

STANDARD SUMMARY PROJECT FICHE

1. Basic Information

- 1.1 **Désirée Number:** RO-0004.01
1.2 **Title:** **STRENGTHENING THE JUDICIAL AND PENITENTIARY SYSTEM**
1.3 **Sector:** Administration and Public Institutions (AI)
1.4 **Twinning component:** **RO2000/IB/JH/01**
Reform of the penitentiary system and enhancement of the probation system
1.5 **Location:** Romania

2 Objectives

2.1 Wider Objective

Contribution to the improvement of the operation of the judicial system

2.2 Immediate Objectives

2.2.1 Continuation of the development of the case and document management system (CDMS);

2.2.2 Assistance to the reform of the penitentiary system.

Part of the second objective will be implemented through twinning arrangements (all the activities under the result 2 and 3, without the investment in infrastructure for the centre).

2.3 Accession Partnership and NPAA priority

Bearing in mind that Phare support focuses on the priority areas for action identified in the **Accession Partnership** and also identified in the **1999 Regular Report from the Commission on Romania's progress towards accession** (i.e. "strengthen democracy, the rule of law and human rights [...] and strengthening of the judiciary"), the 2000 Phare Programme for justice proposes to strengthen the judiciary capacity through the continuation of the automation of courts and through the reform of the penitentiary system.

The reinforcement of justice and home affairs institutions is one of the medium-term priorities established in the 98 Accession Partnership and it is provided as a priority in the next 99 Accession Partnership. The European Commission considers that the institutional reform has not been deeply rooted, the JHA institutions have to make progress in this area and have to establish a new administrative culture.

In December 1995 the European Council in Madrid stressed the need to create the conditions for the gradual, harmonious integration of the candidate countries, particularly through the adjustment of their administrative structures. In its **November 1998 Report on the progress of Romania**, the Commission also pointed out that "administrative weaknesses such as the lack of accessible case-studies and court verdicts affect the equitable application of law". In this respect there is need to continue Phare 97 and 99 programmes, for the creation of a system which will enable the uniform

application of JHA *acquis communautaire*. The accomplishment of this goal is one of the medium- term priorities that have been identified for Romania in **98 Accession Partnership**, on the analysis of the Commission's Opinion and the Council's examination of this.

The creation of a system which will link all the courts and prosecutorial offices is one of the medium term priorities established in the **National Programme for Adoption of the Acquis**.

The European Council in Luxembourg underlined that incorporation of the *acquis* into legislation is necessary, but not in itself sufficient and it is necessary to ensure that it is actually applied. As the **Convention for the Protection of Human Rights and Fundamental Freedoms, The European Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment** are part of the *acquis* of the European Union in the field of JHA it is necessary to take all the measures required for their effective application.

3 Description

3.1 Background and justification:

Through Phare 97 Programme, an amount of 2.5 MEURO was approved for the creation of the case and document management system (CDMS). This project, based on reliable and secured 'replicated' databases technology will allow to register cases electronically, to keep the evidence of the stage of a case and their transmission to upper level jurisdictions or prosecutorial offices, to communicate statistics and other documents with upper level courts or prosecutorial offices and with the Ministry of Justice. In conjunction with the Legal Library and Documentation System (LDS), for which additional funds are approved (1 MEuro), under Phare 97, CDMS will also ensure the infrastructural basis to allow a quick spread of the decisions of the Supreme Court of Justice and of the Constitutional Court to lower jurisdictions. The funds allocated to CDMS fully equip only 17 courts and 17 prosecutorial offices, the Supreme Court of Justice (CSJ) and will link the Ministry of Justice (MoJ) and the General Prosecutor's Office (GPO) to the network. LDS will help to link other 40 courts and 40 prosecutorial offices to the network but it will not equip these locations with more than one or two working stations.

Through its own efforts MoJ started in 1996 the creation of this system by providing some equipment for the 15 appeal courts and other 26 tribunals that are now acting as a pilot for the future developments. The success of all this efforts depends on the continuous deployment of the system. Because of the restricted budget of the ministry, the complete development of the system should last a very long period of time.

Therefore, the MoJ asked for a complementary allocation of 1.5 Meuro under Phare 99 for the development of the CDMS. It is estimated that 100 new locations (50 courts and 50 prosecutorial offices) will be integrated in the system.

Despite all these efforts, only 35% of the courts and prosecutorial offices will be linked in the system after the completion of Phare 97 and 99 programmes.

Phare 2000 is supposed to be the last step in linking all the courts and prosecutorial offices in the system. The urgency of achieving this goal does not need to be demonstrated, especially having in mind that big gaps will appear between the courts and prosecutorial offices equipped and those which would not be in this situation. The system cannot be used for the global improving of the operation in the judicial system as long as it is not spread in all the courts and prosecutorial offices. The MoJ and the Public Ministry (PM) continued in 1999 and will continue in 2000 their own efforts in this respect. The PM and MoJ recently took two loans with the Romanian Government as guarantor, for the total amount of 22 Meuros (10 Meuros by the PM and 12 Meuros by the MoJ) for the automation of the courts and prosecutorial offices. However, it is important to mention that a big amount of the MoJ loan will be used for the automation of the offices for land registration which are located at each court of first instance (i.e. 182 locations). It is understood that even if the land registration offices have a different and specific function within the courts, the automation system to be used has to be compatible with the CDMS. In this respect, the national effort in this direction is meant to be complement in the overall perspective of the automation of courts, with all the services the latter are supposed to perform. The remaining part of this loan will be used for the development of the CDMS, complementary to the EU funds. As this loan was approved very recently (January 2000) it is too early to estimate the part to be allocated to the CDMS. It is anticipated however that about 50% to be provided to the continuation of the CDMS.

As it is stipulated in the 1998 Regular Report from the European Commission, Romania is required "to give effect to the numerous reforms announced in the field of justice and home affairs, particularly the institutional reform urged on it by the Commission in July 1997, and allocate the human and financial resources necessary for their effective implementation". The 1997 Commission Report mentioned that despite recent improvements, the state of penitentiaries is still precarious. The Commission reached the same conclusion in its 1999 Regular Report where it is stressed that "Despite the difficult economic situation, the conditions in the penitentiaries are slowly improving. However, the facilities are still below reasonable standards and severely overcrowded."

