation of Border Police and Customs which generate corruption. How many initiatives were initiated in the past to change the legislation that generated corruption?
- In what extent and scope exist the lack of legislation and if so, did it produce arbitrariness in the work?

5. We suggest that cooperation in the framework of the activities which are focused on the protection of the financial interests of the EU include:

- exchange of intelligence regarding specific examples of smuggling of excise goods (eg. cigarettes) and intelligence analysis about the trends and forms of the smuggling of excise goods with special emphasis on the "modus operandi"
- exchange would include not only the officers of above mentioned departments but also other departments such as Customs
- exchange of experiences related to new forms and ways in which police officers commit criminal offenses as a form of good practice to be exchanged.

## **2.3 National Anti-corruption Centre of the Republic of Moldova**

The National Anti-corruption Centre is a body specialised in preventing and fighting corruption, corruption associated documents and corruption behaviour acts.

The centre was created in the year 2002, initially as a mixed competences body in preventing and fighting both economical offences and corruption offences, denominated as

the Centre for Fighting Economic and Corruption Offences. During the year 2012, the institution was reorganised by setting its competences on preventing and fighting corruption.

The National Anti-corruption Centre is independent in its activity and only obeys the law, having, pursuant to legal provisions, organisational, functional and operational independence.

### 2.3.1 Legal base and programmatic documents

- Law on whistle blowing and fighting corruption no. 90 as of April 25<sup>th</sup> 2008;
- The Criminal Code of RM 985 as of April 18<sup>th</sup> 2002;
- The Criminal Procedure Code of RM as of March 14<sup>th</sup> 2003;
- The Contraventions Code of RM no. 218 as of October 24<sup>th</sup> 2008;
- Law on the behavioural code of the civil servant no.25 as of February 22<sup>nd</sup> 2008;
- Law on the conflict of interests no. 16 as of February 15<sup>th</sup> 2008;
- Law on the public position and the status of the civil servant no. 158 as of July 04<sup>th</sup> 2008;
- Law on the statement and control of incomes and the property of state officials, judges, prosecutors, civil servants and persons giving management positions no. 1264 as of July 19<sup>th</sup> 2002;
- Law on transparency in the decision making process no. 239 as of November 13<sup>th</sup> 2008;
- Law on preventing and fighting money laundering and funding terrorism no. 190 as of July 26<sup>th</sup> 2007;
- Law on public purchases no. 96 as of April 13<sup>th</sup> 2007;
- Law on the National Anti-corruption Centre no. 1104 as of June 6<sup>th</sup> 2002;
- Law on amending and completing legislative no.120 as of May 25<sup>th</sup> 2012;
- Law on the special investigation activity no. 59 as of March 29<sup>th</sup> 2012;
- Law on the national Integrity Commission no. 180 as of December 19<sup>th</sup> 2011;
- Parliament Decision on adopting the National Anti-corruption Strategy 2011-2015 no. 154 as of July 21<sup>st</sup> 2011;
- Parliament Decision on approving the Action Plan 2012-2013 for the implementation of the National Anti-corruption Strategy 2011-2015 no. 12 as of February 17<sup>th</sup> 2012;
- Parliament Decision on approving the Institutional Consolidation Strategy of the CNA no. 232 as of October 25<sup>th</sup> 2012.

### National strategic policies documents

- Government action plan for the years 2011-2014, approved by GD no. 179 as of March 23<sup>rd</sup> 2011;



- The National Programme for Implementation of the RM-EU action plan in the field of liberalisation of visa regime, approved by GD no. 122 as of March 4<sup>th</sup> 2011, amended by GD no. 130 as of February 24<sup>th</sup> 2012;
- National Anti-corruption Strategy for 2011-2015, adopted on July 21<sup>st</sup> 2011;
- Justice sector reforming strategy for 2011-2015, adopted on November 25<sup>th</sup> 2011;
- Institutional consolidation strategy of the National Anti-corruption Centre, approved by Parliament no. 232 as of October 25<sup>th</sup> 2012;
- Criminal convention of the Council of Europe on corruption, signed by the Republic of Moldova on June 24<sup>th</sup> 1999 and ratified by Law no.428-XII as of October 30<sup>th</sup> 2003
- UN Convention on corruption, ratified by the Republic of Moldova by Law no. 158-XVI as of July 06<sup>th</sup> 2007
- Statement on 10 measures for combating corruption in South-Eastern Europe, of the Anti-Corruption Regional Initiative within the Stability Pact, signed in Brussels on May 2005

### 2.3.2 Structure

The National Anti-corruption Centre was established by restructuring the Centre for Combating Economic Crimes and Corruption, according to Law no. 120 of May 25<sup>th</sup> 2012.

The Centre is a centralized and hierarchical unitary authority, consisting of a central office and regional subdivisions. The Centre is independent regarding its business program development and the exercise of its functions.

The Centre has two regional subdivisions in Northern and Southern Republic of Moldova. Regional subdivisions are conducted by headmen appointed by the Director of the Centre, on a competitive basis.

The Centre is chaired by a Director, appointed by the President of the Republic, upon the Prime Minister's proposal, for a period of 4 years. The candidate for Director is selected on a competitive basis. The Director of the Centre is dismissed by the President of the Republic of Moldova at the Prime Minister proposal. Regarding his work, the Director is assisted by two Deputy Directors appointed and dismissed by the Government at the Director of the Centre proposal.

Peer Leadership of the National Anti-corruption Centre is exercised by a Board. The members of the Board are: the Director, his deputies, heads of Centre subdivisions, the Anti-corruption Prosecutor, the President of the National Integrity Commission, a representative of the relevant Parliamentary Committee that is also a representative of the opposition faction, a representative appointed by the Government, a representative of the Centre's union, a representative of the civil society selected by public contest by the relevant Parliamentary Committee, a representative of the Civil Council. The Centre's Board approves the strategic development policies of the Centre, the performance indicators emerging from the Centre's

activity, approves the regulations regarding the Prevention and Combating Money Laundering Service's activity.

#### *2.3.2.1. Employees of the National Anti-corruption Centre*

The officer at the National Anti-corruption Centre is the person employed on a competitive basis, invested with rights and obligations for the exercise of the Centre responsibilities, and is given special rank. When employed in service and subsequently every year, the employee of the Centre is required to submit a declaration on income and property.

In order to be employed at the Centre, the candidate goes through a special inspection, a test of psychological skills and a simulated behaviour detector testing (polygraph). When employed, the officers are subject to state mandatory fingerprinting registration. The candidate who has passed the examinations is to be employed only after the written agreement regarding:

- a) Professional integrity testing and lifestyle monitoring;
- b) Periodic testing for the purpose of maintaining the psychological skills necessary for exercising duties;
- c) Simulated behaviour detector testing (polygraph).

When employed at the Centre, a probationary period of 6 months can be settled.

#### *2.3.2.2. Integrity Policy for the employees at the National Anti-corruption Centre*

##### ***Professional Integrity Testing***

Professional Integrity Testing is a method of periodically checking the compliance of the Centre's employees with their professional responsibilities or their conduct, as well as the identification, assessment and elimination of vulnerabilities and risks that determine the employee to commit acts of bribery, corruption and related acts or acts of corrupt behaviour or to allow undue influence related to the exercise of their duties, consisting in creating virtual situations, similar to those faced by the personal in the line of duty, evidenced by covert operations, manifested by his conduct in order to establish adopted reaction and conduct.

Professional integrity testing is performed by the Intelligence and Security Service with the authorization of the prosecutor and the result shall be handed to the Disciplinary Board of the Centre.

##### ***Life style monitoring***

Monitoring the employee's lifestyle is performed to identify the compliance with:

- a) The living standards of the Centre's employee with his legal remuneration and the people who live with him;
- b) The Centre's employee conduct with the requirements of impeccable conduct, set out in the Code of Conduct for the employees of the Centre, approved by the Government;

The monitoring result of the employee's lifestyle shall be handed to the Disciplinary Board of the Centre.

### 2.3.3. Responsibilities

In accordance with Article 4 Law on the National Anti-corruption Centre no. 1104 of June 6<sup>th</sup> 2002, the Centre has the following responsibilities:

- a) prevention, detection, investigation and suppression of offenses and crimes of corruption and related acts, as well as acts of corrupt behaviour;
- b) preventing and combating money laundering and terrorist financing, according to Law on preventing and combating money laundering and terrorist financing no. 190-XVI of July 26<sup>th</sup> 2007;
- c) performing an Anti-corruption expertise of draft bills and normative acts of the Government, as well as other legislative initiatives presented in Parliament regarding their compliance with state policy on preventing and combating corruption;
- d) ensuring the development of corruption risk assessment within public bodies and institutions through training and consultation, monitoring and analysis of data on corruption risk assessment, as well as, coordinating the integrity plans development and implementation.

The Centre's responsibilities are comprehensive and can be modified or amended only by law.

### 2.3.4. Activities, results and good practices

#### 2.3.4.1 *Preventing corruption*

##### **2.3.4.1.1. Corruption risk assessment**

Corruption risk assessment is one of the Centre's responsibilities, established by the Law on the National Anti-corruption Centre no. 1104 of June 6<sup>th</sup> 2002, on Article 4, The Centre Responsibilities are and consist of: ensuring corruption risk assessment within public bodies and institutions through training and consultation, monitoring and analysis of data on corruption risk assessment and coordination.

For the first time, the extent of corruption prevention – risk assessment- is mentioned, in the Republic of Moldova, in the National Strategy for Preventing and Combating Corruption, approved by Parliament Decision 421/December 16<sup>th</sup> 2004, subsequently becoming mandatory for implementation with the approval of the Action Plan for implementation of the

Strategy for 2007-2009 (Parliament Decision R.M. 413/ December 21<sup>st</sup> 2006), the Law on Preventing and Combating Corruption, no. 90-XVI of May 25<sup>th</sup> 2008 and Government Decision R.M. on approving the Methodology for risk assessment in public institutions no. 906 of July 27<sup>th</sup> 2008. Based on this Decision, specialized central bodies of public administration were required to self-assess, during 2008-2011, the risks of corruption and to report the self assessment results, and the Centre, as body responsible for the effective implementation of the measure was required to provide advisory support, including training authorities in the self-assessment of corruption risks.

Training and consultation given under those provisions was based on risk assessment methodology of corruption in public institutions, which establishes the organizational and methodological assessment process, namely: objectives, principles, stages, methods, techniques and purposes for assessment.

In this respect, the assessment aims are:

- Identify institutional factors that promote or encourage corruption;
- Make recommendations to eliminate or diminish their effects (developing integrity plans).

Principles of assessment – legality, transparency and participation – mandatory at all stages, are designed to protect information; national security, private life, the objectivity of the assessment process and to involve and consult all stakeholders (subdivisions, employees, beneficiaries of public services)

The assessment is carried out through self-assessment by the working group (self-assessment), consisting of a representative number of relevant subdivisions (from 5-7 members)

The risk assessment process is conducted in three stages:

**I. Assessment of preconditions, which involves:**

**a. Identifying and assessing the relevant legal framework for the institution**, with emphasis on assessing the legal provisions relating to vulnerable activities which by their specificity, involve high risk of corruption. Thus, it is important to identify: the lack of regulations, incomplete regulations or insufficiently focused on the requirement of integrity, poor employee familiarity with the regulations, and inadequate application of regulations.

Vulnerable activities may be related with the internal organization of the institution (information, funds, goods and service management), as well as, with its related (external tasks) duties (payment receipts, contracting, granting rights, implementation of the law, etc.)

**b. Assessment of the organisational structure** of the institution requires organizational analysis, job descriptions, work processes and procedures, based on the criteria:

- the level of compliance of the organizational structure, mission, duties, rights and obligations of the institution;
- the level of efficiency of the organizational structure in relation to the mission, duties, rights and obligations of the institution.

**c. Assessment of ethical regulations**, consists in assessing the extent to which the regulations provide explicit guidance in important moral issues that may arise in the activities carried out by the institution.

**II. The proper assessment of corruption risks consists of:**

**a. Researching and identifying risks.** In this activity, the information collected is about actual and potential risks of corruption in the institution, using various research and identification risk methods: questionnaire administration to employees of the institution; the assessment of the institution's public relations; analysis of concrete cases of corruption.

**b. Risk analysis**, which is performed by prioritizing them, according to the risk impact, if it continues, or according to the probability of the risk.

**III. Developing recommendations to eliminate or reduce their effects (developing integrity plans).**

The entire activity in the assessment process is systematized, in the sequence of the stages, in the self-assessment Report, based on which, the self-assessment group elaborates the Integrity Plan project.

The Integrity Plan is a detailed action plan on preventing corruption within the institution, taking into account the prioritization of risk, which, after coordination, with all concerned subdivisions of the institution, shall be approved by the Head of the institution.

In order to facilitate and streamline the training process and the consultation of self-assessment groups within public authorities, NAC has developed a centralized work plan for conducting the training.

In this regard, the authorities were grouped based on the specific activities of the public institution, being trained in specific topics under this criterion. However, given the complexity of the corruption risk assessment process, some common aspects with the Internal Public Financial Management, training in the 'Description of processes and work procedures' was provided with the support of experts from the Ministry of Finance. In addition, trainer – consultants to the NAC received training through TAIEX by the experts of the Prevention of Corruption Service (Slovenia); the Anti-Fraud Office of Catalonia (Spain), the Special Investigation Centre (Republic of Lithuania) and together with the members of self-assessment groups – of AGD training (Romania) and MOLICO Project experts.

In addition, to facilitate and systematize the process of self-assessment activities efficiently, trainer-consultants of NAC developed '**The template – model of self-assessment corruption risk report**' – a document for internal purposes, including the entire activity of the self-assessment group: identifying corruption risks, their assessment, proposed measures to reduce or exclude the risk of corruption; and this constitutes the Integrity Plan.

Identifying and highlighting certain difficulties in organizing and conducting the training and consultation process of self-assessment groups, has revealed the need to develop a training module for managers of public institutions, which would include the concept, importance, objectives and effects of corruption risk assessment. In this respect, at the moment, NAC develops the given module, with a 5 hours duration, focused on theoretical, legal and practical issues.

At the same time, the outlined difficulties caused the amendment of the legislation in force, for the purpose of broadening NAC competences in this area. Thus, the NAC officer's duties in assessing corruption risks are the following:

- 1) instructs senior staff of public institutions on the concept, purpose and importance of corruption risk assessment;
- 2) trains and consults the self-assessment group on the methods for regulatory framework collection and assessment, organizational structure, information regarding the rules of ethics, identifying and researching risks methods;
- 3) provides guidance for developing the self-assessment plan of the group for drafting the self-assessment report and the integrity plan;
- 4) attends meetings of self-assessment corruption risks groups in public institutions;
- 5) monitors the execution and implementation of the self-assessment group activity plan;
- 6) monitors the analysis process: job descriptions, work processes and procedures; the interpretation of the assessment questionnaire results.

Currently, NAC ensures and monitors the completion of the self-assessment corruption risk process in 2 public institutions, and in 2013-2014, monitors the Integrity Plans implementation developed by Specialized Central Public Authorities. Along with the approval of the Draft Bill on corruption risk assessment in public institutions, NAC shall identify, applying certain techniques, the following institutions subject to corruption risk assessment.

#### **2.3.4.1.2 Anti-corruption awareness, education and training/ formation**

The Anti-corruption awareness, education and training/ formation activity is provided in the educational and public communication component of the National Anti-corruption Centre Strategy as a permanent activity – in the Implementation Plan of the Strategy. The R.M. law on preventing and combating corruption no. 90 – XVI of April 25<sup>th</sup> 2008, establishes in Article 13 that the National Anti-corruption Centre is a specialized body invested with responsibilities for preventing and combating the corruption acts or corrupt behaviour, whose obligations are: letter c) developing activities to prevent corruption, Anti-corruption education of citizens, active collaboration with the civil society in order to spread the culture of mass-corruption.

