



EUROPEAN
COMMISSION

Brussels, 24.7.2024
SWD(2024) 823 final

COMMISSION STAFF WORKING DOCUMENT

2024 Rule of Law Report Country Chapter on the rule of law situation in Romania

Accompanying the document

COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS

2024 Rule of Law Report

The rule of law situation in the European Union

{COM(2024) 800 final} - {SWD(2024) 801 final} - {SWD(2024) 802 final} -
{SWD(2024) 803 final} - {SWD(2024) 804 final} - {SWD(2024) 805 final} -
{SWD(2024) 806 final} - {SWD(2024) 807 final} - {SWD(2024) 808 final} -
{SWD(2024) 809 final} - {SWD(2024) 810 final} - {SWD(2024) 811 final} -
{SWD(2024) 812 final} - {SWD(2024) 813 final} - {SWD(2024) 814 final} -
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{SWD(2024) 821 final} - {SWD(2024) 822 final} - {SWD(2024) 824 final} -
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{SWD(2024) 828 final} - {SWD(2024) 829 final} - {SWD(2024) 830 final} -
{SWD(2024) 831 final}

ABSTRACT

On 15 September 2023, in line with the 2006 decision setting up the Cooperation and Verification Mechanism (CVM), the Commission formally closed the CVM, as Romania had satisfactorily fulfilled all the benchmarks and all recommendations set under the mechanism. Monitoring continues under the Rule of Law report, as for all EU Member States.

Steps were taken to complete the process initiated in view of taking into account the recommendations of the Venice Commission on the Justice Laws, with the focus now on implementation. A number of the disciplinary sanctions imposed by the Superior Council of the Magistracy have been annulled by the High Court of Cassation and Justice, showing that redress continues to be efficient. Efforts are ongoing to ensure adequate human resources for the justice system, although for the time being there are still a number of vacancies which could, over time, affect the quality and efficiency of justice. Significant efforts have been made to improve digitalisation within the justice system. Several additional steps have been taken to ensure the effective implementation of the Justice Laws.

The implementation of the 2021-2025 Anti-Corruption Strategy remains on track. The authorities maintain a positive track record in combating corruption, including as regards high-level corruption cases. However, the delayed legislative response on the statute of limitations continued to result in the closing of many corruption cases and the annulment of convictions. There have been further steps taken as regards the system for investigating and prosecuting corruption offences in the judiciary. A proposal to update the integrity framework has been submitted to the Ministry of Justice, but it does not cover revolving doors. There have been no further steps taken on introducing rules on lobbying for Members of Parliament. The National Integrity Agency continued to work efficiently on conflicts of interest, asset declarations and whistleblowing. The adoption of legislation to improve the transparency of political party financing remains pending. Public procurement remains a sector with a high risk of corruption, and as it is a high priority sector, steps are being taken to identify which areas and procedures are most prone to corruption in public procurement.

The functioning and effectiveness of the National Audiovisual Council is expected to be improved with the update of its technology systems. While information on the shareholding structure of companies holding audiovisual licenses is now public, it still appears difficult for the general public to know who ultimately owns media companies beyond the audiovisual sector. There is still a need to enhance the independent governance and editorial independence of public service media and lack of funding makes it difficult for public TV to fulfil its public service mandate. Despite a strong legal framework and the application of penalties, some political parties are reported to have increased their financing of private media for political advertising. The legal framework on access to information has not yet improved. Threats and instances of harassment against journalists remain an issue, and commercial pressure on editorial independence affects journalists' work.

Efforts are still needed to ensure effective public consultations as shortcomings persist. Considerable efforts are being made to increase the quality and transparency of the decision-making process; the government is still making frequent use of emergency ordinances, but their number is decreasing. Positive steps have been taken to obtain accreditation for two National Human Rights Institutions. Draft legislation and an upcoming new strategy could contribute to improve the situation of civil society organisations, which continue to face legal and financial challenges.

RECOMMENDATIONS

Overall, concerning the recommendations in the 2023 Rule of Law Report, Romania has made:

- Some further progress on completing the process initiated to take into account the recommendations in the opinion of the Venice Commission on the Justice Laws.
- Some further progress on ensuring adequate human resources for the justice system, including for the prosecution services, taking into account European standards on resources for the justice system.
- Some progress on taking measures, in particular at an operational level, to address remaining concerns about the investigation and prosecution of criminal offences in the judiciary, including as regards corruption offences, taking into account European standards.
- No progress on introducing rules on lobbying for Members of Parliament.
- No progress on strengthening the rules and mechanisms to enhance the independent governance and editorial independence of public service media taking into account European standards on public service media.
- No further progress on ensuring effective public consultations before the adoption of legislation.
- Some progress on obtaining the accreditation of a National Human Rights Institution taking into account the UN Paris Principles.

On this basis, and considering other developments that took place in the period of reference, and in addition to recalling the relevant commitments made under the Recovery and Resilience Plan, it is recommended to Romania to:

- Complete the process initiated in view of taking into account the recommendations of the Venice Commission on the Justice Laws, including through consultations and evaluations in view of further improving the Justice Laws at a next opportunity.
- Continue efforts to ensure adequate human resources for the justice system, including for the prosecution services, taking into account European standards on resources for the justice system.
- Take measures, in particular at an operational level, to ensure efficient investigation and prosecution of criminal offences in the judiciary, including as regards corruption offences, taking into account European standards.
- Introduce rules on lobbying for Members of Parliament.
- Step up efforts to strengthen the rules and mechanisms to enhance the independent governance and editorial independence of public service media taking into account European standards on public service media.
- Step up efforts to ensure effective public consultations before the adoption of legislation.
- Take forward the process for obtaining accreditation for two National Human Rights Institutions, taking into account the UN Paris Principles.

I. JUSTICE SYSTEM

The Romanian justice system is structured in four instances, both civil and military: the first instance county courts, the ordinary and specialised tribunals, the courts of appeal¹ and the High Court of Cassation and Justice. The High Court of Cassation and Justice judges first instance and appeal criminal cases for certain categories of persons², as well as appeal cases for certain civil and administrative cases. A fundamental role of this Court is to ensure the uniform interpretation and application of the law by the other courts. The Superior Council of Magistracy (SCM), tasked with guaranteeing judicial independence, is divided into two sections, the section for judges and the section for prosecutors. Each section has exclusive competence for the recruitment and management of the career of judges and prosecutors respectively and acts as a disciplinary court. The prosecution service is headed by the Prosecutor General of the Public Prosecutor's Office attached to the High Court of Cassation and Justice (HCCJ). The Public Prosecutor's Office includes specialised structures with special jurisdiction and organisation, the National Anti-Corruption Directorate (DNA) and the Directorate for Investigation and Combating Organised Crime and Terrorism (DIICOT), led by chief prosecutors³. There are also military prosecutorial offices. Romania participates in the European Public Prosecutor's Office (EPPO). The Romanian National Union of Bar Associations is a legal entity of public interest, comprising all 41 bars in Romania.

Independence

The level of perceived judicial independence in Romania continues to be average among both the general public and companies. Overall, 52% of the general population and 56% of companies perceive the level of independence of courts and judges to be 'fairly or very good' in 2024⁴. The perceived judicial independence among the general public has slightly increased in comparison with 2023 (51%) and has increased in comparison with 2020 (37%). The perceived judicial independence among companies remains at the same level as in 2023 (56%) and is still higher than in 2020 (53%)⁵.