The analysis of the existing situation reveals the main problems the penitentiary system is confronted with: a superannuated legislation from 1969 which is no longer in compliance with the new socio-economic changes in Romania, buildings older than 100 years, inappropriate spaces, poor sanitary installations, overcrowded penitentiaries, the highest European ratio between employees and prisoners and budgetary subventions under the minimum necessary.

The Ministry of Justice elaborated a new penal code, a new penal procedure code, a new law regarding the execution of the punishments and a new law on probation. By these laws the Romanian penal system will be brought in line with EU standards, inter alia by creating alternatives to imprisonment

and by limiting the use of the pre-trial detention. The Government adopted these draft laws which were sent to the Parliament.

In the last years the activity of General Division for Penitentiaries (GDP) was oriented to the implementation of the European penitentiaries regulations, to the promotion of a new mentality of the personnel and the humanisation of the penitentiary system by respecting the human rights and to the creation of a living environment closer to the one existing in the society.

In the perspective of a future integration in the European Union, Romania is expected to respect also the rights of the persons who are detained in the prisons. Therefore this project aims to evaluate the current state of the reform in penitentiary system and to develop a strategy for future action in order to get the Romanian penitentiaries in line with EU standards.

A lot of important changes have been made among which the most relevant is the progressively demilitarisation of the system (e.g. appointment, for the first time after World War II, of a civilian as General Director of GDP and furthermore, civil directors were appointed in one third of the penitentiaries existing in the country and this process will continue). For continuing this process of demilitarisation it is necessary that the training center for penitentiaries and probation staff from Arad to be strengthened in order to have the capacity to provide the initial training for the future civil penitentiary personnel and continuous courses for the existing staff. This Centre will also be used to train probation personnel.

As GDP is since 1991 under the authority of MoJ and consequently part of the Romanian judiciary system, the reform of the latter as a whole cannot be achieved without improving also the functioning of the penitentiary system. Having in mind the need for better and faster communication between courts, prosecutor's offices and penitentiaries regarding the prisoners' situation it is necessary to link the penitentiary system and probation services to the network created under Phare 97 and developed under Phare 99. This network will allow judges and prosecutors to find out all necessary information about prisoners (e.g., personal data, past record, probation file) and also, the penitentiary staff to be aware about the decisions of judges and prosecutors. In order to be able to provide relevant information for the courts the probation services need to have access to the database of the penitentiaries and of the courts. This will improve and speed up significantly the communication process between these parties, will allow the courts to be informed about offenders in the community and will lead to proper individualised penalties.

This automatic system, by speeding up the judicial proceedings, will have a positive impact on the situation of the prisoners under remand and on their trials. The system will allow an easier access to all parties involved (including courts and prosecutorial offices) to the personal records of the detainees and also an easier and faster information flow in this respect between the courts, prosecutor's offices and the penitentiary administration. An important benefit of linking the penitentiary administration to the CDMS will also be for the MoJ which has to deal each year with thousands of requests for individual pardon and transfer of convicted persons. These

measures will contribute to a better protection and respect of the prisoners' rights in accordance with the European Convention for Human Rights.

3.2 Linked activities:

3.2.1 Phare activities

The project Phare 97 for the creation of the case and document management system (CDMS) and a legal library and documentation system (LDS) started in January 2000. It will be implemented in 24 months and at the end of the project, an automatic data processing system will be created. This system will be developed through Phare 99 as it was indicated at point 3.1.

3.2.2 Other donors in the field

The Romanian Ministry of Justice benefits from the technical assistance and practical support of the British Government's "Know How Fund" since 1996 and is working together with some Non-Governmental Organizations (e.g. The Foundation for an Open Society) to build up the necessary projects to fulfill the duty of probation work within the counties.

The Foundation for an Open Society is supporting through the Center for Legal Resources some projects for the GDP in order to help it achieve the reform of the legislation in penitentiaries through:

- the training of the senior penitentiary staff in the management of the penitentiary administration and in human rights
- the improvement of the penitentiary staff training
- the increased knowledge of the inmates about their rights and duties and
- for the controlling the tuberculosis in penitentiaries.

3.3 Results

- By the end of the project court operations, file management and access to information on files as well as to the case law of the Supreme Court of Justice will be improved at the first level courts and prosecutors' offices and will be integrated in CDMS created through Phare 97 and 99.
- By the end of the project the following results will be achieved:
 - a reform strategy for the penitentiary system will be developed, taking into account the newly proposed alternative forms of imprisonment (for details see Annex 5b);
 - Center for training of penitentiary and probation personnel will be strengthened and well equipped;
 - enlargement of the existing network created through Phare 97 with penitentiaries and probation services.

A long-term technical assistance through twinning is foreseen to assist the General Division for Penitentiaries (GDP) with designing the reform strategy, including the implementation of the law on probation. The twinning project will also provide technical assistance for strengthening the Centre for training of penitentiary and probation personnel.

3.4 Activities:

The results should be achieved by the following activities:

3.4.1 Court operations, file management and access to information on files and case law will be improved at the first level courts and prosecutors' offices (result 1):

- further equip the remaining 260 locations (courts and prosecutor's offices)
- link the new locations to the system created through Phare 97 and 99
- train the end-users

3.4.2 A reform strategy for penitentiary system will be developed in line with the proposed penal reform (result 2)

Assistance through twinning:

- evaluation of the current state of the penitentiary system, as well as the proposed penal reform and the demilitarisation of the system by a long-term EU expert
- compare the results of the evaluation with the EU standards and with the existing resources;
- setting up the objectives for the reform of penitentiary systems and for the alternative forms of imprisonment and the means to achieve them;

3.4.3 Center for training of penitentiary and probation personnel will be strengthened and well equipped (result 3)

Assistance through twinning:

- elaborate the occupational standard for penitentiary and probation personnel
- set up a curricula for penitentiary and probation personnel prepared in the Center for training;
- train the existing and future penitentiary and probation personnel;
- equip the center with the necessary facilities;

3.4.4 Enlargement of the existing network with penitentiaries and probation services (result 4):

- equip the penitentiaries and the probation services;
- link the new locations to the existing network created through CDMS;

- create a new soft adapted to the one which was already put in place by CDMS
- train end-users

Tasks of the PAA:

- assist in further defining a reform strategy of the penitentiary system by evaluating the current state of reform in Romania and comparing the results with the EU standards and existing resources;
- assist in developing the implementation of the law on probation services and of the alternative forms of imprisonment;
- provide daily advisory services to the GDP staff and staff working on probation services;
- co-ordinate the activities of other short-term experts assigned to the project.

