

*Translation from Romanian*

Outgoing No. 3/Jan. 28, 2010

Seal: Romania, the National Integrity Council

Incoming No. 9

Day: 18 Month: 02 Year: 2010

## **REPORT**

### **THE EVALUATION COMMISSION**

### **OF THE NATIONAL INTEGRITY COUNCIL**

## THE NATIONAL INTEGRITY COUNCIL

### THE EVALUATION COMMISSION

#### THE EVALUATION COMMISSION OF THE NATIONAL INTEGRITY COUNCIL

**Appointed by virtue of the Decision of the National Integrity Council No. 22/February 12<sup>th</sup>, 2009 on the appointment of the Commission as laid down in art. 26 para. (2) of Act No. 144/2007, republished**

Pursuant to the provisions of Law No. 144/2007 on the establishment, organization and functioning of the National Integrity Agency, republished;

As a result of

- *the notification* submitted by the National Integrity Agency (ANI) President, Mr. Alexandru Catalin Macovei, requesting the Evaluation Commission of the National Integrity Council to make verifications as concerns the deeds notified by the record of private discussions of the Agency's President with the journalists Sorin Rosca Stanescu and Bogdan Chireac, published in the central press starting November 9, 2009 (the notification of the ANI President was recorded by the Secretariate of the National Integrity Council under No. 270/18.11.2009)
- *the press release* of Alianta pentru Statul de Drept (Alliance for the Rule of Law) made of *Active Watch – Agentia de Monitorizare a Presei, Asociatia Pro Democratia, Centrul de Resurse Juridice* and *Transparency International Romania*, that *Alianta Civica* adhered to as concerns this matter, via which, becoming aware of the stenograph content with the protagonists the ANI President and the two known journalists, communicates a series of questions,

The Evaluation Commission of the National Integrity Council ordered **an analysis of the statements in the record and verifications** in terms of the ANI President's compliance with the provisions of Law No. 144/2007 *on the establishment, organisation and operation of the National Integrity Agency*, republished.

Thus, three major discussion topics were identified and verifications focused on finding out the truth in that respect.

## The facts

In November 9-12, the newspaper “Curentul” published the record of the private discussions of Mr. Alexandru Catalin Macovei and Mr. Sorin Rosca Stanescu, journalist, head editor of “Ziua”, and Bogdan Chireac, journalist, in three episodes. The subject was later taken over by many other dailies.

The record reveals clues regarding the document theft and information leakages which exist concerning the activity of the National Integrity Agency.

Following verifications and discussions of the Commission members with Mr. Macovei, the ANI President, the following conclusions were reached:

***1. As concerns the ANI President’s alleged attempt to block the Final Report of the Romanian Court of Accounts, justified by the fact that the members of this institution may be incompatible with the positions they hold***

*“SRS: () How did you try to block the report of the Courts of Accounts because you found two incompatible advisors?”*

*CM: You want to hear the truth? There’re more than one incompatible there. About 7 of them. We’re speaking the truth, right? I mean I could have hurt them. No one in the Court of Accounts has had any penal file so far, still ...*

*SRS: So what if they are incompatible?”*

The discussions with Mr. Macovei, the ANI President, resulted in the conclusion that the private statement he had made relied on no official information, but was a mere observation of the statements of assets and interests submitted by some of the members of the Romanian Court of Accounts, on the institution’s webpage. The public nature of the statements of assets and interests is a legal fact. Also, Mr. Macovei’s observation had no professional basis of the circumstances he referred to, but was exclusively a personal observation communicated in a discussion with private persons. On the other hand, it is obvious there were no affirmations made concerning files pending with the National Integrity Agency at the time of the discussion.

*Therefore, our conclusion is that the statements made on this subject are not a breach of the provisions of art. 5 para. (8)<sup>1</sup>, art. 18 para. (5)<sup>2</sup> and art. 28 para. (3)<sup>3</sup> of Law No. 144/2007, republished.*

<sup>1</sup> Art. 5 para. (8) The acts done and works conducted by the Agency’s Integrity Inspectors are not public, except for the status notice. After verifications are started, the verified person is entitled to be notified on the fact that the verification procedure has started, to be communicated the filed documents and works, be assisted or represented by a lawyer and provide any justificatory documents that he/she may deem necessary.

<sup>2</sup> Art. 18 para. (5) The Agency’s staff shall not disclose the data or information they had access to in ways other than those defined by law.

<sup>3</sup> Art. 28 para. (3) The Agency’s President and Vice-President do not have executive duties in the area of asset audit or verification of conflicts of interests.

## ***2. As concerns the alleged disclosure of information on bank accounts of certain politicians (Ministers Vasile Blaga, Adriean Videanu and Radu Berceanu)***

The discussions with Mr. Macovei, the ANI President, resulted that he has not have any information on the aforementioned persons' accounts. Moreover, he has no information on potential verifications carried out by ANI.