¹ Courts of appeal judge at both first instance (more complex cases) and second instance, in appeals against decisions handed down by the lower courts.

² The Criminal Section of the High Court of Cassation and Justice hears, as a court of first instance, cases involving offences committed by senators, deputies, and Romanian members of the European Parliament, by members of the Government, by judges of the Constitutional Court, by members of the Superior Council of Magistracy, by judges of the High Court of Cassation and Justice, and by prosecutors of the Prosecutor's Office attached to the High Court of Cassation and Justice.

³ Prosecutors' offices attached to the courts of appeal are headed by general prosecutors, and the ones attached to the tribunals and county courts are led by first prosecutors. The Prosecutor General and the Chief Prosecutors of the specialised structures, DNA and DIICOT, are appointed by the President of the Republic, upon a proposal of the Minister of Justice and after having received a non-binding opinion of the Superior Council of Magistracy.

⁴ Figures 51 and 53, 2024 EU Justice Scoreboard, Figures 50 and 52, 2022 EU Justice Scoreboard. The level of perceived judicial independence is categorised as follows: very low (below 30% of respondents perceive judicial independence as fairly good and very good); low (between 30-39%), average (between 40-59%), high (between 60-75%), very high (above 75%).

⁵ 58% of companies in Romania are either fairly or very confident that their investments are protected by the law and courts in the Member State. 26% of the surveyed companies see the quality, efficiency or independence of justice as one of the main reasons for concern about investment protection in the country. Figure 55 and 56, 2024 EU Justice Scoreboard. See also OECD Economic Surveys: Romania (2024) on the need to improve court system efficiency to improve the business environment, p. 55.

Some further progress was made on completing the process initiated in view of taking into account the recommendations of the Venice Commission on the Justice Laws, with the focus now on implementation. The 2023 Rule of Law Report recommended to Romania to '[c]omplete the process initiated in view of taking into account the recommendations contained in the opinion of the Venice Commission on the Justice Laws, in particular by finalising the assessment being carried out by the panel of high-level experts'⁶. This panel of high-level experts, set up by the Ministry of Justice to analyse how to implement the recommendations of the Venice Commission in the national legislative framework⁷, submitted its conclusions to the Ministry of Justice on 19 September 2023⁸. The report was published online by the Ministry in February 2024⁹. The conclusions presented by the panel of high-level experts fully support the Venice Commission's second recommendation to lengthen high ranking prosecutors' term in office, without the possibility of renewal, as well as the Venice Commission's third recommendation that the Prosecutor General should not be able to declare unlawful or unfounded any measure ordered by the prosecutors¹⁰. The experts do not, however, support the Venice Commission's first recommendation to introduce a competitive selection procedure for deputy managers in courts/prosecution offices¹¹. They nonetheless suggest that the interview of the candidate with the SCM be compulsory. As regards the Venice Commission's fourth recommendation to explicitly provide in the Justice Laws that the judicial police do not report on their activity to the Minister of Interior, the experts suggest inserting this in an upcoming law that would regulate the organisation and functioning of the judicial police¹². The Ministry of Justice has indicated that its priority for now is to ensure the stability of the reform and the implementation of the Justice Laws. It considers that an evaluation of the Justice Laws is needed, together with the judiciary, before adjusting them, after a reasonable period of time of implementation and in light also of the expert panel's conclusions¹³. Consultations with the judiciary have started¹⁴. The

⁶ 2023 Rule of Law Report, Country Chapter on the rule of law situation in Romania, p. 2.

⁷ 2023 Rule of Law Report, Country Chapter on the rule of law situation in Romania, p. 6.

⁸ And shared with the European Commission end of September 2023.

⁹ The report is available at <https://www.just.ro/raportul-panelului-pentru-justitie/>.

¹⁰ Recommendation No. 2: *'The Working Party recommends a variant whereby the term of office for the functions listed in Article 144 (1) of Law No 303/2022 would be extended from three to five years, without the possibility of renewal'*. Recommendation No. 3: *'The Working Party considers it appropriate to remove the possibility for the Prosecutor General of the HCCJ to declare unlawful or unfounded any measure ordered by the prosecutors in any case'*.

¹¹ Recommendation 1: *'The Working Party considers that the current procedure for the selection and appointment of judges and prosecutors to managerial positions other than those provided for in Article 150 (1) of Law No 303/2022 (Vice-Presidents of the Courts/Deputy Heads of Public Prosecutor's Offices) presents sufficient elements to guarantee transparency and to aim at reducing arbitrariness.'* and that the current procedure responds to the need *'to ensure a management team at the court/prosecution level that works and cooperates effectively in order to fulfil the managerial plan'*.

¹² The Justice Laws provide for this special law to be adopted: see Art. 70(5) of the Law on Judicial Organisation provides: *'The organisation and functioning of the judicial police shall be established by special law'*. The Ministry of Justice confirmed that work is ongoing on drafting this law, without confirming that a provision would provide for the amendment mentioned.

¹³ As explained on its website, *'The Ministry of Justice notes that the publication of the report of the Panel of Experts does not, at this stage, seek to reopen the public debate on the justice laws. The Ministry of Justice considers that an evaluation of the justice laws should be made, together with the judiciary, after a reasonable period of time after the implementation of the justice laws. The stability of these reforms is important and the Ministry of Justice is fully committed to ensuring this stability for all matters within its competence'*. See <https://www.just.ro/raportul-panelului-pentru-justitie/>.

¹⁴ A high-level meeting was organised on 10 October 2023 with the presidents of the SCM and the HCCJ. Information received in the context of the country visit to Romania by the Minister of Justice.

implementation of these recommendations would further improve the safeguards set down in the Justice Laws. As following the publication of the expert panel's report, the Ministry of Justice is now engaging in consultations and evaluations in view of further improving the Justice Laws at a next opportunity, some further progress has been made on the recommendation made in the 2023 Rule of Law Report.

Several additional steps have been taken to ensure the effective implementation of the Justice Laws, which came into force in December 2022. The High Court of Cassation and Justice (HCCJ) was granted additional resources to implement its new task of managing the budget for all judicial instances, thus contributing to the independence of the judiciary¹⁵. Middle management prosecutors were appointed¹⁶ and competitions for the recruitment of other magistrates were organised¹⁷. The Plenum of the Superior Council of Magistracy (SCM) elected a new President and Vice-President¹⁸. The SCM adopted a series of regulations to implement the new procedures provided for in the Justice Laws¹⁹.

A number of disciplinary sanctions imposed by the Superior Council of Magistracy were subsequently annulled by the High Court of Cassation and Justice. The 2023 Rule of Law Report took note of concerns regarding some cases of disciplinary sanctions in relation to certain magistrates²⁰. According to stakeholders, the SCM's practice does not always follow the standards set by the HCCJ²¹ and a few disciplinary sanctions continue to raise concerns²². Redress through judicial review remains an efficient legal safeguard²³, with

¹⁵ The HCCJ request to supplement its own personnel scheme with 60 positions in order to manage its new responsibilities was approved by Government Decision No. 419/2023. Contribution from Romania to the 2024 Rule of Law Report, pp. 4-5. See also pillar 1.