Short term expertise will be required for:

- preparing detainees for social reinsertion;
- implementation of the alternatives forms of imprisonment;
- organising leisure activities for detainees;
- assessment of the real detention capacity in the penitentiaries;
- detention regime for the minors in the re-educational centres;
- penitentiary regime for the life sentenced prisoners;
- security of the penitentiary establishments;
- psychological assistance for the penitentiaries personnel and detainees.

Profile of the PAA

- having at least 10 years experience in public service and a minimum of five years experience with the penitentiary system;
- having in-depth knowledge of and practical experience with management of a central penitentiary administrations;
- practical experience in managing penitentiary institutions;
- having gained thorough policy development knowledge of penitentiary systems;
- capable of assessing training needs for penitentiary and probation staff within the Romanian administration;
- able to quickly adapt to the local environment and understand the constraints and opportunities of it;
- having adequate computer skills;
- fluency in English and/or French would be an advantage.

Duration of the assignment for the PAA

The PAA is supposed to be seconded to the GDP for a period of 12 man / month.

The institutions involved in this programme are: MoJ, GPO and GDP.

The judicial system in Romania is composed of courts and attached prosecutorial offices in accordance with the administrative territorial organisation of the country. There are 182 courts of first instance, 41 tribunals and 15 courts of appeal and the same number of prosecutorial offices attached to them. GDP is since 1991 under the authority of MoJ and consequently part of the Romanian judiciary system. It has 41 units, including two centers for minors, one prison for minors youngsters and 5 prison hospitals. According to the draft law on probation, the probation system will be developed in all the counties where are tribunals. Therefore the system will include 41 probation services and about 200 offices in the community. At the moment the system is developed in 5 counties but it is seriously understaffed.

5 Detailed Budget (in Meuro)

5.1 Overall budget

	Phare Support			National Cofinancing*	IFI*	TOTAL
	Investment Support	Institution Building	Total Phare (=I+IB)			
Continuation of the development of the case and document management system (CDMS);	4		4	23¹		27
Further equip the remaining 260 locations(courts and prosecutor's offices)	3		3			
Link the new locations to the system created through Phare 97 and 99	0.8		0.8			
Train the end users	0.2		0.2			
Assistance to the reform of the penitentiary system and to the enhancement of the probation system	3,25	0.75	4	1		5
Evaluate the penitentiary state of reform by a long term EU expert		0.125				
Compare the results of the evaluation with the EU standards and with the existing resources		0.025				
Set up the objectives for the reform of the penitentiary system and for the alternative forms of imprisonment and the means to achieve them		0,05				
Elaborate the occupational standard for penitentiary and probation personnel		0.1				
Set up a curricula for penitentiary and probation personnel prepared in						

the center for training		0.05				
Train the existing and future penitentiary and probation personnel prepared in the Centre for training		0.4				
Equip the center with the necessary facilities	0.25					
Equip the penitentiaries and the probation services (88 locations)	2.1					
Link the new locations to the existing network created through CDMS	0.3					
Create a new soft adapted to the one which was already put in place by CDMS	0.4					
Train end-users	0.2					
Total Twinning		0.75				
Overall Total	7.25	0.75	8	24		32

* *In cases of co-financing only*

¹ Over the total amount of 23 MEuro, 22 MEuro are to be provided from the two loans (see detailed explanation in point 3.1 and 11.2). The remaining 1 MEuro is the ordinary budget contribution of MoJ and PM from the annual national allocation from the state budget.

5.2 Twinning budget

	Phare Support			National Cofinancing*	IFI*	TOTAL
	Investment Support	Institution Building	Total Phare (=I+IB)			
Twinning assistance to the reform of the penitentiary system and to the enhancement of the probation system		0.75	0.75			0.75
Overall twinning project management. Evaluate the penitentiary state of reform by a long term PAA		0.125				
Compare the results of the evaluation with the EU standards and with the existing resources (short term expertise)		0.025				
Set up the objectives for the reform of the penitentiary system and for the alternative forms of imprisonment and the means to achieve them (short term expertise)		0,05				

Elaborate the occupational standard for penitentiary and probation personnel (short term expertise)		0.1				
Set up a curricula for penitentiary and probation personnel prepared in the center for training (short term expertise)		0.05				
Train the existing and future penitentiary and probation personnel prepared in the Centre for training (short term expertise)		0.4				

6. Implementation Arrangements

6.1 Implementing Agency

The Implementing Authority (IA) is the MoJ. The project will be managed under Decentralised Implementation System (DIS). Tendering, contracting and payments will be dealt with by CFCU in the Ministry of Finance. MoJ will provide necessary resources (staff and premises) for the implementation of the project.

It is planned that the project will be implemented through 3 separated contracts, which one a twinning covenant.

6.2 Twinning

The General Division for Penitentiaries will be the main beneficiary, while also the probation services will benefit from the twinning.

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6.3 Non-standard aspects

The DIS Manual will be followed. It is expected to have twinning arrangement for the second project- Assistance to the reform of the penitentiary system for 1MEuros.

7 Implementation Schedule

7.1 Investment component

Start of tendering/call for proposals: March 2001
Start of project activity: July 2001
Project Completion: December 2003

7.2 IB support (twinning)

Start of twinning procedure: June-September 2000
Start of twinning implementation: January - March 2001

8 Equal Opportunities

The Romanian Ministry of Justice is an equal opportunities employer.