The Centre's responsibilities in this area are the following:

- Planning and conducting Anti-corruption awareness raising and growing intolerance towards corruption measures in public and private institutions, including fostering corruption denunciation;
- Participation and developing training activities on the rules of professional conduct of public officials, people with public offices and other persons providing public services;
- Planning, organizing and conducting in partnership with specialized central bodies of public administration, local authorities, non-governmental organizations, civil society, corruption preventing activities;

Based on the aim, objectives and public (target group) of the corruption awareness activities organized by NAC alone or in partnership with central body authorities, local or civil society, these are grouped into the following categories:

**I. Anti-corruption training (formation)**, is primarily intended for public officials and those with special status, focusing on issues regarding ethics in public service, national and international Anti-corruption standards, legal liability for corruption, corruption prevention measures etc.

Nationally, the Anti-corruption Module was developed for junior customs officers (10 hours) and Anti-corruption Module for customs officers – operational managers (8 hours), including Anti-corruption issues, legally and practically disclosed specific to listed audience groups.

Regionally, under the European Union Mission of assistance to the Republic of Moldova and Ukraine EUBAM border together with OSCE support, and jointly with the representatives of the Customs Service, the Border Police Department (Republic of Moldova) and representatives of the Customs Service and State Border Guard Service (Ukraine), was developed the Anti-corruption Curricula unified customs officers and Border Police (border guards) with a duration of 40 hours. The Anti-corruption Curricula includes 5 modules:

General aspects of corruption; National and International Standards for preventing and combating corruption; Classifying corruption acts and liability for committing them; Professional integrity and ethics; Principles of good governance – a tool against corruption. Each module consists of several themes, topics which are dealt with from a theoretical, legal (national and international issues) and practical point of view.

This Curriculum shall be approved for implementation in higher education institutions, also specialized within Continuous Training Centres of Customs and Border Police Service, (border guards) in Moldova and Ukraine.

At the time, the current Moldovan-Ukrainian group work develops on the basis of specified curriculum – The Anti-corruption Trainer's Manual.

## **II. Anti-corruption awareness and education**

An increased focus in this area is on youth activities. In this regard, NAC, in partnership with MOLICO project, subsequently with the European Mission of assistance to the Republic of Moldova and Ukraine boarder, organized Anti-corruption schools for students **“Youth against corruption”**. The schools aim is to promote national and international Anti-corruption standards, development of active citizenship and increasing intolerance towards corruption among youth. The schools program has been focused on theoretical and legal corruption issues, but primarily on the practical aspects of promotion, development and implementation of Anti-corruption activities and future Anti-corruption projects. Thus, the trainees have completed several successful projects, namely:

- The launching of web [www.corcaput.at.ua](http://www.corcaput.at.ua) page
- Public lectures at Universities
- Publication of articles in academic newspapers

- Participating as organizers and trainers in the „**YOUTH AGAINST CORRUPTION in action**,” trainings with a duration of 2-3 days, intended for High School students that were mentioned at the end of the course in Anti-corruption Community Guards Certificate. The training aimed not only to promote Anti-corruption standards and increasing the intolerance towards it, but primarily, emphasizing and enhancing the personal example of each community member, as well as accountability regarding their personal conduct. The training was organized by NAC, Anti-corruption school trainers in partnership 'Făclia' ONG in Ungheni.

**III. Partnerships** with the local government and NGOs include various activities for different purposes for different target groups or the entire society.

Premiere activities in this respect are the following:

- Graffiti Art Contest „**STOP CORRUPTION!**” – held in Ungheni in partnership with „Făclia” NGO, a continuity of '**YOUTH AGAINST CORRUPTION in action**'.

- The Anti-corruption week in Soroca, which included: meetings with officials and local government officials, representatives of public bodies and institutions in Soroca, the manager of educational institutions, local television broadcast cycle, Anti-corruption drawing and essay contests conducted in schools and colleges in Soroca (drawings have formed a gallery at the National Anti-corruption Conference of December 9<sup>th</sup> 2012). The event was organized in partnership with Soroca City Hall.

- Promoting social campaigns against corruption. The partnership with the Association of Advertising to carry out the contest “*Don't tolerate corruption! Corruption destroys the future!*” in which there were exposed for participation: street banners; audio Anti-corruption social spots; banners for web site. The winning products shall be promoted through media sources, web and placed in public places to raise awareness of society view through all the admissible and available techniques.

Partnerships with NGOs conducting Anti-corruption activities have been focused in this area on the following: Television shows cycle “**Don't tolerate corruption**” Radio shows cycle “*Your rights free of corruption*,” Anti-corruption training course for journalists in the territory “*Investigative Journalism*” - partner Centre for the Analysis and Prevention of Corruption and „*Anti-corruption Telemaraton*” – December 9<sup>th</sup> 2011 – partner Transparency International – Moldova.

NAC is continuously implementing and diversifying activities in the field of Anti-corruption awareness, education and training. Despite the fact that these activities are sometimes sceptically viewed by officials or the media, it is certain that future effects will be obvious.

#### **2.3.4.1.3. Anti-corruption expertise of draft bills/regulations**

In order to materialize the aspiration of European integration, the Republic of Moldova has taken decisive steps towards repressing corruption in the country, including the compliance with the *acquis communautaire*.



An important role in this respect is the development of a legislative framework to prevent committing offenses by public officials. It is not only the restrictive rules to practice entrepreneurial activities or actions performed to obtain illicit remuneration set for public servants, but also to identify those normative formulations of public servants responsibilities that will not let those „open doors”, as margins of discretion for arbitrary and abusive activities and lobbying certain interests. Moreover, corruption is more dangerous when based in a legal, elusive, confusing or incomplete framework.

In this regard, the Anti-corruption expertise of draft bills is an act of corruption prevention, specific and particularly important, aiming to assess the level of corruptibility of draft bills by identifying the regulations favouring or facilitating corruption in the implementation thereof.

The Republic of Moldova is unique in that it has institutionalized Anti-corruption expertise of draft bills as a particular and required way to expertise drafts, and the responsibility of performing an Anti-corruption expertise of draft bills for their compliance with state policy to prevent and combat corruption, falls upon the National Anti-corruption Centre, under Article 4, paragraph (1), letter d) of Law regarding the National Anti-corruption Centre no. 1104 – XV of June 6<sup>th</sup> 2002. Moreover, the public authority's obligation to submit draft bills to the Centre for the Anti-corruption expertise is provided in Article 22, paragraph (3) of Law on normative acts no. 780 – XV of December 27<sup>th</sup> 2001 and Article 41, paragraph (2) of Law on Government Normative Acts and other authorities of central public and local administrations No. 317 – XV of July 18<sup>th</sup> 2003, which stipulate that all draft bills and legislative are necessarily submitted to an Anti-corruption expertise to check Anti-corruption national and international standards, as well as, to prevent the occurrence of new regulations favouring or facilitating corruption.

In this regard, the Regulation on the Anti-corruption process organization of draft bills and regulations was adopted, approved by Government Decision no. 977 of August 23<sup>rd</sup> 2006, as well as, by order no. 62 of April 19<sup>th</sup> 2013 of the National Anti-corruption Centre Director was approved the Methodology for conducting Anti-corruption expertise on draft bills.

Thus, the Anti-corruption expertise of draft bills and regulations is the assessment process of compliance between the draft contents submitted to expertise and the national and international Anti-corruption standards in order to identify corruption factors and to develop recommendations to eliminate or diminish their effects, and setting objectives and stages of Anti-corruption expertise, corruption factors typology, structure, substantive and formal issues of the Anti-corruption expert report.

Note that setting this innovative expertise mechanism was also a core concern of civil society of the Republic of Moldova, which, incidentally was the promoter and the „pioneer” of the exercise. In this context, it is worth noting the important contribution of the NGO „Centre for the Analysis and Prevention of Corruption” which launched the project „Reducing the level of corruption by involving civil society in the legislative creation”, through which it was proposed the implementation of new ways to expertise- expertise corruption.

The origin of corruption may lie both in the legislative process deficiencies mechanism, legal technique, and in the essence of social relations, governed by rules of law or social relations to be governed by the rules of entitlement. It is therefore necessary to differentiate between corruptibility resulting from the rule of law content and corruption that may occur as a result of legal shortcomings (error of law, gap by right, etc.), and in the Anti-corruption expertise process, the main role falls upon the expert, who, ideally, should have theoretical knowledge and practical skills in the intervention department and enabling him to notify the corruptibility items of regulatory text.

In the process of carrying out the Anti-corruption expertise, the compliance of the draft bill and normative content with the national and international Anti-corruption standards (ONU Convention against corruption, The Civil Law Convention on Corruption, the Criminal Law Convention on Corruption, etc.), in order to identify rules that favour or facilitate corruption and develops recommendations to eliminate or diminish their effects. Thus, we identify three main objectives of expertise:

- identifying provisions that contradict or poorly correspond to national and international Anti-corruption standards;
- identifying provisions that may generate or facilitate the manifestation of corruption;
- developing recommendations to eliminate or diminish the possible effects of corruption of law.

The purpose of the drawn Anti-corruption report is achieving these objectives.

International Anti-corruption standards are included in the universal international legal acts, such as ONU Convention against corruption to which Moldova is a party, the Criminal Law Convention on Corruption, the Civil Law Convention on Corruption and the regional regulatory actions such as the European Committee documents, the Organization for Economic Cooperation and Development, the European Union, the Group of States against Corruption (GRECO), etc. The compatibility assessment of the project with international standards shall identify areas where projects do not meet or are in conflict with these standards.

Special attention is given to identifying normative constructions and solutions that, when implemented, create or increase the danger of committing corruption events or otherwise, identify the draft provisions of the corruption factors. Thus, the experts will establish ambiguous linguistic formulations, in so far they provide opportunities for the application of the rule in the preferred interpretation, depending on the interest of those responsible for its implementation.

During examination, the expert shall identify the compliance of the project with other provisions of national legislation. The presence of some conflicting regulations provides those responsible for the document implementation, the possibility of misused standards choice. To identify the rules of law conflict, both project submitted to expertise are analyzed, as well as, related regulatory actions at different levels.

The danger of corruption increases in the case of blank rules and regulations. The corruptibility nature of these norms occurs when the detailed regulation of legal relations

(usually the proceedings and the execution of tasks) are left under authority jurisdiction. Therefore, the authority is challenged to create conditions which facilitate the activity, even at the expense of beneficiaries. However, the nature and effect of such regulations are assessed and the extent they are covered by rules of law in force. Provisions of the project should not grant jurisdiction to a body to determine rules, criteria and procedures, to implement and punish their failure.

In cases where certain projects regulate the functioning of public institutions, special attention needs to be given to discretionary competence of these responsibilities, such as, the competence to enforce decisions without clear criteria for such a decision, lack of clear deadlines, or setting unreasonably long terms without restrictions or obligations to provide a clear justification for such extension or deficiency of competition procedures.

From the total number of 280 projects surveyed in 2012, 122 of them were draft bills and 154 draft decisions of government.

In developing the drafts bills, only 75.45% of the number of authors has complied with the provisions of the Law on transparency in decision making.

Approximately 35.65% of draft bills and normative did not have economic and financial substantiation, although the projects implementations require financial expenses. As a result, there are promoted projects with no financial backing, which will create difficulties when implementing them.

Only 5.05% of the projects subject to a regulatory impact analysis (18.41% of the projects surveyed in terms of corruption) have met the requirements of Law no. 235 – XVI of July 20<sup>th</sup> 2006 on the basic principles governing business activity. Such figure causes a high risk in creating an unfavourable legal framework of business activity. Performing substantive assessment of projects surveyed, the following image emerged: 808 corruptibility factors were identified, of which the most numerous are: excessive discretion of public authority – in 41.35% cases, ambiguous linguistic formulations – 21.66%, rules of law conflicts – 10.96% , lack of responsibilities or inappropriate sanctions – 7.12%. Expert recommendations were considered by the authors of the projects in about 520 cases, constituting an efficiency of 64.3%. These figures indicate the need for such preventive measures, or lack thereof would have allowed the implementation of over 500 corruption provisions in practice.

In carrying out Anti-corruption expertise, the projects are subject to an overall assessment, which allows the finding that the largest share (58%) is related to justice, internal affairs, human rights and freedoms, followed by economy and commerce – 18%. Fewer projects were distributed in education and training, culture, religion and media- only 1.7%.

The NAC aims to verify within the Anti-corruption expertise, the compliance with the provisions of the Law on transparency in decision making by projects authors. This verification revealed that only 64% of the authors have complied with the recorded law, and 36% of the projects under expertise, which constitutes a large number, or at least were not found on the authorities' official websites. Therefore, projects have not been consulted by the company.

Another alarming finding, identified by experts is the small number of reports subject to regulatory impact analysis. Only 8% of projects subject to conditions under the Law no. 235-XVI of July 20<sup>th</sup> 2006 prevailed “On the basic principles governing business activity”. Such figure causes a risk in creating an unfavourable legal framework regarding the business environment and investment climate for socio-economic development, especially considering the current economic crisis.

Since it is an effective measure to prevent corruption, the Anti-corruption expertise practice conducted in the Republic of Moldova was disseminated with the support of MOLICO and internationally at the 38<sup>th</sup> Plenary Meeting of the Group of States against Corruption (GRECO) in Strasbourg, France, June 9<sup>th</sup> - 13<sup>th</sup> 2008, in Moscow, Russian Federation, June 24<sup>th</sup>-25 2008, at an International Round Table, and in Kiev on March 15<sup>th</sup> -18<sup>th</sup> 2011.

Corruption expertise of draft bills has confirmed viability in a relatively short period by contributing and improving the quality and effectiveness of national legislation. The effectiveness of this mechanism reveals the responsiveness of the legislator to civil society's contributions, when they presented as coherent, consistent and accurate recommendations.

It is clear that the legislative efforts alone may not be sufficient to address corruption; however, we think that it can make a difference. This change consists in obstructing abusive actions of civil servants, who, otherwise, would have remained legally flawed because of the provisions of the legislation.

#### **2.3.4.1.4. Whistleblowers**

The acts of corruption are difficult to detect and investigate. Often people who work for the government are aware of some irregularities that are committed, but have reservations regarding reporting them because of the negative consequences that may occur. In order to ensure transparency, the government should set a clear and simple mechanism that would encourage reporting of corruption and other illegal acts; in this way they would protect people who report them (whistleblowers).

Protection of people who report corruption acts– ‘whistleblowers’ is an international standard in the Department for preventing and combating corruption, as documented in a number of international regulations. Therefore, The United Nations Convention against corruption, adopted in New York in October 31<sup>st</sup> 2003, recommends Article 33 to each State Party to the Convention ‘to incorporate into its domestic legal system, appropriate measures to provide protection against any unjustified treatment for any individual who signals relevant authorities in good faith and based on reasonable assumptions, any fact concerning offenses covered by the Convention.’

The authorities’ responsibility to provide adequate protection against any unjustified sanction for employees who report acts of corruption is stipulated by Article 9 of the Civil Convention on corruption, adopted in Strasbourg in November 4<sup>th</sup> 1990.

In the Republic of Moldova, for the protection of people who in good faith inform about committing acts of corruption and to ensure their protection, the Law no. 277 of December 27<sup>th</sup> 2011 was adopted, law amending and supplementing certain regulations (Law 90/2008, Law 25/2008, and Offences Code) that has established protection measures for civil servants who inform in good faith about committing corruption acts and related acts, corrupt behaviour, infringement of the rules on declaration of income and property, and violation of legal obligations regarding the conflict of interests. By Law no. 231 of November 25<sup>th</sup> 2011 was approved by the Reform Strategy of the Justice Sector for 2011-2016. The Action Plans for the implementation of the Reform Strategy of the Justice Sector for 2011-2016, approved by the Parliament no. 6 of February 16<sup>th</sup> 2012, provides as action within institutions the creation of mechanisms whereby whistleblowers report illegal activities. In the context of this action, the National Anti-corruption Centre issued Internal regulation on whistleblowers, governing the procedure for submission and verification of warnings about illegal acts committed within NAC, as well as the implementation of protection measures for people who voluntarily in good faith and in the public interest warn about illegalities committed.