¹⁶ Two procedures for the appointment of middle management prosecutors (1 - deputies of Prosecutor General of the Prosecutor's office of the HCCJ and deputy chief prosecutors of DNA and DIICOT; 2 - chiefs of section in the Prosecutor's office of the HCCJ, in the DNA and in DIICOT) were finalised and 13 positions were filled. In two instances the SCM gave a negative opinion (SCM opinions are consultative and non-binding). The two candidates were reinterviewed according to the procedure established by law and the Minister of Justice confirmed their nominations. The interviews were made public. Input from Romania to the 2024 Rule of Law Report, p. 3. Some magistrates' associations and NGOs consider that nominations in the judiciary are still 'controlled by a handful of people'. Information received in the context of the country visit to Romania from Asociația 'Inițiativa pentru Justiție', Asociația Forumul Judecătorilor din România and Asociația Miscarea pentru Apărarea Statutului Procurorilor and contribution from Funky Citizens for the 2024 Rule of Law Report, p. 11. See also, on high level nominations, the 2023 Rule of Law report, p. 6 and footnote 19, in particular, on the Venice Commission Opinion.

¹⁷ See pillar 1, part on quality.

¹⁸ Contribution of the SCM, included in the input from Romania to the 2024 Rule of Law Report, p. 9.

¹⁹ E.g. the Regulation of the SCM on the contest for admission to the judiciary; the Regulation on the organisation and conduct of the competition for the appointment of judicial inspector in the inspection directorate for judges; etc. Written contribution from the SCM in the context of the country visit to Romania. On proposal from the Commission, the Council adopted its Implementing Decision 15833/23 amending the Implementing Decision of 29 October 2021, on the approval of the assessment of the recovery and resilience plan for Romania, under which milestone 423 refers to the 'Entry into force of the 'Justice laws' (laws on the status of magistrates, judicial organisation, Superior Council of Magistracy)'. Milestone 423 will be assessed under the 4th payment request expected in 2024. See Annex to Council Implementing Decision 15833/23, p. 527.

²⁰ 2023 Rule of Law Report, Country Chapter on the rule of law situation in Romania, p. 7.

²¹ Contribution from the European Association of Judges to the 2024 Rule of Law Report, p. 12.

²² Information received in the context of the country visit to Romania by magistrates' associations (Asociația 'Inițiativa pentru Justiție', Asociația Forumul Judecătorilor din România, Asociația Miscarea pentru Apărarea Statutului Procurorilor). See also factual evidence in 2023 Rule of Law Report, pp.7 and 8.

²³ See Recommendation CM/Rec(2010)12 of the Committee of Ministers of the Council of Europe, para. 69.

several cases of sanctions being deemed unjustified and eventually annulled by the HCCJ²⁴. Such procedures however take time and do not have a suspensive effect, and they could have a potential chilling effect on magistrates²⁵. In one case, the European Court of Human Rights held that the Romanian courts had violated Article 10 (freedom of expression) of the European Convention on Human Rights²⁶. The Judicial Inspectorate is improving transparency of its work, notably by publishing reports on the checks and controls it carries out and by publishing data on disciplinary actions on their website²⁷. The data show that many of the disciplinary actions are opened for failure to settle cases promptly or for repeated delay in the performance of work²⁸. Some magistrates expressed concerns about investigations being launched against them for political reasons²⁹. By contrast, civil society organisations pointed to two cases that have generated media attention and voiced concerns about the impact on public trust in the judiciary³⁰.

Lawyers have raised concerns regarding the respect for their legally recognised rights and privileges. The CCBE³¹ and the National Association of Romanian Bars (NARB)³² have raised concerns regarding the respect for lawyers' legal rights and privileges, such as attempts

²⁴ In 2023, 45 cases were registered on recourse against decisions of the Superior Council of Magistracy related to the disciplinary actions against judges and prosecutors. 37 cases were solved. Among them, in 12 cases, sanctions were upheld as originally imposed or a lesser form of accountability was applied. Contribution from the HCCJ, included in the input from Romania to the 2024 Rule of Law Report, pp. 9-10.

²⁵ The lengthy procedures could generate a psychological burden for the magistrates concerned. Information received in the context of the country visit to Romania by magistrates' associations (Asociația 'Inițiativa pentru Justiție', Asociația Forumul Judecătorilor din România, Asociația Miscarea pentru Apărarea Statutului Procurorilor). With regard to the possible 'chilling effect' of sanctions on 'judges in the performance of their duty to adjudicate with complete independence', see Judgment of the Court of Justice of 18 May 2021, joined cases C-83/19, C-127/19, C-195/19, C-291/19, C-355/19 and C-397/19 *Asociația Forumul Judecătorilor din România and others*, ECLI:EU:C:2021:393, para. 236.

²⁶ See e.g. ECHR 042 (2024) of 20 February 2024. The case pertains to disciplinary sanctions against a judge for posting two messages on his Facebook account. The Court found that the domestic courts had failed to give due consideration to several important factors, in particular concerning the broader context in which the applicant's statements had been made, his participation in a debate on matters of public interest, the question whether the value judgments expressed had been sufficiently based in fact and, lastly, the potentially chilling effect of the sanction. The Government has introduced a referral request in this case, which has been accepted by the Grand Chamber Panel.

²⁷ Written contribution from the Judicial Inspectorate in the context of the country visit to Romania.

²⁸ In the reference period 5 July 2023 to 1 February 2024, the Judicial Inspectorate opened 15 disciplinary actions against judges, of which seven on grounds of repeated non-compliance with the legal provisions regarding the prompt resolution of cases or the repeated delay in the performance of works (Art. 271(g) of Law 303/2022 on the status of judges and prosecutors). Written contribution from the Judicial Inspectorate in the context of the country visit to Romania. According to the SCM, such actions occur in a context of high workload in the judiciary, linked to a shortage of magistrates (See e.g. Decision SCM No 492 of 28 March 2024). Contribution from the European Association of Judges to the 2024 Rule of Law Report, p. 12. See also next paragraphs on the challenging human resources situation in the judiciary.

²⁹ Contribution from magistrates' associations to the 2024 Rule of Law Report (Asociația 'Inițiativa pentru Justiție', Asociația Forumul Judecătorilor din România, Asociația Miscarea pentru Apărarea Statutului Procurorilor)..

³⁰ In cases which raised a lot of public attention in 2023 (a judge who could not justify assets worth 6 million euros and a judge suspected of providing sensitive information to suspects in criminal investigations), the Judicial Inspectorate did not open investigations. Contribution from Funky Citizens to the 2024 Rule of Law Report, p. 12.

³¹ Contribution from the Council of Bars and Law Societies of Europe (CCBE) to the 2024 Rule of Law Report.

³² Information received in the context of the country visit to Romania from the NARB.

to break the professional secrecy between lawyers and their clients and procedural fines imposed on lawyers³³. Concerns have also been raised regarding the repeated breach of the protocol signed by the NARB with the Ministry of Justice and the General Prosecutor's Office, establishing the payment of *ex officio* lawyers for their activities³⁴. In response, a new protocol between the NARB, the Ministry of Justice and the General Prosecutor's Office entered into force on 15 February 2024. An additional act to the new protocol concerning the indexation of legal aid fees to inflation has been signed in May 2024.