9 Environment : not applicable

10 Rates of return: not applicable

11 Investment criteria

11.1 Catalytic effect

The investment will generate improvements in efficiency and accuracy in the Romanian juridical system. It should help to reach the accession priority related to the functioning of the court system and this priority cannot be reached without continuing the investments in automation. It is also important to have a common system for MoJ, courts, prosecutor offices and GDP. Although the MoJ allocates from its own funds resources for automation, these resources are very limited. The Phare system will speed the process.

11.2 Co-financing

The MoJ and the PM financed by their budgets some investments for automation. Because these funds are insufficient to achieve the overall objective of the automation of the whole judicial system, the PM and the MoJ obtained two loans (10 MEuros for PM and 12 MEuros for MoJ) which will be used for automation of the courts and prosecutorial offices (see for details point 3.1). Although this is an important amount, this sum is still not sufficient for the automation of all the courts as it can be observed from the attached annex regarding the needs for automation of the MoJ. These financial engagement undertook by the MoJ and the PM prove that the automation of the judicial

system is a major medium-term priority for the Romanian Government in order to allow the judicial system to meet EU standards.

11.3 Additionally

The Foundation for an Open Society is financing some projects for the GDP with a total amount of 206,231 Euros. The development of the probation service in Romania was possible with the financial support from the Foundation for an Open Society which invested in 80 % of the current infrastructure and also with the help of the Know How Fund who will invest £1.5 millions over three years 1999 - 2002.

11.4 Sustainability

The Romanian authorities are capable of covering the costs for running and maintaining the system where the investments have been made.

12 Conditionality and sequencing

Funds for automation under CDMS component will be available if progress with the RO9705-02 and RO9905.01 projects allows so.

The second project can be developed only if sufficient funds from the GDP budget for the renovation of the building of the Centre for training from Arad are available. The probation services will be developed once the draft law is approved by the Parliament.

Projects to be implemented through twinning require the full commitment and participation of the senior management of the beneficiary institution. In addition to providing the twinning partner with adequate staff and other resources to operate effectively, the senior management must be fully involved in the development and implementation of the policies and institutional change required delivering the project results.

ANNEXES TO PROJECT FICHE

1. Logical framework matrix
2. Detailed implementation chart
3. Contracting and disbursement schedule by quarter for full duration of programme (including disbursement period)
4. Reference to studies regarding the penitentiary system and the probation service
 - 5a. List of relevant Romanian Laws and Regulations
 - 5b. Proposed modifications of the legislation in the criminal field
 - 5c. List of the relevant *acquis communautaire* and related international law considered for the harmonisation of the provisions in the criminal field
 - 6a. Brief presentation of the penitentiary system
 - 6b. Brief history of the probation service
7. Chart of distribution of funds for the automation of the judicial system

Annex 1 of the Project Fiche

LOGFRAME PLANNING MATRIX FOR STRENGTHENING THE ROMANIAN JUDICIAL AND PENITENTIARY SYSTEMS			Programme name: and number:	Date of drafting: 10.02.2000
			Contracting period expires: 30.11.2002	Disbursement period expires: 30.11.2003
<i>Project Number</i> RO-0004-01			Total Budget: 8 MEURO	Phare contribution: 8 MEURO
Wider Objective	Indicators of Achievement*	How, When and By Whom Indicators Will Be Measured	Assumptions and Risks	
Contribution to the improvement of the operation of the judicial system	<ul style="list-style-type: none"> • By 2003 CDMS enlarged at all levels of jurisdictions (courts and prosecutors' offices) and linked with the penitentiaries and probation services • By 2002 the penitentiary system has a clear view of the future actions which need to be done in order to fulfill the EU standards 	<ul style="list-style-type: none"> • Report; annual; MoJ • Statistics; biannual; MoJ and GDP • Final Report; Contractor 	<ul style="list-style-type: none"> • Continued efforts to engage in legislative approximation and harmonization programme, including a further reinforcement of the institutional capacity • Investment in the coming years in adequate infrastructure like buildings, office equipment, rebuilding and renovating activities etc 	
Immediate Objectives	Indicators of Achievement*	How, When and By Whom Indicators Will Be Measured	Assumptions and Risks	
<p>I. Continuation of the development of the case and document management system (CDMS)</p> <p>II. Assistance to the reform of the penitentiary system and to the enhancement of the probation system</p>	<ul style="list-style-type: none"> • By 2003 all the courts and prosecutors' offices linked in the system • By 2003 penitentiaries and probation services connected to the network of the Ministry of Justice, linked with courts and the prosecutors offices • By 2002 the reform strategy for the penitentiary system developed • the Center for training of the penitentiary and probation personnel well functioning 	<ul style="list-style-type: none"> • Inspections at the selected locations; after procurement and implementation; Contractor + beneficiaries • Implementation reports; quarterly; curricula evaluation; trainers interviews, Contractor + beneficiaries • Final report; end of mission; the long term expert • Monitoring and assessment reports; according to DIS 	<ul style="list-style-type: none"> • Effective co-ordination of institutions' inputs • Readiness of institutions involved in the programme to make available the time required for the selected staff to attend training • Willingness of magistrates, support staff and penitentiary and probation personnel to improve knowledge and skills in modern ICT 	