The main purpose of a law concerning the protection of 'whistleblowers', is to protect the person communicating relevant information against any adverse consequence. An immediate measure that can be applied in this regard is to ensure the confidentiality of personal data. However, in terms of this measure, there is a danger of a leak and, namely that the person who made the 'warning' may suffer some adverse consequences. To avoid this, it is indicated to train people receiving information from 'whistleblowers' on how to conduct investigations so as to ensure the confidentiality of 'whistleblowers' personal data.

Other measures that can be applied to 'whistleblowers' are the following:

- Presumption of good faith until proven otherwise
- Transfer to another authority.

The measures applied in order to protect 'whistleblowers' must relate with the danger faced by the person making that warning.

The mere existence of a law on the protection of 'whistleblowers', is not able to encourage the reporting of corruption or some other illegal acts. Within every public body, there must be set an effective internal system stipulating the submission and verification procedure of warnings regarding the illegalities committed, as well as, the implementation of protection measures for people who voluntarily in good faith and in the public interest warn about illegal activities perpetrated.

The whistleblower shall benefit from at least two institutional levels to which he may report suspicions or present appropriate evidence. Thus, the first level is represented by the body's subdivisions in which the relevant person operates, to whom that particular information may be communicated. It may be mentioned to the immediate superior, General Director, Internal Security Subdivision, Head of the Body. In case the warning done at the first level has not produced the desired results, especially if the person to whom the information was communicated decided not to investigate or take any measure as a result of the investigation,

the 'whistleblower' must be given the opportunity to address the second institutional level that can be represented by non-governmental organizations, the media, the specialized body in preventing and combating corruption. Regulation of effective protection measures of 'whistleblowers' ensures raising awareness for people with public accountability in terms of legal compliance, encourages denouncing corruption and strengthens society confidence in the fairness and transparency of public bodies and institutions.

#### **2.3.4.1.5. Anti-corruption Hotline**

In order to prevent and combat corruption within public bodies, it was necessary to introduce Anti-corruption hotlines.

Through these hotlines, information on committing acts of corruption and related acts and corrupt behaviour is received, information which is subsequently examined and necessary measures are taken.

Introducing Anti-corruption hotlines is dictated by the requirement to take effective measures to prevent and combat corruption, to raise awareness about this scourge, the need to encourage citizens to use these hotlines, to assure access denouncing any cases of corruption, to raise confidence in public bodies and develop a broad cooperation between, on the one hand, civil society, on the other hand, state bodies, on the grounds that the fight against corruption will drive civil society that will not tolerate acts of corruption and shall resort to denouncing them.

It was necessary to develop legal regulation governing the operation of these hotlines, because the national legal framework did not contain provisions that would establish the takeover procedure through information hotlines referring to the legal issues of corruption and related acts, as well as corruptive behaviour of employees of public bodies, as well as other violations of Anti-corruption legislation.

Thus, categories of hotlines were clearly assigned and there were made elaborate regulations on their operation.

In this regard, it was proposed a direct reporting of corruption to the competent body (through the national Anti-corruption line), in this way, contributing to taking information in an operative manner and its verification, also limiting the time to examine the information presented, which is very essential in documenting and taking urgent action when committing an act of corruption.

These considerations led to the development of hotlines classification into three categories: national Anti-corruption hotline (set in the central body responsible for prevention and combating corruption), specialized Anti-corruption hotlines (set in the government authorities which have internal security subdivisions) and institutional hotlines for information (other public institutions), as well as the legal institution of a well-defined procedure for receiving calls containing information regarding corruption acts.

Furthermore, civil society can signal corruption by other means, the right to choose the means for informing not being restricted.

Setting up Anti-corruption hotlines can be regarded as a useful tool in the relationship to citizens, the latter being able to denounce corruption and aiming to increase citizens' confidence in state institutions by implementing an efficient and transparent implementation, accounting and control of telephone calls made at Anti-corruption hotlines.

Proper implementation of measures to prevent corruption, increase transparency, involvement of civil society shall contribute significantly to strengthening and uniting joint efforts to prevent corruption.

#### *2.3.4.2. Fighting corruption*

In the first quarter of 2013, the National Anti-Corruption Centre has taken all applicable steps for a fully effective investigation of the acts of corruption committed by persons in managerial positions and other manifestations with corruptible touch.

Thus, of the total number of offenses detected by the Centre **85 (72%) are acts of corruption and related acts of corruption.**

Among the types of corruption and the related acts are: *passive corruption* – 21 offenses, *abuse of power and exceeding duties of service* - 20, *abuse of power or abuse of position* – 15 (*including the private sector*), *embezzlement (the use of the official position)* – 10; *influence peddling* – 6; *negligence* – 5, *false public documents* – 7, *bribery* – 2; *active corruption* – 2 offenses.

Depending on the harmful level of the total offenses detected 8 (or 9%) are particularly serious; 46 (or 55%) serious, 23 (or 27%) less serious; 8 (or 9%) not harmful.

The detection and documentation department of corruption and corrupt behaviour acts conducted 16 caught in the act raids resulted in detaining the perpetrator, while during the prosecution 18 people were detained and 5 people were arrested.

The analysis of corruption offenses denotes the tendency of active involvement of senior and medium civil servants involved in the abuse of power or abuse of office and excess of power or of duties of service.

It is to be noted that the spectrum of civil servants who fell in the view of the Centre is varied, such as: ministers, heads of state institutions, heads of departments, divisions, mayors, law enforcement officers, customs officials, lawyers etc.

However, analyzing the reference period, it was established that of the 85 corruption offenses and related thereto, **42** criminal court actions have been initiated against the **17 officials with management and control positions in the public and private sector and 25 in executive positions.**

Of the total offenses detected, we conclude that the highest rate of crime has been in the areas of the national economy:

- *law enforcement authorities – **25 cases***
- *central and local public bodies -**22 cases***

- *medicine – 4 cases*
- *finances – 3 cases*
- *education – 3 cases*
- *constructions – 2 cases*
- *transport – 2 cases*
- *agriculture – 2 cases*
- *Other areas. - 23 cases.*

In this department, we find that the law enforcement authorities and local and central governments, are the most affected by corruption, which worries us a lot because the crimes detected primarily show a major increase from year to year.

Thus, further, the Centre will focus its efforts in undertaking counter crime, corruption and protectionism actions in the most affected areas of the national economy and state structures by revealing criminal schemes among public officials, public and local government.

#### **2.3.4.2.1. Special investigative activity**

The legal framework directly governing the special investigations is as follows:

- Law on the National Anti-Corruption Centre no.1104-XV, 06.06.2002
- Law on the special investigative activity no.59, 29.03.2012
- Law on the protection of personal data no.133 in 08.07.2011
- Law on the state secrets no. 245 dated 27.11.2008;
- Law - Criminal Procedure Code of the Republic of Moldova no. 122-XV 14.03.2003
- The common rules on the organization and conducting special investigative activity no. 01 of 04.12.2012

**The responsibility of the Directorate of Special Investigations** is countering corruption offenses and related offenses, and facts of corruption, especially committed by:

1. officials (deputies, ministers, vice-ministers, and other leaders of decentralized institutions);
2. law enforcement and court officials (M.A.I., S.V., D.I.P., judges, etc.);
3. by persons with management and execution positions;
4. by persons participating in court proceedings (lawyers, prosecutors , bailiffs),

**The data and information that serve as the basis for initiating special investigative measures are:**

- 4x4 format information reports from confidential collaborators;
- information, analytical studies from the subdivisions of the NAC (S.A.S., S.P.C.S.B., D.U.P., D.G.T. Nord, D.G.T. Sud);



- addresses or briefing notes from other structures (Prosecutor General, Anti-Corruption, S.I.S., M.A.I., S.V.;
- mass media articles, "hot line" calls, petitions, applications, complaints of citizens, anonymous petitions, e-mails, etc.

**The preliminary assessment of the information includes:**

- assessment of the source;
- direct evaluation of the information;
- competence check;
- assessing the gravity of the offense or committed crime;
- determining the material damage caused or the impact on the public interest;
- checking suspects in the databases;
- study of the existing data in the database created in the NAC
- contacting or charging the information issuer to obtain additional data;
- any other activities that might lead to the clarification of the situation, keeping conspiracy to the person or the act indicated with operational interest.

**Checking information out of the criminal proceedings**

**- until the initiation of criminal proceedings by the leader of the specialized subdivision the following is authorized::**

- a) questioning;
- b) gathering information about the people and facts;
- c) identification of the person.

**- the prosecutor authorizes:**

- a) identifying the subscriber, the owner or the user of an electronic communication system or of an access point to a computer system;
- b) visual tracking;
- c) undercover investigation;
- d) acquisition of control;
- e) collecting samples for comparative research;
- f) investigating objects and documents;

All special investigation actions listed are to be made under special record files. The information verified and gathered, the data set out in special files can not be regarded as evidence in any criminal prosecution, but in case of a reasonable suspicion of an offense, these are a base for the transmission of materials to the prosecution Directorate.

**Ordering special investigation measures during criminal prosecution**

**- authorized by the instruction judge:**

1. home investigation and / or installation of surveillance and audio and video recording devices, camera and video recorders;

2. home surveillance using recording technical means;
3. interception and recording of communications and images;
4. retention, investigation, delivery, search or picking up postal communications;
5. monitoring telegraph and electronic communications connections;
6. monitoring or control of financial transactions and access to the financial information;
7. documentation using methods and technical means, as well as global positioning system (GPS) locating or tracking or other technical means;
8. gathering information from electronic communications providers;

**- authorized by the Prosecuting Attorney:**

1. control of money transmission or other extorted material values;
2. border surveillance;
3. controlled delivery;
4. identifying the subscriber, the owner or the user of an electronic communication system or of an access point to a computer system;
5. visual tracking;
6. undercover investigation;
7. acquisition of control;
8. collecting samples for comparative research;
9. investigating objects and documents;

**Recording the special investigative activity**

- the special investigative measures authorized by the head of the specialized subdivision are entered in a report and submitted;
- authorized by the prosecutor or the instruction judge are recorded in a report to which the holder of material information is attached;
- the results of special investigative measures are attached to the criminal case or the special record

**2.3.4.2.2. Operational activity**

The Operational Directorate is an independent structural subdivision of the National Anti-Corruption Centre, directly subordinated to the Director of the Centre and working in close collaboration with the subdivisions of the central and the territorial offices of the Centre.

The mission of the Directorate is to prevent and fight corruption through investigative special measures, to ensure operational and technical special investigative measures (M.S.I.) and criminal actions (A.U.P.), based on the principles of legality and impartiality, respecting the rights and freedoms of individuals, appropriateness and safety, combining public and secret methods and means with the cooperation with other state authorities, non-ideology and non-party membership.

The basic functions of the Operative Directorate:

- Implementation of special investigative measures, under the Criminal Procedure Code, Law no. 59 of 29.03.2012, on the special investigation activity and Joint Regulation approved by Order no. 09 of 28.11.2012, on organizing and conducting special investigative works of the Centre;
- The technical operative provision of special investigative activities and criminal investigations using information systems and special equipment;
- Identifying the person, visual tracking, gathering information about people and facts documented using modern technical means and methods according to the Regulations on conducting external tracking and special identification;
- Providing operation and improvement of telecommunication, computing and special techniques of the Centre in consistency with the security technology;
- Organization of development, management and information system development of the Centre, maintaining and strengthening the technical base of the system.
- Judicial expertise and technical- scientific findings, according to the procedural laws and other normative acts regulating judicial expertise and the Regulations on performing judicial expertise and scientific-technical findings.

#### **2.3.4.2.3. Criminal prosecution activity**

The criminal prosecution activity in corruption cases is conducted differently depending on the types of corruption acts investigated, namely:

- **flagrant offenses - *passive corruption, active corruption, lobbyism***
- **consumed offenses - *abuse of office, abuse of power, excess of duties***

##### **Steps recommended in the criminal prosecution for flagrant crimes**

###### **Receiving complaints from citizens**

- protocol editing (drawing the instituting document)
- verification of evidence presented by the individual (audio recordings, if exist)
- informing the prosecuting attorney
- preparation of the initial plan of activities

###### **Check-outs**

- hearing witnesses
- conspired check of the subject (office identification, the legal duties of the officer, the place and the way of living, criminal record, features)

###### **Documentary actions**

- obtaining authorization from the prosecutor and the instruction judge
- determining the tactics of "negotiations" (place, time, ways of behaviour)
- choosing and implementation of technical means

**Preparing the flagrant**

- identification of the claimed property (money, valuable objects...)
- marking or examining the bribery object
- identifying the time and the place of transmission
- obtaining authorizations for searches
- determining the role of each participant in the operation
- determining the necessary logistical resources
- establishing the necessary actions to be performed "*post*" detaining
- establishing the alternatives

**Actions after detention**

- enforcement of ordinances to pick up the necessary documents
- execution of search orders
- simultaneous witnesses hearing
- hearing the informant witness on the transmission
- hearing of the suspect / arrest.

**Acts of surveys development / completion**

- performing the necessary expertise
- examining the objects and documents required
- confrontations
- checking the suspect's version
- case presentation to the prosecuting attorney to be sent to the court.

**Stages of the criminal prosecution in the case of consumed offenses** abuse of office, abuse of power, excess of duties, negligence

**Complaints may come from:** Court of Auditors, Law enforcement authorities, Citizens, Legal entities, NAC

**Examination of the instituting document**

- document compliance with the legal requirements
- presence of criminal elements

**The decision to review the document**

- in criminal proceedings
- Transmission to another NAC subdivisions for additional control actions

**Summoning / hearing the persons who made the intimation****Picking up relevant documents****Performing searches, as appropriate****Hearing witnesses****Expertise, reviews****Recognition as suspect****Taking precautionary measures (the seizure)****Checking the suspect's declarations****Presenting the case to the prosecutor**

### *2.3.4.3 International cooperation in preventing and fighting corruption*

In the context of international cooperation against corruption, Moldova cooperates with specialized bodies of the European Union and the international community, as well. In the context of strengthening the cooperation with these entities, Moldova joined the other international acts in the field, concluding bilateral and multilateral agreements to prevent and fight corruption.

For optimization of the anti-corruption activity, fundraising and implementation of advanced practices in the field, used by developed countries are required. The manifestation of corruption through its multiple and complex forms determined Moldova's involvement in several initiatives and working groups at regional and international level, requiring thus enforcement of performing democratic standards in building obstacles in the way of this phenomenon.

The legal framework for cooperation in preventing and fighting corruption with the foreign anti-corruption authorities:

- Joint Action Plan on the cooperation between the General Intelligence and Internal Protection Directorate within the Ministry of Administration and Interior of Romania and the Centre for Combating Economic Crimes and Corruption of the Republic of Moldova, signed on August 9, 2010;
- Joint Action Plan on the cooperation between the Anti-corruption General Directorate within the Ministry of Administration and Interior of Romania and the Centre for Combating Economic Crimes and Corruption of the Republic of Moldova, signed on September 21, 2010;
- Cooperation Agreement with the Special Investigation Service Centre of the Republic of Lithuania on the exchange of information and experience in preventing corruption and other areas related to the fight against corruption signed on June 5, 2012.

Currently, cooperation agreements on preventing and fighting corruption with specialized institutions in Romania, Poland, Hungary, Russian Federation, Estonia and Latvia are being negotiated.

In terms of preventing and fighting money laundering and terrorist financing, the National Anticorruption Centre through the Prevention and Combating of Money Laundering Service has signed a number of memoranda of understanding with specialized authorities: Armenia, Aruba, Mongolia, Nigeria, Chile, Mexico, Croatia, Bulgaria, Russian Federation, Estonia, Macedonia, Ukraine, Belarus, Albania, Latvia, Lithuania, Poland and others.