Quality

There has been some further progress in ensuring adequate human resources for the justice system, although for the time being there are still a number of vacancies which could, over time, affect the quality and efficiency of justice. The 2023 Rule of Law Report recommended to Romania to 'continue efforts to ensure adequate human resources for the justice system, including for the prosecution services, taking into account European Standards on resources for the justice system'³⁵. Despite austerity measures affecting public institutions³⁶, and following protests of magistrates³⁷, efforts were made to spare the judiciary including through the organisation of competitions to recruit magistrates³⁸, of transfers³⁹ and competitions for promotion⁴⁰ as well as through amendments to the law to increase the maximum number of prosecutors' posts⁴¹. At the same time, Law 296/2023 led to the cancellation of unfilled vacancies in the public sector at the end of December 2023. Some

³³ Contribution from the Council of Bars and Law Societies of Europe (CCBE) to the 2024 Rule of Law Report.

³⁴ See also letter from the NARB to the government, the SCM, the HCCJ, the POHCCJ and committees of the Parliament of 2 October 2023. This led to the organisation, at the beginning of October 2023, of a national day of protest under the name of 'The end of the Rule of Law – a day without lawyers', at which all 42 member Bars took part. (Ibidem).

³⁵ 2023 Rule of Law Report, Country Chapter on the rule of law situation in Romania, p. 2.

³⁶ Government Emergency Ordinance No. 34/2023 of May 2023 established the suspension of filling by competition or examination vacant or temporarily vacant positions in public institutions and authorities until 31 December 2023 (as part of general austerity measures). The measure was prolonged until the end of 2024 through Ordinance No. 115/14.12.2023 regarding certain fiscal-budgetary measures. The SCM considers that this ordinance constitutes an obstacle that hinders the organisation of competitions. Written contribution from SCM in the context of the country visit to Romania.

³⁷ Written contribution from the Ministry of Justice in the context of the country visit to Romania and from the NARB in the context of the country visit to Romania. See also letter of 15 Janvier 2024 from the NARB to the SCM, asking for the matter to be referred to the Constitutional Court and letter No.23701/14 December 2023 of the SCM to the government.

³⁸ Derogations were granted for the judiciary. After 5 July 2023, two competitions for admission in the magistracy were launched: one was finalised on 21 March 2024 and 461 candidates were admitted; one is to be finalised on 9 July 2024 (117 positions open). In an admission competition to the National Institute of Magistracy completed in April 2024, 301 candidates were admitted. Competitions to transfer prosecutors to judges' positions were also organised. Contribution from SCM, included in the input from Romania to the 2024 Rule of Law Report, p. 5 and written contribution from SCM in the context of the country visit to Romania.

³⁹ Written contribution from the Ministry of Justice in the context of the country visit to Romania; contribution of the European Association of Judges, p. 7.

⁴⁰ E.g., 22 judges promoted to HCCJ in 2023, information received in the context of the country visit to Romania by the President of the HCCJ.

⁴¹ Recent legislation increased the maximum number of posts for DIICOT and DNA (see pillar 2). All 20 posts at the EPPO for European Delegated Prosecutors have been filled. 38 positions of the special structure for investigating and prosecuting corruption offences in the judiciary were occupied mid-February 2023 out of 59, which is the maximum number.

exceptions were however possible if requested by the institutions and the SCM availed itself of this possibility⁴². The number of vacant posts for both judges⁴³ and prosecutors⁴⁴ nevertheless increased during the reporting period⁴⁵. The situation is particularly difficult at the Prosecutor's Office attached to the HCCJ⁴⁶, while the situation regarding judges of the HCCJ improved⁴⁷. While the number of magistrates requesting retirement is still significant, it has been decreasing⁴⁸, and the number of judges meeting the retirement conditions is expected to decrease in the coming years⁴⁹. According to stakeholders, one of the reasons for the number of vacancies seems also to be the lack of attractiveness of the working conditions in the magistracy⁵⁰. In light of efforts made to ensure adequate human resources for the justice system, including for the prosecution services, some further progress has been made to address the recommendation made in the 2023 Rule of Law Report.

⁴² Based on Art. XVII (5) (g) of the law. The SCM requested an addition of 10 positions for itself, 34 positions of specialised staff in prosecutors' offices and 24 judicial inspector posts for the Judicial Inspectorate, which were granted. Information received in the context of the country visit to RO from the SCM. The National Integrity Agency requested 27 positions, see below in pillar 2 (information received in the context of the country visit to Romania from the National Integrity Agency).

⁴³ Figure 35, 2024 EU Justice Scoreboard. Vacancies of judges increased in 2023 from 20% beginning of 2023 (See 2023 Rule of Law Report, Country Chapter on the rule of law situation in Romania, fn. 42 p. 9) to 23% at the end of the year: input from the SCM included in the input from Romania to the 2024 Rule of Law Report, pp. 13-14: out of a total of 5 066 positions, 3 092 judges positions were filled in December 2023 while 1 164 positions were vacant). This is particularly true for first instance courts (ibidem). In July 2024, the rate of occupancy for judges' posts was approx. 85% (amounting to approx. 15% vacancy rate).

⁴⁴ The number of vacancies of prosecutors' positions reached 32,24% in December 2023. Written input from the SCM included in the input from Romania to the 2024 Rule of Law Report, p. 14: out of a total of 3 039 prosecutors' positions, 2 064 were filled and 980 were vacant. In July 2024, the rate of occupancy for prosecutors' posts was approx. 75% (amounting to approx. 25% vacancy rate).

⁴⁵ The general government total expenditure on law courts per inhabitant remains low in Romania, compared to other Member States, but slightly increased in 2021 and 2022. Eurostat, Fig. 33, 2012, 2020-2022.

⁴⁶ 60,42% of vacancies at the Prosecutor's Office attached to the HCCJ on 30 December 2023 (See see 2023 Report of the POHCCJ).

⁴⁷ Some progress has been made with regard to the HCCJ in 2023 where there were 20 vacant judges' positions beginning of 2023, and 15 at the end. However, at the last competition, there was a lower number of candidates than posts to fill. To be noted that the percentage of female judges at the HCCJ is of almost 80%, currently the highest percentage among supreme courts within the EU. See Figure 38, 2024 EU Justice Scoreboard.

⁴⁸ In 2022, 451 judges and 256 prosecutors retired; in 2023, they were resp. 297 and 165; in 2024, until July, resp. 83 and 58. Information received in the context of the country visit to Romania from the Ministry of Justice.

⁴⁹ 169 in 2024; 120 in 2025 and 76 in 2026. Written contribution from SCM in the context of the country visit to Romania. A high number of judges from the HCCJ and the Courts of Appeal fulfil, or will soon fulfil, the retirement conditions. Contribution from the European Association of Judges to the 2024 Rule of Law Report, p. 6. This is due also to the entry into force of Law 282/2023 on special pensions, which stabilised the legislative framework concerning service pensions. This new legislation (published in the Official Monitor No. 950 of 20 October 2023), which entered into force on 1 January 2024, provides for new criteria and conditions for the right to retire, like a minimum experience of 25 years, a retirement age and a percentage limitation regarding the amount of pension. It also increases the taxation of the pension.