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Results	Indicators of Achievement*	How, When and By Whom Indicators Will Be Measured	Assumptions and Risks
<p>I.1 Court operations, file management and access to information on files and case law improved at first level courts and prosecutors' offices attached to these courts</p> <p>II.1 development of a reform strategy for penitentiary system</p> <p>II.2 Center for training of penitentiary and probation personnel strengthened, well equipped</p> <p>II.3 enlargement of the existing network with penitentiaries and probation services and improved access to information</p>	<ul style="list-style-type: none"> • By 2003 the CDMS created through Phare 97 and 99 enlarged at 260 new locations(courts and prosecutors' offices) • By 2002 the reform strategy on the penitentiary system in Romania completed • By 2003 the Center for training of penitentiary and probation personnel ready to provide them the proper training according to EU standards • By 2003 penitentiaries and probation services are linked to the network of the Ministry of Justice with courts and prosecutors' offices 	<ul style="list-style-type: none"> • Inspections at the selected locations; regularly & at the end of the programme; Contractor + beneficiaries • the report regarding the future strategy on the penitentiary system; end of the mission; long term expert; • Interviews; regularly; users • Questionnaires; end of courses; trainees • Implementation reports; quarterly; Contractor • inspections; regularly & at the end of the programme; Contractor + beneficiaries 	<ul style="list-style-type: none"> ▪ Adequate remuneration and promotion prospects in order to retain trained staff • Physical infrastructure in place to receive/install ICT • Availability and willingness of selected staff to participate in training • Disfunctionalities in the CDMS and in the network of penitentiaries and probation services due to differences in the performances of the equipment to be connected to the network • Users' acceptance of the new system • approval of the draft law regarding probation
Activities	Indicators of Achievement*	How, When and By Whom Indicators Will Be Measured	Assumptions and Risks
<p>I.1 equip the remaining 260 locations (courts and prosecutor's offices)</p> <p>I.2. link the new locations to the system created through Phare 97 and 99</p> <p>I.3 train the end-users</p> <p>II.1.1 evaluate the penitentiary state of reform by the long term expert;</p> <p>II.1.2 compare the results of the evaluation with the EU standards and with the existing resources;</p>	<ul style="list-style-type: none"> • By 2003 260 new locations are properly equipped in order to be connected to the CDMS created through Phare 97 and 99 • By 2003 the new locations are linked to the system • By 2002 a diagnostic study on the Romanian penitentiary system accomplished • By 2002 the objectives and the means to achieve them very well defined by the final report of the long term expert 	<ul style="list-style-type: none"> • Inspections at the selected locations; regularly & at the end of the programme; Contractor + beneficiaries • the report regarding the evaluation of the penitentiary system; during the mission; long term expert; • Final report; end of mission; the long term expert 	<ul style="list-style-type: none"> • Basic and fundamental prerequisites in place to receive ICT • an objective and realistic information of the long term expert about the state of penitentiaries • willingness and availability of penitentiaries and probation staff to participate in training

<p>II.1.3 set up the objectives for the reform of penitentiary systems and the means to achieve them;</p> <p>II.2.1 elaborate the occupational standard for penitentiary and probation personnel</p> <p>II.2.2. set up a curricula for penitentiary and probation personnel prepared in the Center for training;</p> <p>II.2.3 train the existing and future penitentiary and probation personnel;</p> <p>II.2.4 equip the center with the necessary facilities;</p> <p>II.3.1 equip the penitentiaries and the probation services;</p> <p>II.3.2 link the new locations to the existing network created through CDMS;</p> <p>II.3.3 create a new soft adapted to the one which was already put in place by CDMS.</p>	<ul style="list-style-type: none"> • By 2002 the occupational standard for the penitentiary and probation personnel set up • By 2002 the curricula at the Center for training of penitentiary and probation personnel developed and put in practice • By 2003 10% of the members of penitentiary staff trained • By 2003 20% of the probation staff trained • By 2003 the Center for training of penitentiary and probation personnel equipped with adequate training facilities for 7 classrooms, 4 study laboratories, a conference room and a library • By 2003 88 locations (penitentiaries and probation services) properly equipped in order to be connected to the network of the Ministry of Justice • By 2003 88 locations are connected to the same network 	<ul style="list-style-type: none"> • report regarding occupational standard; inception mission; experts + contractor • curricula evaluation; trainers interviews, during the programme; Contractor + beneficiaries • Interviews; regularly; users • Questionnaires; end of courses; trainees • Implementation reports; quarterly; Contractor • inspections; regularly & at the end of the programme; Contractor + beneficiaries 	
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* Must be **quantified** and **measurable**

ANNEX 2 TO THE PROJECT FICHE

DETAILED TIME IMPLEMENTATION CHART FOR PROJECT NUMBER RO-0004-01

STRENGTHENING THE ROMANIAN AND PENITENTIARY SYSTEM

	2000						2001						2002						2003																																		
calendar months	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D											
Sub-programme 1*		D	D	D	D	D	D	D	D	D	D	C	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I																		
Inception mission													I																																								
Project activity 1														I	I	I	I	I	I																																		
Project activity 2																				I	I	I	I	I	I																												
Project activity 3																														I	I	I	I	I	I	I	I	I	I	I													
Sub-programme 2*		D	D	D	D	D	D	D	D	D	D	C	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I																		
Inception mission													I																																								
Project activity 1														I	I	I																																					
Project activity 2																																																					

STRENGTHENING THE ROMANIAN JUDICIAL AND PENITENTIARY SYSTEM

CUMULATIVE CONTRACTING AND DISBURSEMENT SCHEDULE (MEURO 8)

DATE:

	31/03/0 1	30/06/0 1	30/09/0 1	31/12/0 1	31/03/0 2	30/06/0 2	30/09/0 2	31/12/0 2	31/03/0 3	30/06/0 3	30/09/0 3	31/12/0 3
CONTRACTED		8,0										
DISBURSEMENT				1,6	1.6	2.8	2.8	5.8	5.8	7.0	7.0	8.0

- NB:
1. *All contracting should normally be completed within 6-12 months and **must** be completed within 24 months of signature of the FM.*
 2. *All disbursements **must** be completed within 36 months of signature of the FM.*

Annex 4

List of studies regarding the penitentiary system and probation service

1. ***Report to the Romanian Government on the visit to Romania carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment from 24 September to 6 October 1995***; Council of Europe, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment; Strasbourg, February 19, 1998; *
2. ***Assessment of Romanian Penitentiary System - Report of the visit from 31 August-4 September 1998***; Andrew Barclay, associate, International Center for Penitentiary Studies, King's College; London, November 15, 1998;
3. ***Report to the Romanian Government on the visit to Romania carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment from 25 January to 2 February 1999***; Council of Europe, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment ; Strasbourg, November 18, 1998 *

*According to the article 11 from the European Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, these reports are confidential and they could be published only if the parties agreed (e.g. Romanian Government).