The Republic of Moldova, via the National Anti-Corruption Centre continues to participate in the actions, initiatives and projects undertaken by the regional and international organizations having as priority corruption prevention and fighting: United Nations (UN), Council of Europe: Group of States against Corruption (GRECO), Select Committee of Experts on the Evaluation of Anti-Money Laundering Measures (MONEYVAL), Stability Pact for South Eastern Europe, Regional Anti-Corruption Initiative (RAI), International Association of Anti-Corruption Authorities (IAACA), International Anti-Corruption Academy (IACA).

## ***United Nations Organisation (UN)***

*The legal framework:*

- the United Nations Convention against Corruption, ratified by the Law no. 158-XVI of 06.07.2007;
- Legislative guide for the implementation of the UN Convention against Corruption;
- Technical Guide to the United Nations Convention against Corruption;
- The review mechanism of implementing the United Nations Convention against Corruption.

In connection with launching the review mechanism of implementation of the United Nations Convention against Corruption, Moldova has launched the self-assessment procedure for implementing the UN Convention against Corruption.

The National Anticorruption Centre in partnership with the United Nations Development Programme - Moldova is the actors responsible for the success of this procedure. In this regard, a working group was created to manage the internal assessment procedure, that subsequently will produce a report which to be submitted to the specialized European organizations. In late May this year, it is expected to launch the official evaluation procedure of Moldova on the implementation of the UN Convention against Corruption by the competent authorities.

## ***Group of States against Corruption (GRECO)***

Moldova joined GRECO by the Law no. 297-XV of 22.06.2001.

During 18-22 March 2013 in Strasbourg was organized the 59th GRECO plenary session, that discussed and approved the compliance report of the Republic of Moldova in the third round of GRECO evaluation, that assessed the level of implementation of GRECO recommendations.

In the evaluation report of the third round of the Republic of Moldova, approved on April 1<sup>st</sup>, 2011, the Republic of Moldova has been addressed 17 recommendations, which were to be implemented within 18 months. The evaluation has focused on two issues. Eight recommendations were to be implemented in the topic I – *Accusations*, that assessed the level of compliance of the national legal framework with the provisions of the Criminal Law Convention on Corruption and its Additional Protocol. On the theme II – *Transparency in funding of political parties and election campaigns* - GRECO addressed to the Republic of Moldova nine recommendations that were rated as partially implemented.

In its conclusions, GRECO found that, as regards incriminations, the Republic of Moldova has made significant efforts to implement most of the recommendations. In the Chapter - transparency in financing political parties - GRECO noted that our country was involved in a major reform and holistic process, which once adopted would bring the national legal framework at the level of international requirements.

GRECO set a deadline until 30 September 2014 to submit the additional information regarding the implementation of the outstanding recommendations.

### ***The Regional Anti-corruption Initiative (RAI)***

The participation of the National Anticorruption Centre in RAI activities refers to attending meetings and working with RAI member states, participation in various meetings, workshops, specialized trainings and active involvement to achieve common commitments to fight corruption and consolidate the active partnership. The RAI Secretariat is currently headed by a NAC representative.

### ***The European Union Strategy for the Danube Region (EUSDR)***

To implement EUSDR Moldova appointed a national coordinator and a group of experts (representatives of strategy relevant institutions) responsible for the implementation of the Strategy on the 11 priority areas (PAC). To implement the Strategy, the National Anticorruption Centre is involved in achieving the priority area 11 "Working together to promote security and solving problems rose by organized crime and serious crimes".

### ***International Anti-Corruption Academy (IACA)***

Moldova became a founding member of IACA by signing its founding agreement on December 21, 2010 in Vienna and has a number of rights and opportunities to be actively involved in the activities conducted by this organization.

During December 9-11, 2012, Mr. Martin Kreutner, Dean of the International Anti-Corruption Academy conducted a working visit to the Republic of Moldova. This visit served as an opportunity to strengthen the relations of cooperation and promoting topics of major interest for the Republic of Moldova and to identify possible sources of financial assistance on attending training courses on topics of interest. The visit the official allowed its participation in the 8th Anti-Corruption National Conference. Progress and Perspectives in repressing corruption, held on 10 December 2012 and signing the Memorandum of Understanding between IACA and the Academy of Public Administration attached to the President of the Republic of Moldova.

### ***European Integration***

#### ***The Action Plan Republic of Moldova – the European Union***

EU- Moldova Action Plan is a document that includes strategic objectives and actual measures intended to achieve these goals, which appeared in the European Neighbourhood Policy of the European Union.

This is a bilateral document involving the shared responsibility to adopt the European standards and to approach Moldova to the European perspective. The action plan was adopted on 22 February 2005.

The National Anti-Corruption Centre is directly involved in the achievement of objectives 3 and 54 of the National Program on Implementation of the Republic of Moldova – EU Action Plan:

- Ensuring the effectiveness of the fight against corruption (objective 3);
- Increasing the efforts and the co-operation in the fight against money laundering (objective 54);

One of the most important priorities of the implementation process of the Action Plan is the implementation of the Partnership and Cooperation Agreement (PCA) between Moldova and the European Union. PCA is the legal basis of the relations between Moldova and the European Union. The agreement was signed on 28 November 1994 and entered into force on 1 July 1998 for an initial duration of 10 years. This arrangement ensures the basis of the cooperation with the EU in the political, commercial, economic, legal, cultural and scientific field.

### ***The Action Plan of Republic of Moldova – the European Union on visa liberalization***

The dialogue between the EU and the Republic of Moldova on visa liberalization was launched on 15 June 2010. The Republic of Moldova -EU Action Plan on visa liberalization was submitted to RM by the European Commission on 24 January 2011.

The action plan covers 4 specialized activity blocks in terms of achieving legislative measures Phase I, and institutional, as well, Phase II. In order to achieve the benchmarks of the plan, it was developed the National Programme on implementing the Action Plan of RM-EU concerning visa liberalization which was adopted by the Government Decision no. 122 of 4 March 2011.

On May 23, 2011 the Republic of Moldova submitted to the European Commission the first progress report on the implementation of the Republic of Moldova – EU action plan concerning visa liberalization, including the measures taken since the official handing of the Action Plan on 24 January 2011.

The EU progress report on implementation of the Action Plan concerning the visa dated 21 September 2011 assessed the positive progress made by the Republic of Moldova in implementing the first phase of the EU- Republic of Moldova Action Plan (amending and adjusting the legal framework).

On 14 November 2011, RM presented the second progress report on the implementation of the RM-EU Action Plan on visa liberalization.

During 11-15 March 2013, the National Anticorruption Centre hosted the UE Assessment Mission on meeting the benchmarks of Phase II of the Action Plan as regards the *Component III. Preventing and fighting corruption*.

Following the Assessment Mission, EU experts will prepare a progress report on how RM advanced in implementing the measures of the Phase II of the Action Plan. The results achieved by the European Commission will directly influence the size of the EU-Moldova relations of cooperation that will be appreciated in the Eastern Partnership Summit, expected to take place in November 2013.



## ***Foreign Aid Projects***

On October 11 2011 was launched the project " *Support to the Government of Moldova in the field of anti-corruption, reform of Ministry of Internal Affairs, including police, and personal data protection (MIAPAC)*", funded by the European Commission.

The general goal of this project is to support the RM Government in implementing the requirements of chapter "Justice, Freedom and Security" of the future EU-Moldova Association Agreement and the compliance with the guidelines regarding the ongoing dialogue on visa liberalization. One purpose of the project is to assist the National Anti-Corruption Centre to implement the National Anticorruption Strategy of Moldova. The project is at the development stage with a duration of 2 years.

The National Anti-Corruption Centre, currently benefits from the " *Eastern Partnership CoE Facility Project on Good Governance and Fight against Corruption*", funded by the Council of Europe. The aim of this project is related to the development of a mandatory model plan to be implemented by all local authorities in the country, adopted by the Legislature as part of the National Decentralization Strategy .

The Republic of Moldova pilot activities identified and approved by the Council of Europe aim to: 1. assessing corruption risks and development of anticorruption strategies for local governments and 2. Improving the legislative framework and raising awareness regarding funding of political parties.

### ***2.3.4.4. Information analysis***

The implementation and the development of criminological analysis in the fight against corruption has gradually led to the creation within the Anticorruption National Centre of an effective prevention instrument and provided the opportunity to elucidate the forms of manifestation of the corruption phenomenon in different areas, to identify the conditions, the mechanisms and the processes that generate and develop the corruption phenomenon, directing the efforts on diminishing the system damaging factors,

The main role in promoting criminological analysis was played by the analytical section, as specialized subdivision in the Centre's structure, adopted by the RM Parliament Decision on the approval of the structure and limits of the National Anticorruption Centre No. 230 of 25.10.2012 and directly responding to the director of the institution.

The basic tasks of the analytical unit are:

- analysis and investigation of the causes and conditions related to committing:
  - offenses and crimes of corruption and related;
  - acts of corrupt behaviour;
- developing recommendations to mitigate corruption.

The achievement of the goals contributes to the prevention, detection and suppression of offenses and crimes of corruption and related and of the acts of corrupt behaviour, as one

of the tasks of the Centre set by the Law concerning the National Anti-corruption Centre n. 1104 -XV of June 6, 2002.

The role of the analytical work lies in the provision of support in the detection and handling crimes under the jurisdiction of the Centre and formulating strategies to prevent these crimes.

The importance of the analytical work lies in the specific functions that are:

- systematization of criminal cases, operative information, mass-media information;
- distribution according to importance and categories;
- identifying suspects, enterprises, institutions, etc. determining the role of each in certain cases;
- establishing the methods to commit crimes ;
- presenting the various sequence of events ;
- detecting schemes of criminal activities ;
- gathering and analyzing information from different branches and fields of activity;
- using schemes to visualise the premises based on which the conclusion was formed;
- forwarding recommendations.

The accumulation of positive experiences in the field has led to starting the following analytical process:



The operational analysis is applied by the analytical department as analytical method which ensures, with priority to the prosecution body of NAC, with assumptions and inferences regarding specific elements of the illicit case examined. This includes versions and deductions relating to specific criminal networks, individuals or groups of individuals involved

in illegal activities, best ways to detect and investigate the case reviewed and recommended measures to prevent and reduce such types of crimes.

For this purpose, the analytical section performs the data analysis to use the information about the place, time and manner of committing the crime which is an essential information support for investigators to detect and understand the characteristics of the crime.

The strategic analysis evaluates and identifies the current trends and changes in the criminal environment, threats to the public order and therefore control mechanisms, programs and anti-crime politics are developed and amendments to the rules are proposed to mitigate the criminal elements established.

The strategic analysis provides primary support to investigative officers in planning and directing the special investigation activities to the vulnerable social and economic domains.

The quality of analytical quality is ensured largely by creating a mechanism for obtaining and processing information. In order to improve the analytical work, official information sources, tools of data analysis have been supplied. Also, they have developed the network of working with governmental and non -governmental organizations and international authorities providing the necessary support.

*Working with NAC subdivisions*

*Information sources*



The human potential of the analytical section is characterized by professionalism in the legal and economic field, experience (5-16 years) in special investigative activities and skills in applying various analytical tools, including software programs.

In conclusion, the analytical work promoted by the National Anti-Corruption Centre is considered a relatively new one in the context that for the Republic of Moldova, the strategic analytics is new. However, in a short period of time, the analytical section efforts have managed to contribute significantly to capitalizing the strategic and operational analytics in the Centre, strengthening the capacities in this area being a long-term priority.

#### *2.3.4.5. Activities on the protection of EU financial interests.*

##### **2.3.4.5.1. Activity on preventing and combating money laundering and terrorist financing**

The preventing and combating money laundering department is a subdivision of NAC working with as a national centre specialized in collecting, analyzing and disseminating the financial data. At the same time, it is a significant interface between the financial and specialty areas, on the one hand, and the law enforcement system, on the other hand.

The mission and the basic duties of the said department are: investigating money laundering and economic crimes, financial frauds related to legalization of illicit origin assets and financing of terrorism.

External partners have consistently supported the subdivision investing substantial financial and human resources in order to ensure its operational capacity.

Even on the day of its foundation, the Service has established a regulatory and institutional framework appropriate for the national requirements and international standards applicable.

The efforts have resulted in the development and adoption of several legislative acts in the field, including the Law on preventing and fighting money laundering and terrorist financing no. 190 -XVI of 26.07.07 (as amended and supplemented 07.04.2011), the Government Decision on approval of the National strategy to prevent and combat money laundering and terrorist financing for the years 2010-2012 no. 790 of 03.09.2010, orders of the NAC Director no. 117 and 118 of 20.11.2007 (amended and supplemented from 22.08.2011) etc.

During its existence, the service has greatly contributed to strengthening the international regime of money laundering and terrorist financing prevention and fighting, through active participation in specialized international organizations meetings (Egmont Group, MONEYVAL, EAG) establishing bilateral relations with similar services of other countries, to this effect concluding 42 memoranda on the exchange of information with specialized services.

In the same context, through this Centre, on 27 May 2008 Moldova became a full member of the Egmont Group, position offering the possibility of an operatively exchange of data and means the recognition of SPCSB as Financial Intelligence Unit adapted to the international standards.

During this time, the service efficiently conducted the process of negotiation of the Association Agreement "Republic of Moldova - EU" in the negotiations on visa liberalization.

The preventive measures are also an indispensable component of SPCSB duties that are included in the annual action plans on implementation of the national strategy on money

laundering and terrorist financing prevention and fighting for the years 2010-2012. In this respect, the service got involved in the essential process of raising awareness of all entities in relation to the money laundering phenomenon in financing of terrorism, however, building and maintaining partnerships with the law enforcement authorities.

Institutional and professional capacities of SPCSB have been regenerated. Working with the Council of Europe and the European Commission, the service managed to ensure a high professional development of its staff and their training.

According to its legal duties, based on the information received, SPCSB identifies complex schemes and typologies of money laundering and terrorist financing, remitted to operational criminal prosecution subdivisions and other law enforcement agencies according to their jurisdiction.

The activity of money laundering and terrorist financing prosecution usually involves the criminal structures of the Anticorruption Prosecutor and NAC.

Thus, during its existence as a unit of NAC, SPCSB has identified several complex types of legalization of illicit goods, liquefaction of money obtained illegally, involving various transnational criminal groups, who through their actions have harmed natural, legal entities and different states to a great extent.

It was discovered and documented a criminal group who, under the pretext of carrying out investment projects, tried to steal large funds, using 10 false letters of guarantee of the National Bank of Moldova, amounting to 50,000,000 U.S. \$ each, falsifying the stamps and the signatures of officials from the Parliament, the Government and the National Bank of Moldova.

In collaboration with specialized structures in the U.S., it was discovered and annihilated a money laundering scheme based on which an amount of around 70,000,000 US dollars was to be stolen.

An organized group of people, using the virus type software named "Zeus Trojan", has stolen bank regarding account details, logins and passwords of many U.S. citizens. Subsequently, the funds from these bank accounts were taken by their transfer through Western Union or Money Gram for liquefaction by various individuals from different countries, including Moldova. All members of this group were convicted.

SPCSB and its partners' efforts resulted in achieving significant progress in building and strengthening the CSB / CFT system nationally. Thus, CSB / CFT has become a real obstacle to criminals and to the intentions of those who are trying to use financial institutions as a means of collection and recovery of illicit funds, and also an essential element in promoting the stability of the financial system in the Republic of Moldova.

#### *2.3.4.6. Public relations*

Starting from the idea that the newly created institution aims to achieve an increased confidence of citizens in the work of NAC by influencing understandings, attitudes and behaviours of the public, in order to direct these to reduce corruption, the communication

must be *honest, continuous and innovative* to get the support of citizens and relevant partners.

The *strategic objectives* of communication refer to:

- effectiveness of the National Anti-corruption Centre efforts in achieving its mandate, set by the legislation in force
- society awareness raise and getting support in the actions to prevent and combat corruption
- contribute to an effective cooperation with national and international institutions in the field of anti -corruption
- developing a positive relationship with the media and the civil society
- NAC should be seen as an institution reformed, open and institutionally independent.