⁵⁰ Information received in the context of the country visit to Romania from magistrates' associations (Asociația 'Inițiativa pentru Justiție', Asociația Forumul Judecătorilor din România, Asociația Miscarea pentru Apărarea Statutului Procurorilor), representatives of the National Integrity Agency and the President of the HCCJ; contribution from Funky Citizens to the 2024 Rule of Law Report. Among the reasons mentioned are: issues with the payment of complete and fair salaries, a bad image of the judiciary, high work levels and a high public exposure.

The High Court of Cassation and Justice took measures to address salary inequalities and made requests for additional budgetary resources for this purpose, which were partly met. These requests were related to the full payment of monthly salaries of judges (in line with levels of salaries recognised by final court decisions in 2016) and to the payment of salary arrears from previous years⁵¹. The objective of these measures was the uniformisation of salary scales which in real terms represented an effective and significant increase in salary income for all professional categories⁵². The request was initially not granted by the Ministry of Finance⁵³, which led to protests and a suspension of certain activities by magistrates in December 2023⁵⁴. In November and December 2023, the Government adopted a number of normative acts granting additional funds⁵⁵. On this basis, the Ministry is preparing new legislation to bring more fairness to the salaries of different categories of staff in the magistracy⁵⁶.

Draft legislation reforming legal aid sets out promising novelties. The draft⁵⁷ was submitted to public debate on 19 January 2024 and adopted on 23 May 2023 by the government. A novelty would be the possibility to grant legal aid notably to non-profit legal persons protecting a general interest when the costs of the trial would be likely to significantly affect their activity. Another novelty is the introduction of an obligation for courts to inform litigants about the possibility and conditions for applying for legal aid.

Significant efforts have been made to improve digitalisation within the justice system. Romania is committed to step up its digitalisation efforts⁵⁸, as illustrated by the inclusion of an investment for the digitalisation of the judiciary in the recovery and resilience plan. This investment, due in 2025, aims to support the transition to a centralised electronic case management system. The application ‘Electronic File for Judges’ became operational in 2023 for all national courts, as a module within the Rejust application⁵⁹. Judges can now easily obtain information about cases in all courts. Litigants and legal professionals can submit petitions and documents and pay stamp duties online⁶⁰. The Ministry of Justice is collaborating on the configuration of the future version of ECRIS V, which should be fully operational by the end of 2025⁶¹. E-filing has been implemented at national level and allows

⁵¹ Contribution from the European Association of Judges, to the 2024 Rule of Law Report, p. 16.

⁵² Contribution from the HCCJ to the 2024 Rule of Law Report, included in the input from Romania to the 2024 Rule of Law Report, p. 12.

⁵³ Contribution from the HCCJ to the 2024 Rule of Law Report, included in the input from Romania to the 2024 Rule of Law Report, p. 12.

⁵⁴ Strong concerns were also expressed by the magistrates’ associations and the plenum of the SCM. Contribution from the European Association of Judges to the 2024 Rule of Law Report, p. 16.

⁵⁵ Government Decisions No. 1111 of 16 November 2023, No. 1278 of 18 December 2023 and No. 1279 of 18 December 2023. It is expected that the government will supplement the budget initially allocated in order to allow for the payment of the instalments established by law in 2023 and those due in 2024. Written contribution from the HCCJ in the context of the country visit to Romania.

⁵⁶ Working groups have been established by the government and legal and economic analyses are currently being carried out. Ibidem.

⁵⁷ Draft Law amending and supplementing Government Emergency Ordinance No. 80/2013 on judicial stamp duties and Government Emergency Ordinance No. 51/2008 on legal aid in civil matters.

⁵⁸ OECD (2023), Civic Space Review of Romania, p. 32.

⁵⁹ Input from Romania to the 2024 Rule of Law Report, p. 10. The rejust webportal created by the Court of Appeal Galați and expanded by the Supreme Council of Magistracy at national level, is a single electronic point of request for services for all active courts in the country.

⁶⁰ Input from Romania to the 2024 Rule of Law Report, p. 17.

⁶¹ Ibidem.

parties to access their own file online, but it seems there are still courts where access is only granted upon request⁶². Online access to published judgments by the general public is broadly ensured⁶³. Improvements are however still needed regarding the availability of secure electronic communication tools for the exchanges between the prosecution services with the courts, the investigation authorities and defence lawyers⁶⁴. The new rules of procedure of the courts no longer provide for the mandatory publication on the court's website of either the decisions of the College Board of the court or the decisions of the President of the Court related to court management⁶⁵.

Efficiency

Some challenges remain regarding the length of proceedings and clearance rates. Despite decreases in 2021⁶⁶ and digital tools allowing to speed up processes⁶⁷, the time needed to resolve cases has increased from 160 days in 2021 to 171 days in 2022⁶⁸, while the clearance rate of cases decreased from 102% in 2021 to 96% in 2022⁶⁹. The workload of the courts has increased compared to the previous Rule of Law Report, notably the number of new and pending cases⁷⁰. Stakeholders have raised concerns about the length of procedures, including the National Association of Romanian Bars (NARB)⁷¹. The HCCJ is an exception to this general trend⁷². Decision No. 2040/2023 by the SCM established a maximum number of cases to be handled by each judge per month⁷³. The decision has not been applied by all courts. Romania remains under enhanced supervision by the Committee of Ministers of the Council of Europe for the excessive length of civil and criminal proceedings, and lack of

⁶² Contribution from the European Association of Judges to the 2024 Rule of Law Report, p. 26.

⁶³ Figure 47, 2024 EU Justice Scoreboard.

⁶⁴ Figure 43, 2024 EU Justice Scoreboard.

⁶⁵ The new Law on the Judicial Organisation transferred most administrative decisions at court level from the College Board to the President of the Court. CSOs are criticising the concentration of powers in the hands of the Presidents of the Courts. See contribution from MEDEL, Magistrats Européens pour la Démocratie et les Libertés, to the 2024 Rule of Law Report, p. 12.

⁶⁶ 2023 Rule of Law Report, Country Chapter on the rule of law situation in Romania, p.11 fn. 64.

⁶⁷ See below: the electronic file for judges within the Rejust application and the portal registratura.rejust.ro.

⁶⁸ Increasing estimated time needed to resolve civil, commercial, administrative and other cases in 2022 (1st instance): Figure 5, 2024 EU Justice Scoreboard; increasing estimated time needed to resolve litigious civil and commercial cases at first instance: Figure 6, 2024 EU Justice Scoreboard; increasing estimated time needed to resolve administrative cases at first instance: Figure 8, 2024 EU Justice Scoreboard.

⁶⁹ Decreasing clearance rate of civil, commercial, administrative and other cases in 2022: Figure 10, 2024 EU Justice Scoreboard.

⁷⁰ E.g. from 7.0 in 2021 to 7.6 with regard to the number of incoming civil, commercial, administrative and other cases in 2022: Figure 2, 2024 EU Justice Scoreboard; increasing number of incoming civil and commercial litigious cases in 2022: Figure 3, 2024 EU Justice Scoreboard; stable number of incoming administrative cases in 2022: Figure 4, 2024 EU Justice Scoreboard; increasing number of pending civil, commercial and administrative and other cases: Figure 13, 2024 EU Justice Scoreboard; increasing number of pending litigious civil and commercial cases: Figure 14, 2024 EU Justice Scoreboard.