Annex 5a of the Project Fiche

LIST OF RELEVANT ROMANIAN LAWS AND REGULATIONS

1. Law no.92/1992 for the organization of the Romanian judicial system
2. The Government Decision no.65/1997 on the organization and the functioning of the Ministry of Justice
3. The Government Decision no. 487/1998 for modifying and completing the Government Decision no.65/1997
4. Regulations on the organization and functioning of the Ministry of Justice
5. The Emergency Ordinance of the Government no.179/1999 for modifying the Law no.92/1992
6. Law no.21/15 September 1990 regarding the transfer of GDP from the Ministry of Interior to the Ministry of Justice
7. Law no.23/1969 regarding the execution of depriving of liberty punishments

Proposed modifications of the legislation in the criminal field

The draft law on justice reform acceleration is a recent legislative initiative aimed at ensuring proper functioning of the juridical system in its entirety at both criminal and civil level, while at the same time enhancing the effectiveness of those legal provisions that are currently unsatisfactorily enforced due either to imperfection of some of the existing criminal and civil norms, or to insufficiency of the law itself. Adaptation of the today's legislation to the needs of the current legal practice has become a must given the deep changes occurring during the last 10 years in the Romanian society.

The draft law is also designed to amend some of the much too inflexible provisions of the substantive law and the procedural law and to harmonize some of the Romanian penal and civil law courts with the EU laws, the Human Rights and Fundamental Freedoms Convention, and the Council of Europe Resolutions.

This draft law contains the following headings in the criminal field:

Heading I – Amendment and supplement to the Criminal Code;

Heading II – Amendment and supplement to the Criminal Procedure Code, Law 92/1992 regarding organization of law courts. Law 56/1993 on the “The Supreme Court” and Law 54/1993 regarding organization of military courts and Prosecutor's offices;

Heading III – Execution of sentence and preventive confinement measures;

Heading IV – Organization and functioning of probationary and social reintegration services

The amendments and supplements to the Criminal Code are designed to allow incorporation into the Code of new provisions and modification of a considerable number of the existing ones with a view to enhance effectiveness of criminal law enforcement to repress crimes and to exert a greater positive impact on the criminal's attitude mainly of those that are systematically breaking the law, while helping their social reintegration.

Special attention has been given to the bettering of the punishment system and its diversification as well as to the restructuring of the means enabling sentence individualization and execution, seen as very instrumental in attaining a proper balance between the social impact of the crime as defined by the Criminal Law and the sentences passed by the criminal law courts.

A new provision incorporated for the first time in the Romanian criminal legislation is referring to postponement of the passing of the judgement. According to the draft law, law courts may decide to postpone the passing of the judgement on a defendant, provided the latter agrees with such postponement. If during the time of postponement the defendant does community service, a concept for the first time defined by the Romanian criminal laws, the Court may waive enforcement of the punishment.

Community service is seen as a means to keep within the community any individual guilty of having committed any of the crimes described by the Criminal Law; however the offender must abide by certain restrictions and obligations that will temporarily restrain him/her from exercising some individual rights and freedoms.

Community service includes, inter alia, 50 to 300 hours of unpaid community work, seen as the most pragmatic and efficient means of proper law enforcement. The court may rule that defendant do community work during postponement of the ruling and suspension of defendant's placement under supervision as well as - except in the case of unpaid community work – during his/her release on probation.

Continuing the tradition of the Romanian Criminal Law regarding the punishment system and adapting it to the today's needs of the society, the current existing set of punishments has been added a complementary punishment regarding "publication or public display of court judgements" enforceable according to the provisions of the law.

Given that some of the existing articles in the Criminal Code have been misconceived they needed reformulation. For example, article 18¹ defining the deeds that are not socially dangerous enough to be classified as crimes is abrogated; however the text of said article has been reformulated and will be incorporated as article 90¹ in Heading IV of the Criminal Code "Substitution of Criminal Liability". According to the new wording of the article in question, law breaking is still deemed a crime, but the offender's criminal liability is substituted by administrative liability (punishment by fine).

New provisions have been introduced regarding juvenile delinquents. These may be charged of crime if they commit a deliberate offence exercising reasonable judgement, provided however they are 13 years of age. Where deemed to be in the mutual interest of the society and the offender, the court may rule that 16-year old delinquents may be applied a reformatory measure such as execution of 25 to 150 hours of unpaid community service yet only with the consent of the delinquent or of his/her natural parents, foster parents or tutors, as appropriate.

Annex 5c of the Project Fiche

LIST OF THE RELEVANT ACQUIS COMMUNAUTAIRE

1. European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocol of 1952

2. The following Protocols to the European Convention for the Protection of Human Rights and Fundamental Freedoms:
 - Protocol no.4 of 1963

 - Protocol no.7 of 1984

3. European Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

*
* *

LIST OF THE RELATED INTERNATIONAL LAW CONSIDERED FOR THE HARMONISATION OF THE PROVISIONS IN THE CRIMINAL FIELD

Amendment and supplement to the Criminal Code

Criminal liability of legal person:

- European Council Convention pursuant to article K3 of the EU Treaty regarding protection of European Communities financial interests, and the two additional Protocols thereto;
- The February 24, 1997 European Council Common Action based on article K3 of the EU Treaty regarding white slavery and child sexual exploitation control;
- European Council Criminal Convention regarding corrupt practices, Strasbourg, January 27, 1999;
- OECD Convention regarding control of corrupt practices among foreign public officers involved in international transactions.

- *Article 258¹ regarding sanction of corrupt practices of international officials or members of international parliamentary assembly or judiciaries of international Courts or related Courts Clerk Offices:*

- EU Criminal Convention regarding corrupt practices, Strasbourg, January 27, 1999;
The Convention is based on art. K3 of the EU Treaty regarding the fight against corrupt practices involving public officers of the European Community and EU Member States;
- OECD Convention regarding control of corrupt practices of foreign public officers involved in international transactions.

Provisions regarding the organized crime

- The December 21, 1998 EU Council Resolution regarding prevention of the organized crime and formulation of a comprehensive organized crime control strategy;
- The June 29, 1998 EU Council Common Action adopted pursuant to art. K3 of the EU Treaty regarding incrimination of participation to criminal organizations in EU Member States;
- UN Draft Convention regarding cross-country organized crime.

Article 182¹ regarding sanction of domestic violence:

- European Council Ministerial Committee Recommendation R (85)4 regarding domestic violence.