In this regard, *the priorities* should be as follows:

- actual measurable progress as regards communication in achieving the mandate of the National Anticorruption Centre, as set out by the legislation in force
- providing citizens with tools for interaction and clear messages about how they can get involved in preventing and fighting corruption, thus directing the flow of public trust to the institution's activity
- demonstrating readiness for dialogue and initiating common actions with the government and non-governmental institutions and national organizations relevant for the anti -corruption segment
- fostering effective working relationships with the media and the civil society by opening and creating partnerships with them
- convincingly showing that we are a reliable partner for the international development agencies and their support is harnessed effectively to achieve common goals
- Demonstrating, through our actions and communication, that we are an institution reformed, open and institutionally independent.

### 3. Trans-border cooperation

Multilateral cooperation of anti-corruption agencies requires their involvement in initiatives taken at European or international level which can be excellent opportunities to exchange the best practices and to learn effective methods and techniques developed in the field of preventing and combating corruption. Participation in multilateral meetings helps to improve professional training and familiarity with the European practices in the field that can be adapted to the national anti-corruption institutions.

Also, to identify ways of obtaining a joint approach to issues specific to the Central and South Eastern Europe, as to prevent and fight corruption and other related offenses, it is necessary for the institutions involved in the project, namely AGD, NAC and IAS to participate in meetings organized within regional initiatives such as the Danube Strategy, UE Eastern Partnership or BSEC - *Black Sea Economic Cooperation Organization*.

The development of bilateral relations is made according to the evolution of corruption in each country, and also according to its peculiarities at the common borders. Establishment of cooperation is beneficial also for the possibility to benefit from the mutual expertise in various competence fields, based on the development and the institutional evolution.

#### 3.1. Legal framework

##### **Romania - Serbia - Republic of Moldova**

1. The *Police Cooperation Convention for Southeast Europe*, at the state level, was signed in Vienna on 05 May 2006 by the ministers of interior of Albania, Bosnia and Herzegovina, Macedonia, Moldova, Montenegro, Romania and Serbia (ratified by the Law no. 214/2007)
2. The *Memorandum of Understanding between the governments of Albania, Bosnia and Herzegovina, the Republic of Bulgaria, Croatia, the former Yugoslav Republic of Macedonia, Montenegro, Moldova, Romania, Serbia on the cooperation in the fight against corruption through the Anti-Corruption Initiative for South Eastern Europe*, signed in Zagreb on 13 April 2007, approved by the Decision no. 965 / 22 August 2007.

##### **Romania – Serbia**

1. The *Agreement between the Government of Romania and the Government of Serbia on cooperation in fighting organized crime, illicit drug trafficking and*

*international terrorism*, signed in Bucharest on 5 July 2007 (ratified by Law no. 17/21.02.2008)

2. *The Expanded trilateral cooperation protocol in fighting crime and in particular trans-border crime between the Government of Romania, Government of Republic of Bulgaria and the Government of Serbia*, signed at Belgrade on 29 September 2008, ratified by the Law no. 285 of 10 July 2009
3. *Protocol of Cooperation between the Anticorruption General Directorate within the Ministry of Administration and Interior of Romania and the Sector of Home Affairs of the Ministry of Interior of the Republic of Serbia in the field of preventing and fighting corruption within the legal powers* – signed on 04 October 2012, at Baile Herculane.

### **Romania - Moldova**

1. *The Agreement between the Government of Romania, the Government of Moldova and the Cabinet of Ministers of Ukraine on cooperation in crime fighting*, signed in Kiev on July 6, 1999, ratified by the Law no. 70/2001.
2. *The Joint Action Plan on the cooperation between the Anti-Corruption General Directorate within the Ministry of Administration and Interior of Romania and the Centre for Combating Economic Crimes and Corruption of the Republic of Moldova*, signed at Galati in 2010;

## **3.2. Common activities**

### ***The Anticorruption General Directorate – National Anti-Corruption Centre (formerly the Centre for Combating Economic Crimes and Corruption)***

The cooperation between GAD and NAC was performed under the existing cooperation documents, especially the *Joint Action Plan on the cooperation between the Anti-Corruption General Directorate within the Ministry of Administration and Interior of Romania and the Centre for Combating Economic Crimes and Corruption of the Republic of Moldova*, signed at Galati in 2010.

The collaboration between the two institutions targeted the operational cooperation in fighting corruption, specific activities of informative documentation regarding involvement in acts of corruption of some workers within the Ministry of Internal Affairs in collusion with people of Moldova, mutual assistance in criminal matters, and providing expertise to implement programs in preventing and fighting corruption.

Thus, in 2012, the General Anticorruption Directorate supplied experts in MIAPAC project "Support to the Government of Moldova in the field of anti-corruption and the Ministry of Interior reform", in order to share the good practice in the field. This project is funded by the



European Union, being worth 2.5 million euros and is implemented by GIZ and KPMG Romania. The participation of the AGD officer in a series of meetings was requested to study and develop an opinion on the draft to reform the Centre for Combating Economic Crimes and Corruption (currently the National Anticorruption Centre). The officer provided support to the project implementation team regarding new powers conferred by the Information and Security Service of the Republic of Moldova to perform professional integrity tests on the employees of the National Anticorruption Centre providing assistance to draft a law on testing professional integrity of the employees working in the public system of Moldova.

Operatively, in January - March 2012, AGD conducted investigative activities of involvement in corruption of employees of the Romanian Ministry of Internal Affairs, in collusion with Romanian and Moldovan citizens. Meetings were held between officers of GAD and NAC in order to obtain additional information on the said criminal activities.

### ***Case Study – the cooperation between GAD - NAC***

Following the informative – operative activities carried out by the GAD, data and information on the activity of a criminal group, which acted both in Romania and in the Republic of Moldova were obtained. Based on the *Joint Action Plan between AGD and CCCEC*, AGD requested Moldovan partners additional information in this case, following which they confirmed the aspects. Operative investigative meetings were held ensuring the exchange of data and information, which led to identifying the persons that recruited Moldovans interested to obtain Romanian citizenship, who had submitted the necessary documents in order to obtain the Romanian citizenship and the Romanian identity documents.

Following the informative cooperation all members of the criminal group were identified, and the role that each of them had in the group. All these data were submitted to the Prosecutor's Office and a criminal case in question was registered.

The Moldovan partners within CCCEC identified the support persons, who have made accusations about corruption committed by agents providing documents and subsequently, helped by the two informants, evidence (audio / video) has been obtained on the acts committed by those intermediaries. However, following specific activities of intercepting telephone conversations, AGD obtained data on the unidentified Moldovans and the phone numbers in Moldova used by them. These data were submitted to CCCEC and 80 individuals were identified, who had offered different amounts of money for the Romanian citizenship or Romanian identity documents.

The case prosecutor addressed to the Prosecutor General of Moldova a request for international judicial assistance, requesting hearing of these individuals on the issue. After receiving and filing the application, two AGD officers and a prosecutor from PICCJ went to Moldova, where provided support to CCCEC workers and the anticorruption prosecutors in Moldova in finding and bringing to headquarters of CCCEC of 27 individuals of the 80 persons identified as belonging to the criminal group (the rest of the people were not in Moldova at that time). The AGD officers and PICCJ prosecutor attended the hearing of 27 persons, their

statements being forwarded by fax to Romania, where simultaneously, the police had acted by conducting house searches, identification and leading at PICCJ headquarters of the accused in the criminal case concerned. The same morning the police acted in both countries to avoid communication and exchange of information between those involved.

Based on the information provided by the Romanian counterparts, CCCEC workers and the Anticorruption Prosecutors registered a criminal case on some individuals who committed similar acts in Moldova. Later that morning, seven raids at residences were organized in Moldova.

The criminal group operated internationally, meaning that Moldovan citizens obtained the Romanian citizenship and Romanian identity documents to reach the territory of Western EU countries (UK, Germany, Italy), where carried out criminal activity under Romanian / European citizenship.

#### ***Anti-corruption General Directorate – Internal Affairs Sector***

The cooperation between AGD and the Internal Affairs Sector was based on documents of the existing cooperation at governmental level and the *Cooperation Protocol between the Anticorruption General Directorate within the Ministry of Administration and Interior of Romania and the Internal Affairs Sector of the Ministry of Interior of the Republic of Serbia in the field of preventing and fighting corruption*, signed in Baile Herculane, in October 2012.

Signature of the Protocol between the two institutions that came to support the operational cooperation against corruption, through specific activities of informative documentation on the involvement in corruption of some workers of the Ministry of Internal Affairs in collusion with Serbian citizens.

The two institutions seek to enhance the cooperation in preventing and combating corruption in all its forms, as well as other crimes committed by employees of the two ministries of interior, under statutory powers and in accordance with their national laws. Thus, on several occasions, information was exchanged on smuggling of cigarettes and alcohol at the Romanian-Serbian border, and several working meetings in the investigated cases were held.

### **3.3. Proposals to increase the efficiency of cooperation**

- identifying financial sources to hold regular meetings, in order to exchange experiences and best practices as effectively as possible, in accordance with the institutional and operational developments within the partner structure.
- identifying and initiating contacts with governmental anti-corruption institutions in EU Member States that can provide training and expertise in specific areas of activity.
- establishing with Moldovan partners, a dialogue with the Ukrainian anti-corruption institutions in pursuit of preventive measures and fighting corruption among the staff working in the common border crossing points.

- identifying the most effective opportunities for dissemination of the results obtained by implementing activities undertaken during the project.

### **3.4. Contact points**

**a) Anti-corruption General Directorate within the Ministry of Interior of Romania**

Address: Șoseaua Olteniței, nr. 390A, sector 4, Bucharest

Phone: 004021 3321996

Fax: 004021 3321989

E-mail: [relint.AGD@mai.gov.ro](mailto:relint.AGD@mai.gov.ro)

**b) Home Affairs Sector of the Ministry of Interior of the Republic of Serbia**

Address: 104<sup>th</sup> Zorana Djindjica Avenue, New Belgrade

Phone: 00381 11 300 8183

Fax: 00381 11 300 8183

E-mail: [sukp@mup.gov.rs](mailto:sukp@mup.gov.rs)

**c) National Anti-corruption Centre of Republic of Moldova**

Address: MD-2004, 198<sup>th</sup> Ștefan cel Mare Street, mun. Chișinău

Phone /Fax: 00373 22 257 226

E-mail: [secretariat@cccec.md](mailto:secretariat@cccec.md)

***Criminal files instrumented by the  
ANTI-CORRUPTION GENERAL DIRECTORATE  
between 2006 – first 5 months of 2013***

Between 2006 - 31.05.2013, investigations were performed in **13.936 criminal files that were forwarded to the Prosecutor's Office**, out of which 8.209 were from AGD's self - notice and 5.727 from Prosecutor's Offices' notice.

The indicators for the timeframe in our attention are the following:

<b><i>Indicator/Year</i></b>	<b><i>2006</i></b>	<b><i>2007</i></b>	<b><i>2008</i></b>	<b><i>2009</i></b>	<b><i>2010</i></b>	<b><i>2011</i></b>	<b><i>2012</i></b>	<b><i>First 5 months of 2013</i></b>
<b>Number of criminal files instrumented under the co-ordination of the Prosecutors' Offices</b>	996	1.083	1.351	1.427	2.000	2.497	3.020	1.562

Following procedural activities performed by AGD judicial police, the prosecutors **ordered the initiation of criminal pursuit in 2910 files**, representing **20,8 % from the overall files**.

The criminal files in which criminal investigation was initiated by the Prosecutors' Offices:

<b><i>Indicator/year</i></b>	<b><i>2006</i></b>	<b><i>2007</i></b>	<b><i>2008</i></b>	<b><i>2009</i></b>	<b><i>2010</i></b>	<b><i>2011</i></b>	<b><i>2012</i></b>	<b><i>First 5 months of 2013</i></b>
<b>Number of files</b>	202	266	327	320	458	487	576	274

Regarding the **legal solutions**, the case prosecutors ordered **1.754 indictments** (out of which 20% from the Anti-corruption National Directorate and 80% from the Prosecutor's Office attached to the High Court for Cassation and Justice and the local structures), 170 being the yearly average.

**Indictments** were ordered as follows:

<b>Indicator/Year</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>First 5 months of 2013</b>
<b>Indictments</b>	113	144	161	176	261	316	384	199

Also, in **613 situations, criminal pursuit ceased according to art. 18<sup>1</sup>** from Criminal Code, **administrative sanctions being ordered instead.**

<b>Indicator/Year</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>First 5 months of 2013</b>
<b>Administrative Sanctions</b>	34	79	118	91	56	104	87	44

**Persons investigated by AGD judicial police**

During the timeframe in our attention, **26.348 persons** were investigated, out of which **12.949 were ministry's employees:**

<b>Indicator/Year</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>First 5 months of 2013</b>
<b>Investigated persons:</b>	1.744	2.062	3.258	2.190	3.752	5.222	5.433	2.687
<b>- MoAI employees</b>	1.044	1.243	2.022	1.363	1.656	2.314	2.247	1.060

Following the procedural activities, **8.335 persons were accused** (31,6% from the overall of the perpetrators), **2.514 were MoAI employees:**

<b>Indicator/Year</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>First 5 months of 2013</b>
<b>Accused persons:</b>	484	446	848	753	1.503	1.947	1.725	629
<b>- MoAI employees</b>	202	200	336	343	376	533	347	177

An analysis of the accused persons within the files instrumented by AGD judicial police, reveals that **30,1% out of them were MoIA employees.**

Between 2006 – June 2013, **4.325 persons were sent to Court, out of which 1.394 were MoIA employees, as follows:**

<b>Indicator/Year</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>First 5 months of 2013</b>
<b>Sent to Court persons:</b>	201	192	354	384	703	1.128	907	456
<b>- MoIA employees</b>	92	86	110	175	212	399	225	95

## **CASE STUDIES AND GOOD PRACTICE EXAMPLES IN THE GENERAL ANTICORRUPTION DIRECTORATE ACTIVITY OF MITIGATING CORRUPTION**

### **1. Bribery, influence peddling and abuse of office. Group of workers within the traffic police. Monitoring the criminal activity**

#### **Referral mode**

On February 5<sup>th</sup> 2009, the Public Prosecutor's Office attached to Constanța Court initiated the legal proceedings concerning the fact that the police officers within the Traffic Safety Office for Urban Environment Constanța of the Traffic Police Service commit corruption offences or associated to the corruption offences.

The data and information regarding the criminal activity of the police officers was obtained following the tapping of the telephone conversations carried out within another file concerning the investigation of a burglary offence, act committed on September 10<sup>th</sup> 2008 within Hârșova City, from which it results that the traffic police officers were giving information that was not intended for the public, referring to the fact that the main perpetrator was under the surveillance of the police bodies, being detailed off to use the vehicle used for committing the burglary, thus making difficult the criminal investigation and determining the its abstraction from the criminal liability. In the same context, the police officers gave information to the defendants regarding the location of the police teams within Constanța Municipality as well as their missions in the activity of discovering and identifying the perpetrators.

#### **Issue in fact**

From the criminal investigation paperwork presented in the case it was recorded that in the period of February 9<sup>th</sup> 2009 – June 25<sup>th</sup> 2009, repeatedly and based on the same criminal intent, the defendants – police officers – carried out influence peddling reciprocally at the request of the defendants – civilians – or other perpetrators in order to evade from the legal provisions of conventional and criminal matter concerning the violation of the traffic rules on public roads, with the consequence of not paying the civil sanctions regarding the violation of the travelling speed on the public roads, the parking of the vehicles in illegal places, the procurement of the repair evidence in order to present it to the insurance companies, the application of sanctions that do not imply the retention of the driving licence or the application of the penalty points as well as the evasion from the legal provisions of criminal matter with the consequence of omitting to be held criminally liable in the situation of producing traffic accidents with human victims or the driving on the public roads under the influence of alcohol or without the driving licence.

In the same period, the police officers, having control attributions, accepted the promise of receiving benefits in order not to carry out the actions regarding their job duties or

to carry out certain acts in a defective way with the consequence of obtaining patrimonial advantages for itself or for other person.