Within the investigations conducted by the Evaluation Commission of the National Integrity Council, Mr. Ilie Ene, Head of the Integrity Inspection, was heard and stated he had never been requested information on any file undergoing verifications.

The record analysis fails to provide clues on the fact that Mr. Macovei disclosed information on any person's bank account in any way whatsoever.

Therefore, no pertinent connection could be established between the discussions and any existing verification files opened for the three ministers.

*As to all these, the Evaluation Commission of the National Integrity Council concludes that there was no breach of the provisions of Law No. 144/2007, republished, as concerns the alleged infringement of the provisions of art. 5 para. (8), art. 18 para. (5) and art. 28 para. (3) of Law No. 144/2007, republished.*

## **3. As concerns a loan contract wherein Mr. Alexandru Catalin Macovei is witness**

*"SRS: I have some documents. It is you who decide if the discussion is forgotten. Can you forget it?"*

*CM: I say no, don't forget it. Don't bet on the fact that I don't know.*

*BC: So I can forget if I came to see you with him.*

*SRS: Well, you know you took 100,000 from a man, don't you?"*

*CM: No, show me the document!*

*SRS: I don't know ... (takes the document out)*

*CM: No, it is this man who borrowed some money.*

*SRS: Is this your signature?"*

*CM: Yes.*

*SRS: And what does it say here?"*

*CM: "Before the witness ..." "The contract was executed before the witness Macovei." Yes, it's true and it's still true that the man has not paid yet. It's all true and it's true this is my signature. But unfortunately it's not me who borrowed the money. Now, between you and me, I got nothing out of it.*

*SRS: Well, yes. Now my information is that you split the money: you, the witness, with the borrower.*

*CM: Mr. Rosca, that would have been a good thing. Believe me, this I cannot prove, but I took not a single cent and did nothing wrong.*

*SRS: If so, why did you sign?"*

*CM: In witness that it was executed in front of me.*

*SRS: Not this, what I didn't bring..."*

*CM: What are you talking about?"*

*SRS: That you promised that it would be you to pay the money back and you told on yourself. You made a handwritten statement in front of this lawyer.*

*CM: No, it's not that.*

*SRS: No?"*

*CM: No, show me the statement! For God's sake! So, that I admitted that were that?! How should I pay it back? You think I'm crazy? Give it back when? I know that lawyer wants me to give his money back. But, what if I had taken the money? I have no problem with paying debts back. When I borrow, I pay it back to the last cent."*

This private conversation between the three participants has no connection with Mr. Macovei's activity in his capacity as ANI President. The discussions lead to the conclusion that he was not holding the ANI President position at the time he was a witness in the contract.

As to these facts and given the provisions of art. 26 of the Romanian Constitution, republished<sup>4</sup>, our conclusion is that he cannot be subject to verifications, as a private event involving Mr. Macovei does not fall under the competence of the Evaluation Commission, which event occurred way before he was appointed the Vice-President following an examination and later the ANI President.

In conclusion,

as concerns the other discussions in the record that were subject to the conducted verifications, the *Evaluation Commission* of the National Integrity Council estimates there was not need to request further data as investigating circumstances other than the previously analyzed ones does not fall under its area of competence.

Thus,

**THE EVALUATION COMMISSION OF THE NATIONAL INTEGRITY  
COUNCIL**

**Based on the filed evidence *concludes* that the ANI President's statements in the record of his private discussions with journalists Sorin Rosca Stanescu and Bogdan Chireac, published in the central press, starting November 9, 2009, is not a breach of the provisions of Law No. 144/2007, republished, and**

**ORDERS:**

- a. submittal of the conclusions of the EVALUATION COMMISSION TO THE PLENUM OF THE NATIONAL INTEGRITY COUNCIL;**
- b. communication of the conclusions of the EVALUATION COMMISSION OF THE NATIONAL INTEGRITY COUNCIL to all the institutions and persons who requested the verification of these aspects;**
- c. publication of the conclusions EVALUATION COMMISSION OF THE NATIONAL INTEGRITY COUNCIL on the Internet page of the National Integrity Agency after the Report approval by the plenum of the National Integrity Council;**
- d. typing and sending a press release to the mass-media as concerns the conclusions of the Evaluation Commission Report after approval;**

- e. recording of this Report with the Secretariate of the National Integrity Council.

**ROMANIA**  
**THE NATIONAL INTEGRITY AGENCY (A.N.I.)**  
**THE ORIGINAL SIGNED DOCUMENT IS FILED WITH THE**  
**SECRETARIATE OF THE NATIONAL INTEGRITY COUNCIL**  
**RECORDED UNDER NO. 9 AS OF 18.02.2010**