Article 190 (2) regarding sanction of white slavery (woman and child traffic):

- The February 24, 1997 EU Council Common Action adopted based on article K3 of the EU Treaty regarding the fight against white slavery and child sexual exploitation;
- Recommendation R(01)11 of Ministerial Committee of the European Council Member States regarding sexual exploitation, pornography, prostitution and traffic of children and young adults;
- European Council Parliamentary Assembly Recommendation 1371 (1998) 1 regarding child molestation control;
- Draft Additional Protocol to the UN Convention regarding control of cross-country organized crime, prevention, eradication and punishment of white slavery (mainly women and child traffic)

Article 325 (2) referring to sanction of production, possession or distribution of obscene materials featuring minors:

- Recommendation R(91)11 of the Ministerial Committee of the Council of Europe Member States regarding white slavery, pornography, prostitution and child and young adult traffic;
- The February 24, 1997 EU Council Common Action adopted pursuant to art. K3 of the EU Treaty regarding white slavery and child sexual exploitation control.

Measures in the community's interest:

- Convention on Human Rights and Fundamental Freedoms Protection;
- Recommendation R(92)16 of the Ministerial Committee of the Council of Europe Member States regarding the European rules governing community sanctions and measures.

Public establishment shut down:

- The February 24, 1997 EU Council Common Action based on article K3 of the EU Treaty regarding white slavery and child sexual exploitation control.

Amendment and supplement to the Criminal Procedure Code.

1. The provisions regarding the *examining magistrate institution*:

- The European Human Rights and Fundamental Freedoms Convention and additional Protocols thereto;
- Jurisprudence of the European Human Rights Commission and Court, mainly the clauses: Schisser vs. Swiss (4.12.1979, series A, no. 34), Huber vs. Swiss (23.10.1990, series A, no. 188), Brincard vs. Italy (26.11.1992, series A, no. 249-A), Brogan and co. vs. Great Britain (29.11.1998, series A, no. 145-B).

2. Provisions regarding *witness and under cover investigator protection*:

- The September 13, 1997 Council of Europe Ministerial Committee Recommendation (R97)13 regarding witness intimidation and right of defense;
- Council of Europe Ministerial Committee Recommendation R (85)11 regarding the victim statute as defined by criminal law and criminal procedure;
- Council of Europe Ministerial Committee Recommendation R (87)21 regarding victim assistance and prevention of victimization;
- Council of Europe Ministerial Committee Recommendation R(85)4 regarding domestic violence;
- Council of Europe Ministerial Committee Recommendation R(96)8 regarding crime control policy in a changing Europe;
- November 23, 1995 EU Council Resolution regarding witness protection in the fight against international organized crime;
- The 28 April, 1997 Council of Europe Action Plan regarding organized crime control;
- The December 20, 1996 EU Council Resolution regarding persons assisting in the criminal proceedings against international organized crime.
- The January 27, 1999 Strasbourg Council of Europe Criminal Convention regarding corrupt practices and UN Draft Convention regarding cross-country organized crime.

3. The provisions regarding *execution of sentence*:

- UN Basic Rules regarding treatment of convicts and Recommendations thereof;
- UN Basic Rules regarding justice enforcement on minors (1985 Beijing Rules);
- Recommendation of the 46th European Crime Commission Plenary Session.

4. Provisions regarding *transfer of convicts*:

- European Convention regarding transfer of convicts, Strasbourg, March 21, 1983;

- European Convention regarding international enforcement of repressive sentences, the Hague, May 28, 1970.

Execution of punishment and preventive confinement measures and the organization and functioning of probationary and social reintegration services.

- UN Human Rights Declaration, December 1948;
- Human Rights and Fundamental Freedoms Protection Convention;
- Council of Europe Ministerial Committee Recommendation R(87)3 regarding European penitentiaries;
- Council of Europe Ministerial Committee Recommendation R(68)24 regarding recruitment and training of penitentiary management;
- Council of Europe Ministerial Committee Recommendation R (92)16 regarding the European Rules governing enforcement of community sanctions and measures
- Recommendation R(97)12 regarding enforcers of community sanctions and measures;
- Recommendation R(89)12 regarding convict education in the penitentiary.

Brief overview of the penitentiary system

Since 1991 the General Division of Penitentiaries (GDP) has been transferred from the Ministry of Interior authority to the Ministry of Justice (MoJ) and became consequently part of the judicial system. It has 41 units (one in each county), including 2 re-educational centers for minors, one prison for minors and youngsters and 5 hospital prisons.

The penitentiary population was of 49,790 prisoners at the end of the year 1999, while the penitentiary capacity was only of 32,945 places. These figures point out a severe overcrowding of the penitentiary establishments which causes difficulties in ensuring the detention conditions in accordance with the European Prison Rules and in complying with the prisoners' rights in accordance with the European Convention for Human Rights, which are part of the *acquis communautaire*.

Although great progress can't be expected within limited budgetary funds, a lot of important changes have been made among which the most relevant is the progressively demilitarisation of the system (e.g. appointment, for the first time after World War II, of a civilian as General Director of GDP and furthermore, civil directors were appointed in one third of the penitentiaries existing in the country and this process will continue).

In the last ten years, it has been a great effort to achieve some changes with less financial resources but with a great impact on the penitentiary system. Thus, the activity of GDP was oriented to the promotion of a new mentality of the personnel and the humanisation of the penitentiary system by respecting the human rights and to the creation of a living environment closer to the one existing in the society. Many efforts have also been made to harmonise the legislation in the penitentiary field with the EU legislation. In this respect, the draft of the new law regarding the execution of punishments, the draft of the law regarding the organisation and the functioning of the probation services and the new penal code and penal procedure code have been approved by the Romanian Government and they are going to be approved by the Parliament.

The penitentiary system is now in a reforming process and in this respect a general evaluation in order to see what has been achieved, to settle down the future objectives of the reform and to define the means to reach them is necessary.

Brief History of Probation in Romania

Probation started in Romania in 1996 with a demonstration probation project in Arad. This project was the product of an initiative taken by the Arad Penitentiary, with the support of the British Government's Know How Fund. This project started inside of Arad Prison, including training for the probation counselors, strategies to contact and attract the local authorities and promote probation. In the same time a rehabilitation program for offenders released from Arad prison was initiated. In April 1997 an order of the Minister of Justice was issued in the view of organizing a probation experimental center in Arad. Since then, four other centers were opened in Gaesti, Focsani, Gherla and Iasi.