⁷¹ Information received in the context of the country visit from the Romanian National Bar Association (NARB). In December 2023 (4 October 2023 – ‘*A day without lawyers! The day on which justice does not exist*’), they raised attention to the critical situation of the judicial system.

⁷² Contribution from the HCCJ, included in the written input from Romania to the 2024 Rule of Law Report, p. 19. On 15 December 2023, 21 591 cases were pending on the HCCJ (of which 8 330 unresolved cases on 1 January 2023 and 13 261 new cases). During the same time frame, 14 852 cases were resolved, resulting in an average duration of 160 in 2023, compared to 198 days in 2022 (a decrease of approx. 20%).

⁷³ This decision of 13 July 2023 standardises work to 40 cases/month as a temporary measure, pending an analysis of the optimal workload of judges.

effective remedy in this respect⁷⁴. Discussions are ongoing with the Council of Europe on a possible solution to the supervision of the execution of this group of cases.

II. ANTI-CORRUPTION FRAMEWORK

The Ministry of Justice coordinates the implementation of the National Anti-Corruption Strategy for 2021-2025. The specialised anti-corruption prosecution, the National Anti-Corruption Directorate (DNA), has the competence to investigate serious corruption cases, while the Prosecutor General's office investigates all other corruption cases. There are also specialised prosecution offices attached to the HCCJ and courts of appeal for corruption offences committed by prosecutors and judges⁷⁵. A specialised anti-corruption directorate (DGA) is established in the Ministry of Interior, competent for integrity and corruption issues within the staff employed by the Ministry, including the police. The National Integrity Agency (ANI) carries out administrative investigations regarding conflicts of interests, incompatibilities of activities and unjustified wealth, and is responsible for the monitoring and verification of declarations of assets, including of all elected officials. The National Agency for the Management of Seized Assets (ANABI) ensures the management of seized and confiscated criminal assets and facilitates the tracing and identification of proceeds.

The perception among experts and business executives is that the level of corruption in the public sector remains high. In the 2023 Corruption Perceptions Index by Transparency International, Romania scores 46/100 and ranks 25th in the European Union and 63th globally⁷⁶. This perception has been relatively stable over the past five years⁷⁷. The 2024 Special Eurobarometer on Corruption shows that 75% of respondents consider corruption widespread in their country (EU average 68%) and 51% of respondents feel personally affected by corruption in their daily lives (EU average 27%)⁷⁸. As regards businesses, 94% of companies consider that corruption is widespread (EU average 65%) and 71% consider that corruption is a problem when doing business (EU average 36%)⁷⁹. Furthermore, 46% of respondents find that there are enough successful prosecutions to deter people from corrupt

⁷⁴ European Court of Human Rights, judgment of 26 November 2013, *Vlad v. Romania*, 40756/06.

⁷⁵ The Prosecutor's Office attached to the HCCJ is competent for offences committed by members of the Superior Council of Magistracy, judges of the HCCJ and prosecutors of the POHCCJ, judges and prosecutors attached to the Courts of Appeal and the Military Court of Appeal, as well as judges of the Constitutional Court of Romania. Offences committed by all other judges and prosecutors in the system are investigated by designated prosecutors working within the prosecution offices attached to courts of appeal.

⁷⁶ Transparency International (2024), Corruption Perceptions Index 2023. The level of perceived corruption is categorised as follows: low (the perception among experts and business executives of public sector corruption scores above 79); relatively low (scores between 79-60), relatively high (scores between 59-50), high (scores below 50).

⁷⁷ Romania has the same score and rankings as last year. The score in 2019 was 44, so 2 points lower. The score significantly increases/decreases when it changes more than five points; improves/deteriorates (changes between 4-5 points); is relatively stable (changes from 1-3 points) in the last five years.

⁷⁸ Special Eurobarometer 548 on Citizens' attitudes towards corruption in the EU (2024). The Eurobarometer data on citizens' corruption perception and experience is updated every year. The previous data set is the Special Eurobarometer 534 (2023).

⁷⁹ Flash Eurobarometer 543 on Businesses' attitudes towards corruption in the EU (2024). The Eurobarometer data on businesses' attitudes towards corruption as is updated every year. The previous data set is the Flash Eurobarometer 524 (2023).

practices (EU average 32%)⁸⁰, while 34% of companies believe that people and businesses caught for bribing a senior official are appropriately punished (EU average 31%)⁸¹.

The implementation of the 2021-2025 Anti-Corruption Strategy (NAS) remains on track. A report on the implementation of the NAS for the year 2023 was prepared based on reports submitted by public authorities and institutions. The report contains details on the effective implementation of the NAS measures. Following the approval of the report by the cooperation platforms in June 2024, it was published on the NAS website⁸². There are also other reports available online, such as, for instance, on the institutions that underwent peer review evaluations in 2023⁸³. Dedicated working groups were established with representatives from cooperation platforms to monitor and assess progress for specific objectives of the NAS, including measures for the national education and public health systems. Whereas the group on health met four times in 2023, there were no meetings organised for the education sector during 2023⁸⁴.

As a follow up to its accession to the OECD, Romania started legislative action on the criminalisation of bribery of foreign public officials. Within the framework of Romania's accession to the Organisation for Economic Co-operation and Development (OECD), Romania acceded to the OECD Anti-Bribery Convention⁸⁵ and became a member of its Working Group in 2023. As reported last year, Romania committed to take legislative action in response to the assessment of the OECD that the scope of the offence of foreign bribery in its legislation is too restricted and the sanctions for legal persons too low⁸⁶. The Ministry of Justice prepared draft legislation for consultation in April 2024 and the Government approved it on 18 July 2024⁸⁷. The draft law will be sent to Parliament for debate and adoption.

The number of specialised prosecutors at DNA remains stable and the authorities maintain a positive track record in combating corruption, including as regards high-level corruption cases. The General Prosecution Service continued to issue many indictments in corruption cases and courts delivered many final judgments⁸⁸. The DNA's results for the prosecution of high-level corruption cases are similar, but there is still a serious backlog⁸⁹. During 2023, Courts convicted 400 defendants and acquitted 175 defendants in

⁸⁰ Special Eurobarometer 548 on Citizens' attitudes towards corruption in the EU (2024).

⁸¹ Flash Eurobarometer 543 on Businesses' attitudes towards corruption in the EU (2024).

⁸² Several of the achievements and developments mentioned in this Chapter are part of the NAS. National Anticorruption Strategy 2021-2025, Implementation Report 2023. See the 2023 Rule of Law Report, Country Chapter on the rule of law situation in Romania, p. 13. According to RRP target 428, 70% of the measures included in the strategy have to be completed by Q4 2025.

⁸³ Ministry of Justice, National Anticorruption Strategy 2021-2025, Evaluation Reports 2023.

⁸⁴ Information received from the Ministry of Justice in the context of the country visit to Romania.

⁸⁵ OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transaction.

⁸⁶ 2023 Rule of Law Report, Country Chapter on the rule of law situation in Romania, p. 13.

⁸⁷ Ministry of Justice, Press release of 18 July 2024.

⁸⁸ During 2023, a total of 1 843 (1 662 in 2022, 1 493 in 2021) cases involving corruption offences were solved, of which 259 (266 in 2022, 201 in 2021) indictments and plea agreements were issued, by which 328 (327 in 2022, 253 in 2021) defendants were sent to trial. There were 159 (203 in 2022, 142 in 2021) final judgments, by which 154 (184 in 2022, 151 in 2021) individuals were convicted, see input from Romania for the 2023 Rule of Law Report, Annex 8 and 2023 Rule of Law Report, Country Chapter on the rule of law situation in Romania, p. 14.