Following the influence peddling carried out and the corruptible character of the carried out activity, the defendants, directly or through other police workers, deliberately omitted to register data or essential facts for examining the criminal or contraventional liability of the civilian defendants and other perpetrators that are to be investigated.

### **Legal classification of offence**

For police officers:

- bribery, provided by the provisions of the art. 254 paragraph 2 of the Criminal Code with the application of the art. 41 paragraph 2 of the Criminal Code, in reference to the art. 7 paragraph 1 from Law no. 78/2000;
- influence peddling, provided by the provisions of the art. 257 paragraph 1 of the Criminal Code, with the application of the art. 41 paragraph 2 of the Criminal Code, in reference to the art. 61 from Law no. 78/2000;
- abuse of office for public interests, provided by the art. 132 from Law no. 78/2000 in reference to the art. 248 of the Criminal Code;
- use, in any way, directly or indirectly, of information that are not intended for publicity or the access permission of unauthorized persons to these information, provided by the provisions of the art. 12 letter b from Law no. 78/2000, according to art. 41 paragraph 2 of the Criminal Code;
- forgery, provided by the art. 289 of the Criminal Code, according to art. 41 paragraph 2 of the Criminal Code, in reference to the art. 17 letter C from Law no. 78/2000.

For civilians:

- influence peddling, provided by the art. 257 of the Criminal Code according to art. 41 paragraph 2 of the Criminal Code, in reference to the art. 61 paragraph 1 from Law no. 78/2000;
- accessory to abuse of office for public interests, provided by the provisions of the art. 26 of the Criminal Code, in relation to art. 132 from Law no. 78/2000, according to art. 41 paragraph 2 of the Criminal Code;
- accessory to the offence of directly or indirectly using in any way the information that are not intended for publicity or the access permission of unauthorized persons to these information, provided by the provisions of the art. 26 of the Criminal Code, in relation to art. 12 letter b from Law no. 78/2000, according to art. 41 paragraph 2 of the Criminal Code;
- accessory to forgery, provided by the provisions of the art. 26 of the Criminal Code, in relation to art. 289 of the Criminal Code, according to art. 41 paragraph 2 of the Criminal Code, in reference to art. 17 letter c) from Law no. 78/2000.

**Defendants:** 39 police officers; 4 civilians.

**Preventive measures ordered**

- June 25<sup>th</sup> 2009 – the case prosecutor issued detention orders for a period of 24 hours for 11 police officers and 3 civilians and formulated the proposal of detention under remand;
- June 26<sup>th</sup> 2009 – through the ruling no. 83/June 26<sup>th</sup> 2009, Constanța Court approved the proposal of the Public Prosecutor's Office and ruled the detention under remand of the 14 defendants for a period of 29 days;
- June 30<sup>th</sup> 2009 – through the criminal ruling no. 77/P/June 30<sup>th</sup> 2009, Constanța Court of Appeal approved the appeals of the defendants, invalidated the appealed ruling and ruled the retrial of the detention under remand proposal. It revoked the measure of detention under remand against the defendants and cancelled the warrants of detention under remand issued by Constanța Court;
- July 31<sup>st</sup> 2009 – through the ruling no. 93/July 31<sup>st</sup> 2009, Constanța Court approved the proposal of detention under remand formulated by the Public Prosecutor's Office and ruled the arrest of the 14 defendants for a period of 29 days, from the date of enforcing the warrants;
- August 06<sup>th</sup> 2009 – through the criminal ruling no. 85/P/August 06<sup>th</sup> 2009, Constanța Court of Appeal approved the appeals declared by the Public Prosecutor's Office and by the defendants, ruled to reject the detention under remand proposal of all the defendants as consequence of informing the court by an incompetent criminal investigation body depending on the person quality, revoked the measure of the detention under remand and ruled the immediate release of the defendants.

**Other ruled measures**

- *informing the General Directorate for Intelligence and Internal Protection* within the Ministry of Administration and Interior regarding the classified and unclassified documents identified at the domiciles of the persons searched on June 25<sup>th</sup> 2009 in order to carry out verifications concerning the classified information leakage and for withdrawing the access certificates to classified information of the responsible persons;
- *informing the Police Inspectorate of Constanța County* to which the original documents discovered at the domicile of the police officers were given back in order to declassify or destroy them;
- *retaining the digital storage media* (memory sticks, optical media, PC units) that contained classified data and information;
- *applying the distraint upon property* on the amounts of money in lei and currency collected from the domiciles of the defendants following the searches and their



registration at Constanța Municipality Treasury and the Romanian Business Bank – Constanța Branch, at the disposal of the Public Prosecutor's Office;

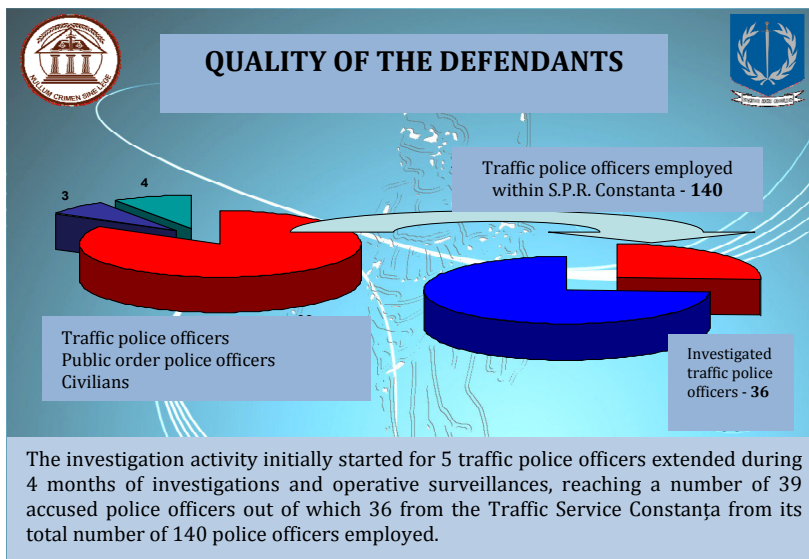
- *Applying the distraint upon property* on the quantity of 2.000 litres oil; 107 bottles of 0,33 ml beer sampling and 112 pieces of cosmetic products held without supporting documents.

### Quality of the defendants

The defendants from the file are part of the Ministry of Administration and Interior structures from Constanța and Ialomița Counties, fulfilling execution functions as judicial police officers in this manner:

- 30 judicial police officers from the Traffic Safety Office for the Urban Environment Constanța;
- 5 judicial police officers from the National and European Office Constanța;
- 1 judicial police officer from the Traffic Police Țândărei;
- 1 judicial police officer from the Communal Police Mihail Kogălniceanu;
- 1 judicial police officer from the Police Station 4 Constanța – Criminal Investigations;
- 1 judicial police officer from the Police Station Crucea – public order.

The civilian defendants in question related with the police officers based on friendships, defying the compliance with the traffic rules on public roads or determining the police officers to trade in their influence past the traffic officers who issued the report for the influence peddlers.



### **Complexity of the operation mode used by the defendants**

- *quality of judicial police workers* with real knowledge regarding the means that the judicial bodies have in investigating the corruption offences, quality that permitted their access to information that is not intended to publicity;

- *use of argotic language* within the telephone conversations held between the police officers and also between them and civilians in order to avoid the discovery of the criminal activity. Examples:

- „Give him/her Aurel Vlaicu, without PP” – namely giving a warning without penalty points;
- „Delete de chessboard, make the long castling” – namely delete the radar tape;
- „We will drink a coffee later with ...” – mentioning the name of the person detected in the traffic;
- „I have audio-video” – namely I apply a sanction with a warning;
- „Give me the P.I.N. of the card” – namely tell me the number of the detected vehicle etc.

- *involvement* of other S.P.R. (*Traffic Police Service*) workers that carried out their activity in the building control room or at other offices (crashes, accidents) in the criminal activity by the defendants;

- *use* of the defendants with job duties at the registered office of S.P.R. Constanța in order to replace the positive alcohol tests of the persons detected in traffic;

- *use of many telephone networks* by the same defendant for influence peddling.

Example:

- the police officer was called by the person detected in the traffic on the telephone from the Vodafone network;
- the same officer requested information from the S.P.R. control room in relation to the officer on field using the telephone from the Zapp network;
- the influence peddling was carried out by the police officer contacted by the contravening person on the telephone from the Cosmote network.

- *receiving of money or other benefits* was carried out by the defendants after the work program, in the locations indicated by them to the bribers so as *not to be caught in the act*.

### **COMPLEXITY OF THE CASE**

The complexity of the case resulted from:

- the great number of persons involved in the criminal activity of the defendants;
- the great number of defendants and perpetrators and the large volume of the undertaken trial and procedural steps;
- the requests for tapping telephone conversations and communications;
- the requests for tapping images and putting them into practice;
- the hearing and reproduction of the taped conversations and communications;

- the identification of all the persons involved in the cause and their hearing;
- the requests for the house and information search;
- the requests according to the Law no. 298/2008 regarding the telephone listings of the defendants;
- the vehicle search warrants;
- the hearing of the defendants;
- the detention orders;
- the proposals of detention under remand;
- the verification of the police officers bank accounts;
- the declining order;
- the splitting resolution;
- the verifications in the Ministry of Administration and Interior and the National Trade Register Office databases.

## COMPLEXITY OF THE CASE – 2

- coordination of the structures that participate to the case investigation;
- the Public Prosecutor's Office attached to Constanța Court;
- the County Anticorruption Service Constanța;
- Flagrant Office within the General Anticorruption Directorate;
- the Intelligence and Internal Protection Service Constanța;
- the involvement of the police officers and agents within the D.G.A. operative service in the activity of collecting evidence for the documentation of the offences, consisting in:
  - films, recordings, montage of audio-video recording technique;
  - fixing the content of the recordings on optical media;
  - drawing up photo plates;
  - drawing up the relational maps of the telephone conversations between the persons accused in the cause;
  - enforcing the tapping and recording authorizations of the conversations and communications carried out over phone and localization of the mobile telephone stations;
  - enforcing the image tapping authorizations;
  - operative surveillance and recordings of images related to the meetings of the tracked person, the frequentation of certain places, the use of certain vehicles both by the judicial police officers involved in solving the criminal case and also by the structures of the General Directorate for Intelligence and Internal Protection, so as not to reveal the activity;
  - use of judicial police officers within the County Anticorruption Service Constanța as investigators with real identity.

## TECHNIQUES USED IN MANAGING EVIDENCE

- intercepting the conversations and communications carried out over the phone:
  - 27 telephone stations were intercepted based on the authorizations issued by Constanța Court and the temporary authorizations issued by the case prosecutor during February 13<sup>th</sup> – June 30<sup>th</sup> 2009.
- operative surveillances carried out with the help of Flagrant Office within the General Anticorruption Directorate and the Intelligence and Internal Protection Service Constanța, according to the image recording authorizations issued by Constanța Court;
- localization and pursuit of the mobile telephones used by the defendants for identifying the areas in which they carried out their activity and for positioning the operative surveillance teams in due time in order to intercept the essential moments (with the help of the technical department from the Intelligence and Internal Protection Service Constanța);
- introducing the investigators with real identity in the case (judicial police workers from the County Anticorruption Service Constanța), according to the authorizations of the case prosecutor together with enforcing the authorizations for tapping and recording the telephone conversations and images.

## Investigation procedures

- Information searches of the storage media collected with the occasion of the house search from the houses of the defendants.

The specialists of the Institute for Advanced Technologies within the Romanian Information Service examined:

- 31 PC system units;
- 15 laptops;
- 3 mobile telephones;
- 16 memory sticks and memory cards;
- 3 hard disks;
- 2 cameras;
- 1 voice recorder;
- 1 pen with video camera.
- Requesting the bank statements of the defendants for the period November 2008 – June 2009 in order to identify the bank operations with amounts of money that cannot be justified in relation to the salary output.

## Efficiency in solving the case

- On November 9<sup>th</sup> 2009, the splitting of the cause concerning three defendants and its declining in the favour of the National Anticorruption Directorate – Territorial Service Constanța were ruled following the reasons from the Preliminary Criminal Ruling no. 85/P/August 6<sup>th</sup> 2009 of the Court of Appeal Constanța regarding the fact that three of the

defendants had hierarchical control functions of the subordinated police officers, mention written in the attributions of the job description under the phrase „controls the traffic police officers on the field”.

- The National Anticorruption Directorate – Territorial Service Constanța declined its cause jurisdiction in the favour of the Public Prosecutor's Office attached to Constanța Court, thus triggering the negative conflict of the jurisdiction, solved by the Public Prosecutor's Office attached to the High Court of Cassation and Justice on April 14<sup>th</sup> 2010, that established the jurisdiction for carrying out the criminal prosecution in the favour of the Public Prosecutor's Office attached to Constanța Court, on the grounds that for the purpose of the provisions of art. 13 letter b from the Government Emergency Ordinance no. 43/2000, the persons with control functions are persons who regularly carry out in an organized manner the control activity according to law. Another conclusion deducted from interpretation is excluded because it would mean to assign the lawmaker what he/she did not find necessary to predict and consequently, would alter his/her real will.
- The other 41 defendants are investigated in eight criminal files pending before the Public Prosecutor's Office attached to Constanța Court because through the splitting resolution it was considered that there are not incidents concerning all the defendants through the provisions of the art. 33 letters a-c from the Criminal Procedure Code and the art. 34 letters a-d from the Criminal Procedure Code for the criminal file to be investigated together with complying with the provisions of the art. 32 from the Criminal Procedure Code.
- The criminal prosecution was completed so far by drawing up an indictment for two defendants and in two other files the solution of arraignment is to be adopted.

**The social danger** was determined by:

- the quality of the defendants as public servants with special statute who are informed about the means which the judicial bodies have in order to ascertain and prove the corruption offences;
- the operation mode in carrying out the criminal activity by always taking the precaution measures based on inventiveness and persuasion for achieving the illicit purposes by flagrantly violating the legislation in force;
- committing serious corruption offences that create a feeling of insecurity and mistrust in the judicial authorities that compete in achieving the justice within the community;
- the use of the argotic language by the defendants as language specific to the class to which they belonged;
- the danger degree with which the defendants acted, who unscrupulously indulged in falsifying alcohol tests in order to avoid the criminal prosecution of the real authors, in simulating certain car accidents in order to prejudice the insurance companies

by presenting false documents for obtaining compensations or favouring offenders, in stealing documents classified as *confidential information* from the Traffic Service Constanța.

## Conclusions

- the exceptional inter-institutional collaboration and cooperation: the Public Prosecutor's Office, the General Anticorruption Directorate, the General Directorate of Intelligence and Internal Protection and the General Inspectorate of the Romanian Gendarmerie;
- the lack of information leakage regarding the carried out investigations and the operative activities, considering the large number of persons involved in their performance and also their quality: prosecutors, judicial police officers within the General Anticorruption Directorate and workers within the General Directorate of Intelligence and Internal Protection;
- the firmness of the criminal prosecution bodies in taking the most adequate measures related to the given situations, such as:
  - the immediate catch of two defendants by the intervention teams, who tried to avoid the enforcement of the subpoenas and the carrying out of the house and vehicle searches;
  - the immediate discovery of the mobile telephone hidden by a civilian defendant in the purse of the chosen defender while he/she was drawing up the power of attorney for judicial assistance;
  - the notifications to the General Directorate of Intelligence and Internal Protection and the Police Inspectorate of Constanța County in order to take the appropriate measures towards the police officers who stole from the premises of the unit the documents subject to Law no. 182/2002 and Law no. 677/2001;
  - the formulation of proposals for revoking the judicial police notice concerning the defendant police officers.
- the generation of legal controversies regarding the quality of certain traffic police officers as persons with control functions within a central public institution, the Ministry of Administration and Interior, who functioned within a police group at the unit level with the rank of municipality, where they had the functions of shift chiefs and therefore the provisions of the art. 13 paragraph 1 letter b from the Government Emergency Ordinance no. 43/2002 regarding the National Anticorruption Directorate jurisdiction in carrying out the criminal prosecution were applied. The opinion formulated by the Court of Appeal Constanța through the Conclusion no. 85/August 6<sup>th</sup> 2009 was not adopted by Constanța Court and the National Anticorruption Directorate - Territorial Service Constanța, which triggered the negative conflict of jurisdiction, solved by the Public Prosecutor's Office attached to the High Court of Cassation and Justice in the favour of the Public Prosecutor's Office attached to Constanța Court;

- the formation of the judicial training at the level of the criminal prosecution bodies regarding the investigation jurisdiction of the corruption acts committed by the police officers with additional tasks, established administratively and not according to the law, as provided by the art. 1 letter c, from Law no. 78/2000, without being transformed in „persons with control functions”;
- testing the capacity of organizing, mobilizing and managing the human resources and materials involved in a large-scale criminal procedure activity without local precedent of the Public Prosecutor's Office attached to Constanța Court and the County Anticorruption Service Constanța.