In September 1998, a Probation Service within the Ministry of Justice was set up to concentrate on the execution of community sanctions and measures. It is subordinated to the General Division for the Administration of Justice and the Co-ordination of Anti-crime-strategies and is going to develop and to create the necessary structure for the co-ordination of probation practice within the projects. The Minister of Justice has made a commitment to the introduction of probation in Romania and has asked the Know How Fund to provide support for this aim.

The law regarding the organization and functioning of the probation services was approved by the Government and it is at the Parliament for approval. After the draft law on probation is passed, the Government will be under an obligation to fund probation services. Courts will begin to work closely with the probation services and will need to have information from the latter in order to make appropriate sentencing and remand decisions. Thus probation will become an integral part of the criminal justice system.

The existing establishment of probation in Romania has only been possible because of the support of a wide range of organizations- each with their own special contribution.

Exiting Structure of the Romanian Probation Service

Government of Romania
Ministry of Justice
Mr. Valeriu Stoica,
Minister of Justice

Probation Service

Ms. Ioana Ciurea, Head of Probation Service

5 staff including information manager and policy officers

General Direction for the Administration of Justice and Anti-Crime Strategies

Probation project Arad
18 Probation Counsellors

Probation project Focsani
5 Probation Counsellors

Dâmbovita County

Probation project Gaesti
5 Probation Counsellors

Probation project Târgoviste
5 Probation Counsellors

Probation project Pitesti
6 Probation Counsellors

Probation project Timisoara
10 Probation Counsellors

Cluj County

Probation project Cluj
5 Probation Counsellors

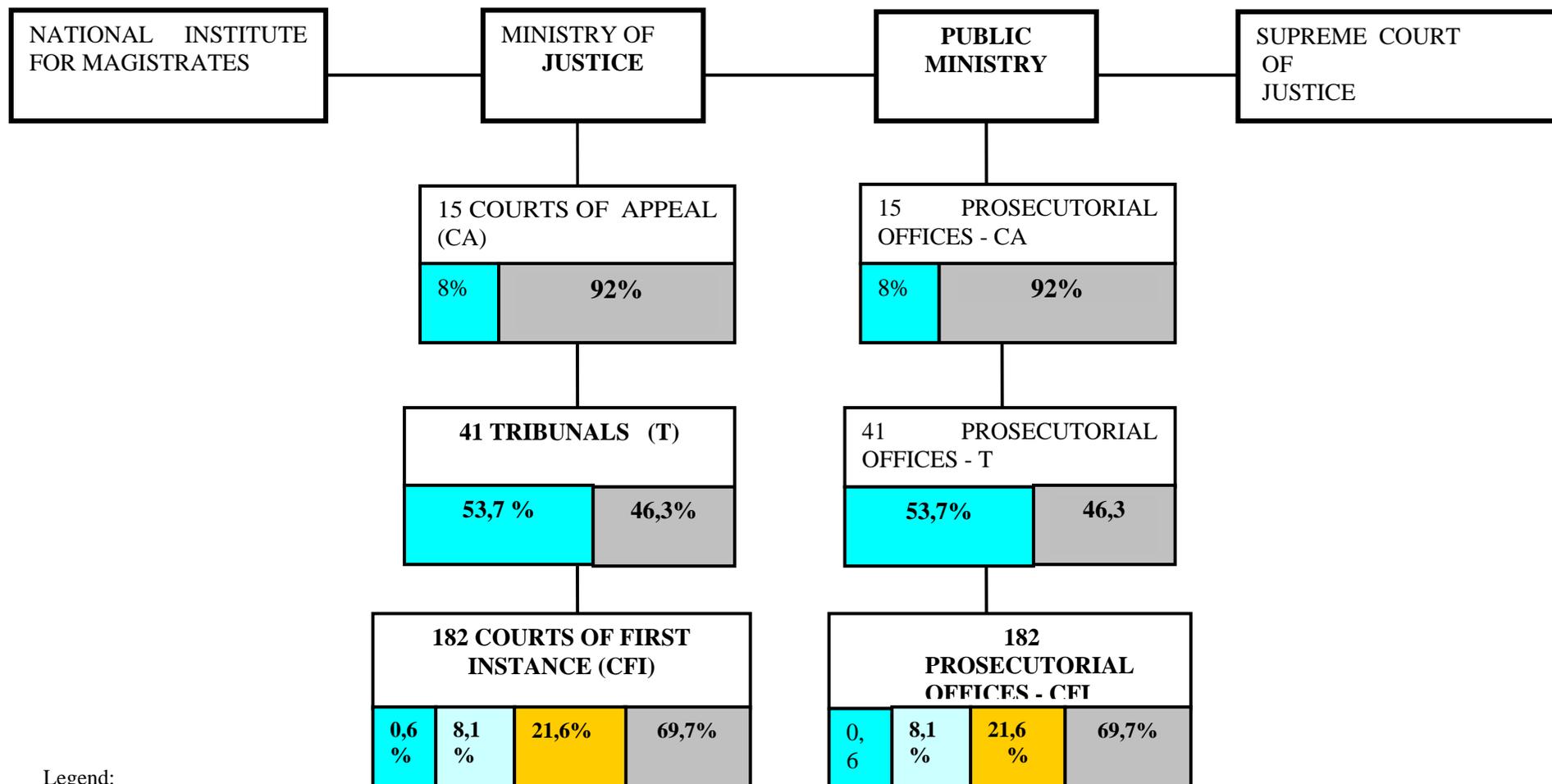
Probation project Gherla
4 Probation Counsellors

Probation project Dej
10 Probation Counsellors

Probation project Iasi
12 Probation Counsellors

Probation project
Bucharest – Sector 3
(planned)

CHART OF DISTRIBUTION OF FUNDS FOR THE AUTOMATION OF THE JUDICIAL SYSTEM



Legend:

- Ministry of Justice and Public Ministry funds
- Phare 97
- Phare 99
- Phare 2000