⁸⁹ Input from Romania for the 2023 Rule of Law Report, Annex 7, and information received from DNA in the context of the country visit. The number of pending cases was 6 085 in 2023, compared to 6 129 in 2022 and 6 076 in 2021. During 2023, a total of 132 (404 in 2022, 317 in 2021) cases concerning 651 (779 in 2022,

cases indicted by DNA⁹⁰. The HCCJ dealt with five cases of high-level and complex corruption offences in 2023, involving 20 defendants, two of which were sentenced to imprisonment. In 2022, five out of 28 defendants were sentenced to imprisonment⁹¹. The EPPO investigated 13 corruption cases in 2023, which accounts for 3% of the total number of EPPO cases in Romania⁹². While there are many vacancies in the prosecution services, DNA operated in February 2024 at 86.7 % occupancy rate with 156 positions filled⁹³. This rate has been stable since June 2023 when the occupancy rate was 85%, in line with the commitment of Romania under the RRP⁹⁴. The seniority requirement to be appointed to the DNA, the workload and the external pressure, remain high, while this is not compensated by additional benefits⁹⁵. In November 2023, the Minister of Interior appointed a new head of the specialised Anti-Corruption Directorate (DGA) in the Ministry of Interior⁹⁶.

The delayed legislative response on the statute of limitations continued to result in the closing of many corruption cases and the annulment of convictions. The Constitutional Court (CCR) judgment of 26 April 2018, finding that the interruption of the limitation period under the Criminal Code was unconstitutional⁹⁷, and the delayed adoption of a Government Emergency Ordinance on 30 May 2022, filling the legal void⁹⁸, resulted in much shorter

730 in 2021) defendants were sent to trial. Of these, 481 (565 in 2022 and 2021) were prosecuted by indictment and 170 (214 in 2022, 165 in 2021) by plea agreement. The courts rendered 257 (348 in 2022, 255 in 2021) final judgments and 400 (439 in 2022, 427 in 2020) defendants were convicted. The number of files older than 5 years from the date of notification has decreased (177 compared to 263 in 2022 and 323 in 2021).

⁹⁰ 77% of convicted persons were sentenced to imprisonment with suspended sentence under surveillance and only 11,25% of convicted persons were sentenced to imprisonment with execution. Input from Romania for the Rule of Law report, Annex 7. According to information from the Prosecutor General in the context of the country visit to Romania this figure is 13% for all criminal offences. The Chief Prosecutor of DNA noted that the figures were similar in 2022 and explained that in white-collar offences like corruption, very often courts tend to favour suspended sanctions, especially for first time offenders.

⁹¹ Input from Romania to the 2024 Rule of Law report, p. 35. See also 2023 Rule of Law Report, Country Chapter on the rule of law situation in Romania, p. 14.

⁹² EPPO (2024) Annual Report 2023, p. 51.

⁹³ Information received from DNA in the context of the country visit to Romania. DNA submitted this is 20% more than DIICOT and 50% more than the prosecution service at the HCCJ. High-ranking prosecutors have been appointed by the President of Romania on 11 January 2024, on the proposal of the Minister of Justice, despite a negative opinion of Prosecutors' Section of the SCM and concerns expressed by the Venice Commission regarding this procedure previously (Opinion of 13 July 2018: 'as in the case of judicial appointments, while different practical arrangements are possible, the effective involvement of the judicial (or prosecutorial) council, where such a body exists, is essential as a guarantee of neutrality and professional, non-political expertise'.

⁹⁴ Milestone 429 of Romania's RRP provides for an 'Occupation rate of 85% of National Anti-Corruption Directorate prosecutor positions attained' (by 30 June 2023). This milestone will be assessed as part of the 4th payment request, expected in 2024.

⁹⁵ Information received from DNA and the Prosecutor General in the context of the country visit to Romania. The SCM adopted Decision 1503 of 28 November 2023 calling to defend the independence of the prosecutors of the DNA against allegations made by representatives/leaders of a political party.

⁹⁶ The former head retired in August 2023 shortly after allegations of pressures against a DGA police officer at the request of a judge at the HCCJ. HotNews (2023), Head of the General Anticorruption Directorate retires/ Scandals in which Liviu Vaseliescu's name appears.

⁹⁷ Due to a lack of clarity and predictability. Romanian Constitutional Court, judgment of 26 April 2018, Decision no. 297/2018 and Confirmative Decision no. 358 of 26 May 2022. See also the 2023 Rule of Law Report, Country Chapter on the rule of law situation in Romania, p. 16.

⁹⁸ 2022 Government Emergency Ordinance no. 71. It specifies that the statute of limitations in Article 155 of the Criminal Code can be interrupted by the 'performance of any procedural act in question which,

limitation periods for all cases during this period. 575 cases concerning corruption and assimilated offences were discontinued at the prosecutor's offices level in 2023 as a result of the CCR and HCCJ rulings on the statute of limitation, involving 297 suspects and indicted persons⁹⁹. In 2023, for cases brought to Romanian courts by DNA, the courts terminated proceedings concerning 383 defendants of which 364 were discharged because of their case reaching the limitation period for criminal liability¹⁰⁰. In a ruling of 24 July 2023, in view of the principle that offences and penalties must be defined by law, the CJEU set out more specifically its requirements relating to the foreseeability and precision of criminal law. It considered that the applicable rules of Union law do not require the Romanian courts to disapply the judgments of the CCR, even if, as a consequence of those judgments, a considerable number of criminal cases, including cases of serious fraud affecting the financial interests of the Union, would be discontinued because of the expiry of the limitation period¹⁰¹. However, it also ruled that Romanian courts cannot apply the *lex mitior* in order to call into question the interruption of the limitation period by procedural acts which took place before the date of the CCR judgment¹⁰². Some courts however considered interruptions of the limitation period between 2014 and 2018 invalid¹⁰³.

There has been some further progress as regards the system for investigating and prosecuting corruption offences in the judiciary. In the 2023 Rule of Law Report, it was recommended to Romania to 'take measures, in particular at an operational level, to address remaining concerns about the investigation and prosecution of criminal offences in the judiciary, including as regards corruption offences, taking into account European standards'¹⁰⁴. Designated prosecutors are dealing with a significant backlog of cases, especially at local level¹⁰⁵. Since the new system for investigating and prosecuting corruption offences in the judiciary was established in March 2022, two indictments have been issued (in 2023). In 2024, the preliminary investigation for one case was finished¹⁰⁶. The new system still has to show its ability to deal efficiently with corruption cases within the

according to the law, must be communicated to the suspect or defendant'. See also 2023 Rule of Law Report, Country Chapter on the rule of law situation in Romania, p. 13.

⁹⁹ The value of damage involved in these cases is 14.7 million EUR. Information received from the Prosecutor General in the context of the country visit to Romania.

¹⁰⁰ Input from Romania for the Rule of Law report, Annex 7. Until May 2023, courts terminated 81 finalised cases, involving 186 defendants, see 2023 Rule of Law Report, Country Chapter on the rule of law situation in Romania, p. 16.