#### **Vulnerabilities:**

- the lack of a personal technical structure that serves the Public Prosecutor's Offices and the County Anticorruption Services. Its existence would have positive effects on efficiency, confidentiality and the quality of the criminal prosecution acts considering the direct and permanent connections with the investigation teams and the fact that the workers of such a structure also have criminal investigation knowledge.

### **2. Bribery, influence peddling and abuse of office. Group of workers within the Public Community Service of the Driving Licence and Vehicle Registration Department. Monitoring the criminal activity**

#### **Referral mode**

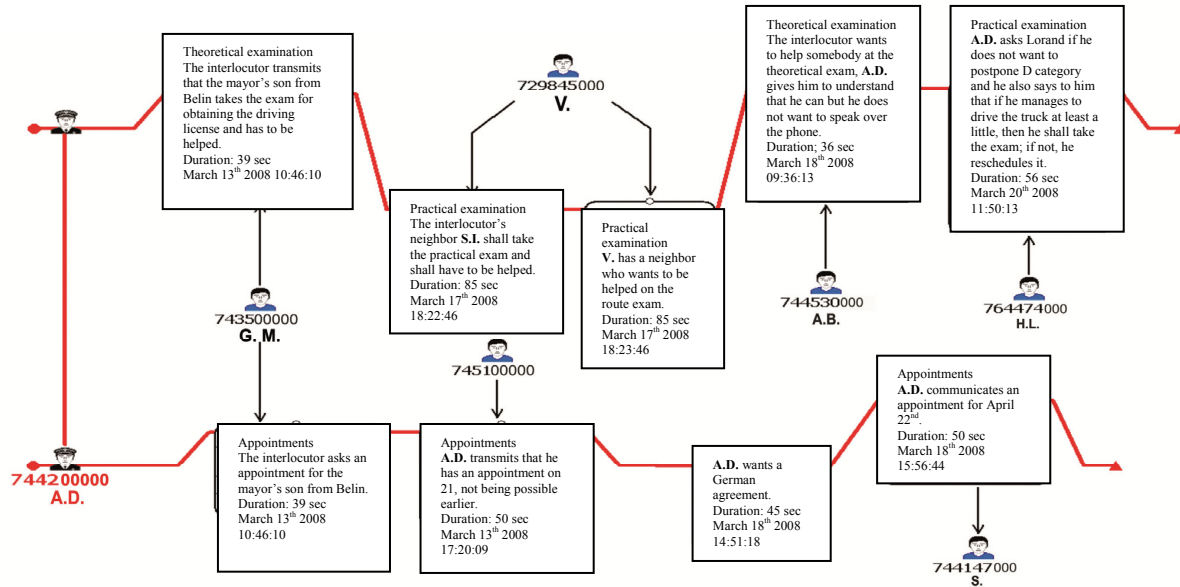
- Following a natural person's complaint, who announced the Anticorruption Office Covasna that only two police officers from the Vehicle Registration and Driving Licence Service Covasna receive money and other benefits through an intermediary in order to fraudulently register vehicles. Two indictments were carried out through the activity of the prosecutors and D.G.A. workers through which 9 defendants were brought to trial for 52 offences.

#### **Activities carried out by the criminal investigation bodies**

- A number of 53 authorizations for tapping and recording the telephone conversations were enforced, being intercepted a total number of 24 stations, opportunity with which over 1.800 hours of recording were replayed, resulting approx. 1.500 pages transcribed in protocols.
- With the help of the General Directorate for Intelligence and Internal Protection (26 teams), a number of 22 operative surveillance and ambient recording authorizations were enforced, organizational difficulties being encountered due to the small community in which the subjects operated.
- The D.G.A. workers have been delegated by the prosecutor for the majority of the activities and authorized translators have been used in the case.

# RELATIONAL MAP REPRESENTING THE OPERATIVE INTEREST CONVERSATIONS HELD BY A.D. DURING MARCH 11<sup>th</sup> – JULY 29<sup>th</sup> 2008

ANNEX TO FILE 139/P/2008





### **The activity of the undercover investigator with the code name „O.C.”**

- The undercover investigator „O.C.” obtained the complete file for appointment to the driving tests through the defendant J.A.D. (driving instructor), although he/she carried out only approximately 4 driving hours, he/she was not medically and psychologically examined and did not participate to the driving legislation courses. For these services, he/she gave different amounts of money to the police officers B.P. and A.D., between 100 lei and 200 euro, also fraudulently obtaining the driving licence.
- Still following the investigative actions of „O.C.”, uncontested evidence were submitted regarding the driving licence procurement in the same fraudulent manner by the said P.A., still through the defendant J.A.D.

### **The activity of the criminal group**

- The workers of the Public Community Service of the Driving Licence and Vehicle Registration Department Covasna:
  - police officers B.G., B.P.I., B.P., A.D., C.S. and S.V.

The police officer B.P.I. received works for appointments to the exam from his/her colleagues B.G., A.D., B.P. and S.V., despite the fact that he/she knew that they were receiving money from persons for whom he/she made the appointment to the exam, receiving alcoholic beverages or other benefits.

The police officer B.G., during the years 2008–2009, violated his/her job duties concerning the examination of the candidates for obtaining the driving licences and registering the vehicles, directly receiving money and other benefits in return from the candidates or through the officer A.D. or the driving instructors.

- The employers of the City Hall from Sfântu Gheorghe:
  - T.B. – in return for amounts of money, he/she facilitated the registration of the vehicles for the said B.P.A., S.Z.K. and B.R., interceding with I.P. and M.E. in order to draw up the tax return of the vehicles with false data.
- The associates of certain security companies:

S.Z.K. and B.R. obtained from the police officers A.D. and B.G. through B.P.A. the registration of the vehicles stolen from the UE area on the names of certain persons who were not aware about this fact.

B.P.A. – mediated fraudulent registrations and the fraudulent procurement of the driving licences in return for certain amounts of money that varied between 200 and 16.000 lei, money offered by him/her to the police officers A.D. and B.G.

- The employer of the Emergency Response Inspectorate Covasna:

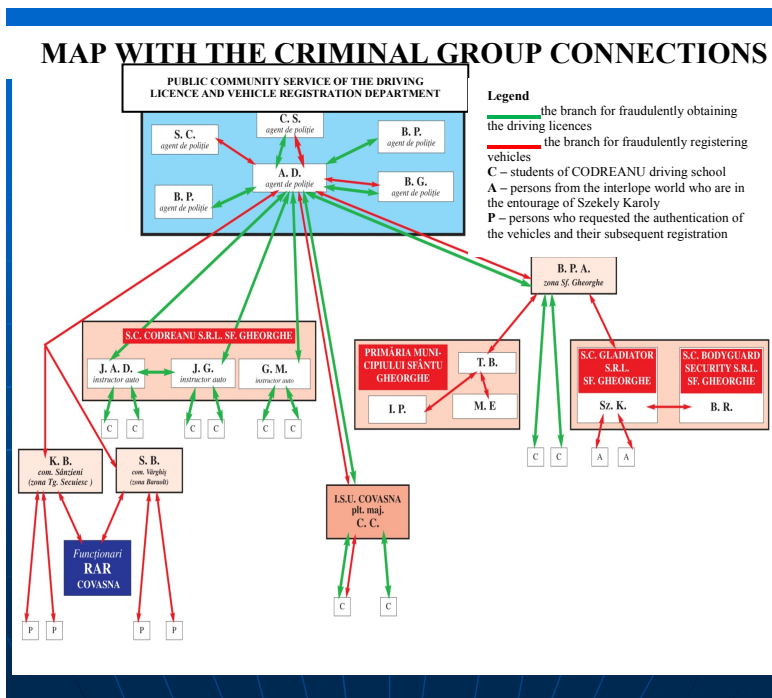
C.C. – the brother-in-law of the police officer A.D., who had the task to receive the benefits in his name for different activities of vehicle registration and route examination in order to obtain the driving licence.

- J.A.D., J.G. and G.M. – mediators between the candidates who offered amounts of for passing the practical exam in order to obtain the driving licence and the examiner officers.

- The owner of the driving school:

- The owner of an office for copying documents:

- K.B. and Sz.B. – mediated the vehicle registrations and the procurement of the licences in return for amounts of money.



## **Searches**

- 51 authorizations for house searches were enforced, of which 27 simultaneous – under the case prosecutor coordination, workers within D.G.A., D.G.I.P.I. and Romania Gendarmerie (approx. 230 persons and 50 motor vehicles were involved) performed several searches at the defendants' houses within the perimeter of Sfântu Gheorghe Municipality, Covasna, Sânzieni and Vârghiș localities, at the registered offices of several trading companies – driving schools and typing pool and public institutions – Covasna Emergency Situations Inspectorate, S.P.C.R.P.C.I.V. Covasna and the Mayor's Office of Sfântu Gheorghe Municipality.
- The following were collected for investigation:
  - documents;
  - jewellery (1,8 kg);
  - amounts of money (approx. 42.000 lei);
  - a significant amount of alcoholic beverages;
  - white weapons;
  - central processing units and copy machines used by the defendants for their criminal activities.
- Concurrently, a number of 16 motor vehicles were searched;
- 18 authorizations for information searches were enforced for a total number of 720 storage media, 15 computers, 28 mobile phones, activity performed by experts of I.G.P.R., occasion which allowed the recovery of stored information representing answers to the questionnaires about road legislation;
- Graphoscopic analyses were ruled concerning a number of approx. 500 official documents /under private signature, activity performed by I.P.J. Covasna;
- Motor vehicles identified as fraudulently registered in Covasna (39 pieces) were verified, by cooperating with competent authorities from Germany, Hungary, Italy, Belgium, Netherlands, England, Austria, Czech Republic etc.;
- 48 witnesses were examined.

## **Criminal purposes**

- Unjustly obtaining certain amounts of money or material benefits, by the police agents, by breaking the job responsibilities;
- Fraudulently obtaining the driver licence;
- Registration of several cars coming from EU area by breaking the legal provisions (by documents counterfeiting, like: external origin documents for the motor vehicles, payment receipts for the first registration and pollution taxes).

## **Criminal activity consequences**

- Fraudulent registration of a total number of 39 motor vehicles, most of them luxury motor vehicles (Bentley, Mercedes, BMW, Jeep Wrangler, Skoda), by:

- registration of several motor vehicles with successive temporary numbers of the same motor vehicle, without paying the first registration tax;
- registration of several motor vehicles on the names of persons who did not request such thing and were not aware of the fact;
- counterfeiting the motor vehicles origin documents (sale - purchase agreement, brief etc.);
- fictional registration of the motor vehicles in the Mayor's Office tax registries;
- the documents necessary for the motor vehicles registration were counterfeited: payment receipts for the first registration taxes, counterfeiting the registration sheets by forging the signature/approval, counterfeiting several insurance policies etc.).
- Fraudulently obtaining at least ten driver licences by:
  - obtaining the registration file by breaking the legal provisions (the candidate was not subject to the psychological and medical examinations, or did not personally obtain the criminal record) in exchange of certain amounts of money;
  - counterfeiting the education record by inserting other categories or entering a fictional number of driving hours in exchange of a certain amount of money;
  - obtaining the driving test appointment file by „over the turn“, in exchange of an amount of money and despite the fact that the minimum number of hours provided by the road legislation was not met.

### **Sanctions/punishments/measures**

- The first indictment, from June 3<sup>rd</sup> 2009 (file no. 139/P/2008), ruled:
  1. The arraignment, in detention under remand, of the defendants:
    - A.D. – for committing the offences of:
      - continuous bribe taking, with 3 material acts;
      - influence peddling;
      - continuous forgery with 6 material acts;
      - continuous abuse of office with 2 material acts;
      - all are multiple offences.
    - J.A.D. – for committing the offences of:
      - complicity to bribe taking (2 acts);
      - influence peddling (2 acts);
      - all are multiple offences.
    - S.Z.K. – for committing the offences of:
      - bribe taking (2 acts);
      - trading in influence;
      - complicity to continuous forgery (2 material acts);
      - complicity to continuous abuse of office (2 material acts);
      - forgery in deeds by private signature committed by indirect participation (2 material acts);
      - forgery in official deeds;

- inobservance of the arms and ammunition regulation;
- initiation of an organised group;
- all are multiple offences and committed in post – incarceration re – offending .

• *The arrest and detention under remand was ruled against the above mentioned defendants from March 11<sup>th</sup> 2009 until June 8<sup>th</sup> 2009, inclusively.*

*The arraignment, without being detained, of the defendants:*

B.G. – for committing the offences of:

- bribe taking (3 acts);
- forgery (3 acts);
- encouragement for abuse of office;
- all are multiple offences.

Z.V. – for committing the offences of:

- encouragement for abuse of office against public interest (7 acts);
- forgery in official documents (8 acts);
- bribe giving;
- all are multiple offences.

• *The arrest and detention under remand was ruled against the above mentioned defendants from May 7<sup>th</sup> 2009 until May 10<sup>th</sup> 2009, when the Court of Appeal in Braşov admitted the appeal against the detention under remand and ruled the immediate release of the two defendants, replacing the detention under remand with the interdiction of leaving the country.*

*Initiating criminal proceedings and arraignment of the defendant:*

B.T. – for committing the offences of:

- complicity to bribe taking (three acts);
- multiple offences.

• *On December 3<sup>rd</sup> 2009, the Prosecutor's Office of the Covasna County Court, by the second issued indictment (file no. 109/P/2009), ruled the initiation of criminal proceedings and arraignment for the defendants A.D., B.G., S.Z.K., B.R., T.B, B.P.A*

### **Damages caused**

Damages from the accumulation of the bribe taking values – 5.000 lei and 4.000 euro:

- damages generated by counterfeiting several invoices regarding the first registration tax – approximately 80.000 lei;
- damages from the value of the motor vehicles stolen within the EU area – approximately 270.000 euro.

### **JUDICIAL EXPENSES**

- 22.264 lei, from the M.A.I. budget;
- 9.400 lei, from the M.P. budget;
- 1.600 lei, from the M.J. budget.

### **Collateral consequences**

In order to benefit from the legal cause of reducing the punishments by half, the defendants in these cases denounced other acts, the intimations being forwarded to the competent units, as follows:

- D.N.A. – Braşov Territorial Service, a number of 4 *denunciations*, out of which 2 ended with an arraignment;
- D.I.I.C.O.T. –Covasna Territorial Office: *one denunciation*, following which a network of high risk drugs traffickers was documented and proven, the case pending before the Covasna County Court;
- The Prosecutor's Office of the Sfântu Gheorghe District Court: *one denunciation* regarding the offence of trading in influence, which was declined to the Prosecutor's Office of the Braşov County Court, following the inquiries.

### **Conclusions**

- The two criminal case files finalised by indictment following the action "Driving Licences Covasna", by which 9 defendants were arraigned for 52 offences, are pending before the Covasna County Court, being adjunct.
- The Prosecutor's Office of the Covasna County Court is working on another criminal case file, concerning other similar offences.
- The success of the "Driving Licences Covasna" action is due to the good cooperation between the Prosecutor's Office and the D.G.A. officers – The Anticorruption Service of Covasna County.

