

18 January 2018

REPLY TO THE QUESTIONNAIRE ON THE ORGANISATIONS AND FUNCTIONS OF THE OFFICE OF THE LEGAL ADVISER OF THE MINISTRY OF FOREIGN AFFAIRS

ROMANIA

1. What is the title, rank and position of the Legal Adviser?

The title of Legal Adviser as such does not exist within the Romanian Ministry of Foreign Affairs. Its functions are carried out by two structures: The Department for Legal Affairs, headed by a Director General and the National Law and Litigation Directorate, headed by a Director.

The international law issues are dealt with by the Department for Legal Affairs. Currently, Ms Alina Orosan, diplomatic counselor, holds the position of Director General for Legal Affairs.

2. What are the principal functions of the OLA?

The tasks are divided between the existing structures.

Thus, the Department for Legal Affairs, through the International Law and Treaties Directorate, is responsible, inter alia, for:

- studying and elaborating the MFA's opinions and points of view on international law issues related to Romania's external relations;
- contributing in resolving matters of political and juridical nature (mainly by inter-state negotiations);
- providing legal advice and expertise on matters of international law;
- initiating negotiations and participating in negotiations of international treaties, mainly inter-state or intergovernmental ones, as well as endorsing the draft agreements concluded by ministries or local administration authorities;
- monitoring the fulfillment of Romania's rights and obligations arising from the international legal instruments to which Romania is a party;
- performing the function of depositary of treaties and keeping the record of the bilateral and multilateral treaties to which Romania or the Government of Romania is a party;
- participating in the activity of international organizations, mainly in meetings dealing with legal matters and to other international meetings on international law issues.

The Department for Legal Affairs, through the European Law Directorate, is responsible, inter alia, for:

- re-negotiating the bilateral treaties with third states in view of bringing the obligations of Romania, stemming out from such treaties in line with the *acquis*;
- elaborating the position of Romania on legal aspects of the negotiating process of EU agreements;

- initiating the internal legal procedures for signing and ratifying the “mixed agreements” (agreements to which EU and its member states are participating together);
- issuing opinions on various topics related to European affairs;

The Department for Legal Affairs, through the Office for Implementation of International Sanctions, is responsible, inter alia, for:

- providing secretariat services for the Interinstitutional Council, made up of national authorities with implementing powers and created to ensure the general framework of cooperation for the implementation of international sanctions in Romania, in accordance with Article 13 of Government Emergency Ordinance no. 202 of 4 December 2008 on the implementation of international sanctions, as well as;
- coordinating the activity of the Romanian national authorities in the Interinstitutional Council in implementing international sanctions, established by resolutions of the United Nations Security Council or other acts adopted pursuant to art. 41 of the United Nations Charter and regulations, decisions, common positions, joint actions and other legal instruments of the European Union;
- notifying all the other institutions represented in the Interinstitutional Council on the adoption of one of the acts mentioned above;
- coordinating the elaboration of regular reports the Prime Minister has to present to the Parliament and to the Supreme Council of National Defence, according to Article 6 of Government Emergency Ordinance no. 202 of 4 December 2008 on the implementation of international sanctions, as regards the measures adopted by the national authorities to implement the international sanctions imposed by the international community;
- publishing in the Romanian Official Gazette the resolutions of the United Nations Security Council imposing international sanctions;
- reporting to International Organizations that adopted the respective sanctions regime on the measures taken at domestic level.

The National Law and Litigation Directorate is mainly responsible for providing legal assistance and representation of the Ministry of Foreign Affairs in the proceedings before domestic courts. It equally provides legal advice on different issues of domestic law and endorses, as regards legality, the contracts concluded by the Ministry, in accordance with national legislation, normative acts, orders and instructions of the Minister of Foreign Affairs.

3. Please give a brief description of staff employed by the OLA, including overseas staff. What is the distribution of posts between men and women within the OLA and what category of staff do they respectively belong to?

The staff employed within this department is composed mainly of diplomatic staff but also includes civil servants. The Department for Legal Affairs presently employs 6 men and 17 women.

There are no posts abroad formally reserved for lawyers. However, there are some posts that require solid legal expertise (e.g. Permanent Missions of Romania to UN in New York and Geneva, Permanent Representation of Romania to the Council of Europe in Strasbourg, Embassy of Romania in The Hague) and, in practice, diplomats with a solid legal background are posted in the abovementioned missions.

4. Are there any specific recruitment and promotion policies, provisions and/or quotas to ensure non-discrimination and equal opportunities, e.g. for the underrepresented sex, for persons with disabilities or for persons belonging to ethnic or religious minorities or of immigrant origin?

The recruitment and promotion policies of the Romanian MFA are in line with the national, European and international requirements regarding non-discrimination and equal opportunities and do not provide for special treatment with respect to different social, ethnic, gender, disability etc. categories.

5. Is OLA staff trained on gender equality issues and are these issues mainstreamed into the OLA's work?

Trainings provided or supported by the Romanian MFA for its staff may, occasionally, approach issues linked to non-discrimination and equal opportunities.

6. Briefly describe the organisation and structure of the OLA.

The Department for Legal Affairs is composed of the International Law and Treaties Directorate, the European Law Directorate and the Office for Implementation of International Sanctions.

The Department for Legal Affairs is headed by a Director General. The International Law and Treaties Directorate and the European Law Directorate are headed by Directors, while the Office for Implementation of International Sanctions is headed by a Head of Office.

The National Law and Litigation Directorate is headed by a Director.

7. What is the OLA's place within the Ministry of Foreign Affairs?

The Department for Legal Affairs is subordinated to the Minister of Foreign Affairs. The coordination was delegated to the Secretary-General of the Ministry of Foreign Affairs.

The National Law and Litigation Directorate is directly subordinated to the Minister of Foreign Affairs.

Given its functions, the Romanian MFA has also other departments dealing with legal aspects of Romania's external relations. These departments provide legal advice within the following fields: representation of Romania before the Court of Justice of the European Union (Government Agent for the Court of Justice of the European Union) and representation of Romania before the European Court of Human Rights (Government Agent for the European Court of Human Rights).

8. What are the main contacts of the OLA within Government?

The Department for Legal Affairs provides legal advice on matters of public international law and EU law to other institutions. There is a constant relationship with the other ministries and institutions of the public administration. This contact is in most cases established through the External Relations Departments that exist within those ministries.

Generally, all communication between the State's main institutions related to treaties or other international documents are made through the Department for Legal Affairs.

9. Please describe the relations of the OLA with lawyers in private practice, academics and legal institutions.

There is a very good partnership with academics, research institutes or other legal institutions. During the last years, The Romanian Ministry of Foreign Affairs, through the Department for Legal Affairs, has often organized conferences and seminars on different issues of international law (law of the sea, international humanitarian law, international criminal law, EU law etc.), in close cooperation with different non-governmental organizations and academic institutions.

10. Please provide a brief bibliography on the OLA, if available.

N/A