### **Technical case study and examples of used operative technique**

An inspector within the Land Improvement Directorate was investigated for bribe taking.

The officers of the Anticorruption General Directorate, under the case prosecutor coordination, caught Z. M. in the act, inspector within the Land Improvement Directorate, while he was receiving the amount of 4200 lei (1000 Euro) from a citizen. according to the verifications performed by the officers, the person in case requested the amount of money in exchange of issuing an approval to withdraw from agricultural use a land with a surface of 8.700 m<sup>2</sup>, in order to introduce it within the built up area.

First, Z.M., requested to the indicter the amount of 500 euro, several meetings taking place for this purpose.

Considering the fact that the indicter was an extremely emotional person and did not have abilities to use the operative technique, in order to prove the criminal activity of the named clerk, an undercover investigator was introduced in the case as "cousin" of the indicter, who meanwhile left the county and who he had to represent in front of the public servant.

At the subsequent meeting, Z.M., who was meanwhile promoted as chief inspector, requested the amount of 1.000 euro to the undercover investigator, "cousin of the indicter", because he found out that the indicter had left to work abroad and had to have more money.

Following the audio-video documentation performed, the criminal activity of the public servant was successfully proved by introducing in the case the undercover investigator.

### **The technical documentation of the case:**

In this case, body worn operative technique was used, dissimulated on the apparel of an undercover investigator and a GSM remote controlled audio system dissimulated as a mobile phone.

**Stage 1.** The undercover investigator was equipped by the Technical Service specialists with an audio-video digital recorder (body worn), microphones and a colour video camera dissimulated on the apparel.

In order to have an adequate intervention of the flagrant team and to monitor the operative situation, a remote audio control technique was also used (dissimulated as a mobile phone).

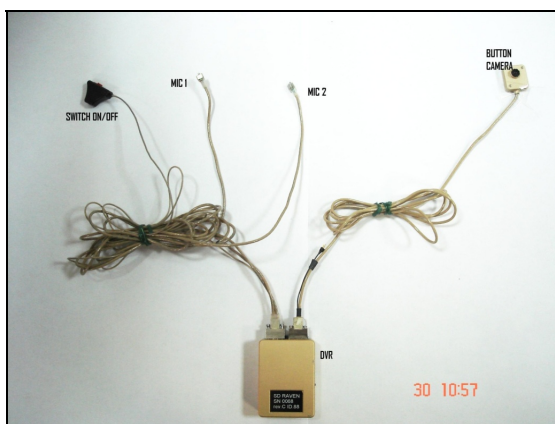


Fig. 1. The audio-video recording system used



Fig. 2 GSM audio control system



Fig. 3 The arrangement of the microphones and the on-off switch of the DVR





Fig. 4 The investigator equipped with the surrounding recording technique

**Stage 2.** The forensic team within the Technical Service, together with the case prosecutor, marked the bills which were to be handed to the public servant as bribery. Each bill was marked with a fluorescent marker, sensitive to UV (ultraviolet) light, with the text “MITĂ” [*BRIBERY*] and the date when the action was performed.

**Stage 3.** The undercover investigator enters at the established time in the office building where the public servant works and starts the audio-video recording. By calling his mobile phone, the flagrant team can listen what is happening on site, being ready for the intervention. After the investigator hands over the amount of money to the public servant, as bribery, he says the password established with the flagrant team and the case prosecutor in order to perform the intervention and to catch him in the act: “It is good that this was handled and everyone is pleased”

#### **Stage 4. The intervention of the flagrant team**

##### **Fraud indicators in investigating the corruption and adjunct offenses against the financial interests of the European Union**

The most frequent indicator of bribe giving and illegal commissions is the favourable treatment unjustly granted to a contractor by a contracting responsible during a certain period of time.

Other warning signals:

- Tight connections between a contracting responsible and a products or services provider;
- The inexplicable or sudden increase of the contracting responsible wealth;
- The contracting responsible performs an undeclared economic activity;
- The contractor is known in its activity field for granting illegal commissions;
- Undocumented or frequent modifications of the agreements, which lead to their increase in value;
- The contracting responsible refuses the promotion to a job outside the public procurement field;
- The contracting responsible does not submit or fills in the statement regarding the conflicts of interest.

*Indicators regarding corruption and conflicts of interest:*

- The strong socialization between an employee of the contracting authority and the products or services provider
- The inexplicable or sudden increase of the wealth of a contracting authority employee
- The contractor has the reputation of granting financial support
- Undocumented or frequent modifications of the agreement, which lead to its increase in value
- The contracting authority employee refuses the promotion in a job where he cannot deal with purchases
- The contracting authority employee does not submit or fills in the statement regarding the conflicts of interest
- The inexplicable or unusual encouragement of a certain trader or contractor
- Incorrect specifications/Leak of information about the bidding:
- Only one or few bidders answer to the tender applications
- Similarity between the requested specifications and the products or services of the winning bidder
- The specifications are significantly more extended or more limited than the ones in the previous tender applications
- Socialisation or personal agreements between the contracting authority personnel and the bidders during the bidding

- Complaints from other bidders
- The winning bid has a cost exactly under the bid in the second place
- The latest bidding company has the best offer

### **Investigating a corruption case in European projects implementation**

The D.N.A. prosecutor within the Bacău Territorial Service drawn up the indictment, requiring the initiation of the criminal proceedings and the arraignment of 4 natural persons and a trading company from Târgu Neamț Municipality.

The defendants, based on a false documentation, interceded the signing of a financing agreement from European funds between the named company and the Ministry of Regional Development and Tourism, by which the illegal benefit was 1.424.729,67 lei from the European Fund for Regional Development.

The procedures in the case were performed by the judiciary police officers within the D.G.A. – Neamț, based on the delegation ordinances. From the investigations, the following state of facts arose:

On April 29<sup>th</sup> 2008, within the Regional Operational Programme 2007-2013, the major field of intervention 5.2 – „Creation, development, modernization of the tourism infrastructure in order to capitalize the natural resources and increase the tourism services quality” was launched, with continuous application of the financing applications. On December 19<sup>th</sup> 2008, a co – operative company from Târgu Neamț, by its president, **F.G.**, submitted the project with a total value of 3.252.002,8 de lei, at the North – East Regional Development Agency in order to obtain financing from European funds.

The object of the project represented the modernization and extension of a motel in Târgu Neamț, Neamț County, real estate which was the property of the trading company in the case.

According to the eligibility criteria, the infrastructure and the land on which the investment was to be performed should have been unencumbered when submitting the financing application, should not have been the object of litigations pending before the courts in order to get a solution regarding the legal status and should not have been the object of recoveries according to certain special laws in the matter or the common law.

According to the eligibility statement, the defendant **F.G.** took it upon himself to declare that the motel was in none of the above mentioned situations. On May 17<sup>th</sup> 2010 the financing agreement between the co – operative company in Târgu Neamț and the Ministry of Regional Development and Tourism was signed, by which the company was provided with the total amount of 1.424.729,67 lei from the European Fund for Regional Development.

Following the investigations performed in the case, it was shown that the documents based on which the Management Authority of the Regional Operational Programme accepted the application for the issuance of a Land Register excerpt, for information, registered at the Office of Cadastre and Land Registration in Târgu Neamț, are false. In order not to appear any problems at a potential verification related to the verity of these documents, the defendant **C.E.** made also modifications to the Land Register, the general entry register and the archive files.

The prosecutor assigned from the Anticorruption National Directorate – Bacău Territorial Service, drawn up the indictment by which he required the initiation of criminal proceedings and the arraignment for the defendants:

1. **F. G.**, investigated for committing the offences provided by the art. 181 paragraphs 1 and 3 of the Law no.78/2000 and art. 25 of the Criminal Code, in relation to the art. 288 paragraph 2 of the Criminal Code with the application of art. 33 (a) Criminal Code,

2. **A co – operative company in Târgu Neamț**, investigated for committing the offences provided by the art. 181 paragraphs 1 and 3 of the Law no.78/2000 and art. 25 of the Criminal Code, in relation to the art. 288 paragraph 2 of the Criminal Code with the application of art. 33 (a) Criminal Code,

3. **C. E.**, investigated for committing the offences provided by the art. 26 in relation to the art. 181 paragraphs 1 and 3 of the Law no.78/2000, art. 288 paragraph 2 of the Criminal Code, with the application of art. 41 paragraph 2 of the Criminal Code, art. 31 of the Criminal Code, in relation to the art. 289 of the Criminal Code, with the application of the art. 41 paragraph 2 of the Criminal Code and art. 291 of the criminal Code, all with the application of the art. 33 (a) of the Criminal Code.

4. **C. C. M.**, investigated for committing the offences provided by the art. 26 of the Criminal Code, in relation to the art. 181 paragraphs 1 and 3 of the Law no.78/2000 and art. 26 of the Criminal Code in relation to the art. 288 paragraph 2 of the Criminal Code, with the application of the art. 33 (a) of the Criminal Code,

5. **C. I.**, investigated for committing the offences provided by the art. 264 of the Criminal Code;

## **BEST PRACTICES EXAMPLES – CASE STUDIES OF THE INTERNAL AFFAIRS SECTOR IN SERBIA:**

### **Significant mass-media attention received several corruption cases spotlighted by the Sector: 2013**

➤ In January 2013, the police officers of the Internal Affairs Sector filed a criminal complaint against the head of Department in Bor, who requested from the owner of the „Slatkiš” boat store in Bor, posing as an authorised person, a cake and the amount of 100 Euro, in order not to denunciation her to the competent control authorities of the Ministry of Finances, because she did not issue receipts to the customers of this store and for exceeding the business hours on December 12<sup>th</sup> 2012. After submitting the accusations against this police officer, disciplinary measures were taken and the decision of his suspension from the Ministry of Interior was issued and he was impeached at the beginning of February.

➤ At the beginning of March 2013, the Internal Affairs Sector filed a criminal complaint against a police officer in Kragujevac, who requested from the director and owner of a private company in Mladenovac, 400 euro per month in exchange of "protection", namely to allow him to perform peacefully the activities of this company – gambling

organising. Disciplinary measures were taken against the police officer for seriously breaking the service duties.

- In April 2013, the Internal Affairs Sector filed a criminal complaint against a police officer in Belgrade, who received during September 2012, 30 euro and 5.000 dinars from a person involved in a prostitution network, in order not take the legal actions against her and to help her if she was arrested. The police officer disclosed classified information from the official records regarding her son, who committed an offence and promised that he shall take no legal measure against him. In exchange, he requested free performances of some artists on the boat he is co – owner.

## **2012**

- In January 2011, the Internal Affairs Sector filed a criminal complaint against a police officer within the Traffic Brigade in Belgrade, an examiner within the Technical Inspection Department and an instructor from the driving school, because the police officer received from a candidate 150 euro, through the instructor, to help him pass the practical driving test.

- A police officer within the Police Directorate in Belgrade was arrested in March 2012, because he accessed repeatedly the special data base and alerted the persons in the case that various warrants were issued on their names and he was receiving from them 100 euro and 5.000 dinars.

- The Police in Smederevo filed a criminal complaint against a police officer within the Analysis Department, because he posed as a UBPOK police officer and he requested from the owner of a private company 35.000 euro in exchange of the peace of his company, ensuring him he will take care that no other control, inspection etc. actions shall be performed.

- Criminal complaints were filed against two police officers, of whom one in an executive position within the Sjenica Police Station, because they were receiving gifts (very expensive alcoholic beverages, cigarettes and money), to accelerate the control of the Turkish citizen who submitted applications in order to obtain the residence in Sjenica.

- In September 2012, the Internal Affairs Sector filed a criminal complaint against four police officers within the Police Station in Mladenovac and the Belgrade Police, for bribe taking. These, of whom one was shift manager of the “On Call” Service, during December 21<sup>st</sup> 2011 – July 21<sup>st</sup> 2012, obtained official information concerning the measures to be taken against two of their acquaintances, so that they can hide the evidences, service for which they received 2000 dinars.

- In November 2012, the Internal Affairs Sector filed a criminal complaint against the deputy commander of the “Bezdan” Porder Police Department, because he helped a citizen to cross the “Backi Breg” border crossing point with cigarettes on the European Union territory, without performing the legal control and verifications, for which he received approximately 1.400 euro.

➤ At the beginning of November 2012, a criminal complaint was filed against four police officers within the Traffic Brigade of the motorway to Niš, because, exceeding their official attributions and against their work tasks, they repeatedly stopped the foreign motor vehicle drivers for verification and control, requesting and receiving money or goods. Their actions were not entered in the daily activities register.

#### **2011**

➤ At the beginning of 2011, the Internal Affairs Sector filed a criminal complaint against a police officer in Sremska Mitrovica, who requested and received from three persons, 500 euro and 10.000 dinars, in order not to take the legal measures after discovering several offences.

➤ During 2011, the Internal Affairs Sector filed a criminal complaint against the group of 24 persons, of who 16 police officers and three retired police officers within the Priština Police Department. They helped Albanian citizens on the territory of Kosovo and Metohija, to illegally obtain biometrical identity cards and passport issued in the Republic of Serbia. They requested and received from them money and other gifts. In order to prevent the abuses in issuing the biometrical identity documents, the Internal Affairs Sector performed a control in all departments with attributions in identity documents issuance and, during May, it filed another 5 criminal complaints against 4 police officers and 2 citizen, for committing 12 offences of abuse of office and one offence of bribe taking; afterwards it filed another 7 criminal accusations.

➤ In July 2011, the Internal Affairs Sector filed a criminal complaint against 11 police officers within the Priština police Department, having clues that, during 2010, as members of the examination commission for the driving licences within the driving schools in Gračanica and Lapljem Selo, they helped several citizen to obtain the driving licence (they gave them the answers to the test questions and did not write in the examination protocol the errors they made during the practical test).

Also, a complaint was filed against one of the officers accused that during 2005 and 2006, while performing a control at the driving schools about organising the driving examination, took money from several persons in order to help them pass the driving examination or not to perform a control at the respective schools; he also took money from a person in order to help her get a job within the Inspection Directorate of the Gracanica Municipality.

#### **2008, 2009 and 2010:**

➤ In July 2010, the Internal Affairs Sector filed a criminal complaint against two police officers within the Belgrade Traffic Police Department, who received money from the owners of driving schools in exchange of non – performance of the controls which had to be carried out at the respective driving schools (in order to ensure them that these schools are exempted from control or to ensure them a privileged position when performing the control.)

➤ In December 2009 and at the beginning of 2010, the police officers within the Internal Affairs Sector filed 4 criminal complaints and 5 completions of the criminal complaint

against three leaders and 42 members of the organised group (of who 35 are police officers and 7 customs officers) which operated at the “Jabuka” border crossing point. The accused police officers and customs officers requested and received money from the citizens who carried merchandise breaking the legal provisions. After obtaining the information regarding the corruption acts committed at the border crossing point mentioned by the police and customs officers, the necessary investigations began, which lead to the detention of the respective officers, the criminal accusation was filed and disciplinary measures were taken, as well as the temporary suspension of the work relations within the ministry.

➤ At the end of March and beginning of April 2009, the Internal Affairs Sector filed three criminal accusations against 7 police officers from “Negotin” border crossing point and 10 customs officers from “Mokranje” customs office, who, during 2008 and 2009, while performing the customs control of the passengers and vehicles, requested and received money (between 5 and 10 euro) from Bulgarian citizens, when entering and exiting Serbian territory, through “Mokranje” border crossing point, in order not to contain them long and useless at the mentioned border crossing point.

➤ In March 2008, the Internal Affairs Sector, in collaboration with the Investigations Department, filed a criminal complaint against 15 members of an organised crime group in Bosilegrad and Surdulica, among which there were six police officers and a customs officer, who ensured a crossing method for the illegal transport of foreign origin merchandise, from Bulgaria and Turkey into Serbia, through “Ribarci” border crossing point.