¹⁰¹ Court of Justice of the European Union, judgment of 24 July 2023, Lin, C-107/23 PPU, ECLI:EU:C:2023:606.

¹⁰² i.e. between 1 February 2014 (entry into force of the Criminal Code) and 26 April 2018 (date of the CCR decision declaring the interruption of the limitation period under the Criminal Code unconstitutional). Case C-107/23 PPU, EU:C:2023:606.

¹⁰³ See, e.g., No 925/26.10.2023 of the Timișoara Court of Appeal and D.P. 25/15.01.2024 Oradea Court of Appeal. The HCCJ held on 17 June 2024 that there is no legal ground for the interruption of the limitation period for procedural acts carried out *before* the decision of the Constitutional Court in 2018.

¹⁰⁴ 2023 Rule of Law Report, Country Chapter on the rule of law situation in Romania, p. 2. In the 2023 Rule of Law Report, the Commission concluded that Romania had made some progress on the 2022 recommendation on 'taking measures to address remaining concerns about the investigation and prosecution of criminal offences in the judiciary, taking into account European standards and relevant Venice Commission opinions'.

¹⁰⁵ 3 180 files remain to be processed: 2 527 at territorial level and 653 at central level. 6 855 out of 10 035 cases are already solved. Information received from the Ministry of Justice in the context of the country visit to Romania.

¹⁰⁶ Information received from the Prosecutor General in the context of the country visit to Romania.

judiciary¹⁰⁷. As reported last year¹⁰⁸, the SCM has difficulties filling the positions of designated prosecutors at the HCCJ. The occupancy rate has gone down since the last Rule of Law Report was published. In February 2024, there were four prosecutors appointed out of the 14 posts available at “central” level (there were eight at the end of 2022), whereas 34 out of 45 prosecutors were appointed at the local prosecution offices (42 at the end of 2022)¹⁰⁹. The pool of eligible applicants is very limited due to strict seniority requirements¹¹⁰ and, as only few prosecutors apply¹¹¹, on 25 June the Parliament adopted legislation¹¹² to allow the Prosecutor General to appoint designated prosecutors *ex officio*, with the aim to address the low occupancy rate. Another practical issue was that the law provided for a maximum of three designated prosecutors for each local office, while the workload per office differs a lot¹¹³. The new law makes it a minimum of three, which will allow to adapt the number of prosecutors based on the workload of the respective court¹¹⁴. There has therefore been some further progress to address the recommendation made in the 2023 Rule of Law Report.

A proposal to update the legislative framework on integrity has been submitted to the Ministry of Justice, but it does not cover rules on revolving doors. As reported in 2023, the evaluation of the existing framework on integrity showed that there are gaps and that the fragmentation of the rules on integrity makes it difficult to comply and follow-up with the legal obligations¹¹⁵. The project to update and codify the legislative framework on integrity started in 2022 and should enter into force by the end of 2024, in line with Romania’s commitments under the RRP¹¹⁶. Following consultations with stakeholders in August 2023,

¹⁰⁷ This was also the opinion of Associations of Magistrates’, Funky Citizens (CSO) and Expert Forum (CSO) in the context of the country visit to Romania.

¹⁰⁸ 2023 Rule of Law Report, Country Chapter on the rule of law situation in Romania, p. 17.

¹⁰⁹ Information received from the SCM in the context of the country visit to Romania and 2023 Rule of Law Report, Country Chapter on the rule of law situation in Romania, p. 17. The letter from the PO at the HCCJ of 13 February 2024 even mentions only 3 and 31 at local level.

¹¹⁰ At least 12 years of experience is required for those designated to work for the prosecutors’ offices attached to the courts of appeal and at least 15 years of experience is required in respect of the Prosecutor’s Office attached to the High Court of Cassation and Justice.

¹¹¹ SCM (2024), Annual Report for 2023. According to information received from the SCM and Prosecutor General in the context of the country visit to Romania, some prosecutors are reluctant to apply, as many prosecutors have been rejected by the SCM in the past and rejection may cause negative publicity. Under law 49/2022, the SCM does not have to motivate its decision. The circumstance that the salary for these prosecutors is the same as for normal prosecutors is also mentioned as a reason that the position is less attractive.

¹¹² Law amending law 49/2022. It still has to be promulgated.

¹¹³ Information received from the Prosecutor General in the context of the country visit to Romania.

¹¹⁴ Information received from the Ministry of Justice in the context of the country visit to Romania. The new law also provides that the number of prosecutors at the criminal prosecution section of the General Prosecutor’s office shall be 14. In a judgment of 8 May 2024 in Case C-53/23, following a referral for a preliminary ruling in a case pertaining to the current system for investigating and prosecuting corruption offences in the judiciary, the CJEU held that EU law does not preclude a national law which excludes professional associations of judges from challenging the appointment of prosecutors competent to conduct criminal prosecutions against judges, by requiring the existence of a legitimate private interest to be established in order for such an action to be admissible. Therefore, the Court did not enter into the question of the compatibility with EU law of the current system for investigating and prosecuting corruption offences in the judiciary.

¹¹⁵ 2023 Rule of Law Report, Country Chapter on the rule of law situation in Romania, p. 18.

¹¹⁶ Milestone no. 431 of Romania’s RRP states: ‘Consolidated laws on integrity shall enter into force. The update of the integrity legislation shall be realised based on a prior evaluation and analysis of the integrity laws, together with an initial clustering of the normative acts. Within the second phase of the project, the

on 20 December 2023 ANI submitted a proposal for updating the integrity legislation to the Ministry of Justice. The proposal suggests targeted amendments to the existing laws, which would be combined in one omnibus law¹¹⁷. The scope of the proposal remains limited to conflicts of interest, incompatibilities of activities and unjustified wealth and does not cover other aspects of integrity rules. This includes, for example, rules on revolving doors which remain limited and scattered across different laws¹¹⁸.

ANI maintained its results in managing conflicts of interest and asset declarations. At the end of 2023, a series of austerity measures were taken that affect the public service generally, with an impact on ANI¹¹⁹. The low salaries are considered an obstacle to attract competent staff¹²⁰ and ANI continues to advocate for a rise in the salaries of inspectors¹²¹. ANI nevertheless manages to maintain its results of the last years. The number of finalised cases has remained relatively constant. ANI identified a record amount of unjustified wealth of over EUR 6 million¹²². The National Integrity Council (NIC) provides political oversight for ANI, guaranteeing its independence and monitoring its performance¹²³. Its 4-year

existing laws shall either be unified and updated, or new normative acts shall be proposed.’ Milestone no. 431 will be assessed under the 6th payment request, expected in 2025.

¹¹⁷ Taking into account the national elections taking place in 2024, Romania does not expect to start the public debate on the proposal before the third quarter of 2024; information received from ANI in the context of the country visit to Romania.

¹¹⁸ As noted already with concern in the 2021 Rule of Law Report, Country Chapter on the rule of law situation in Romania, p. 16. There are no regulations concerning cooling-off periods for key decision-makers. As a result, moving directly from a job with the regulator to a regulated company, and the other way around, happens frequently, for instance, in the energy or finance sectors. Regulating post-employment interdictions is a measure under the NAS 2021-2025. In the summer of 2023, a working group took place on this topic. Information received from ANI in the context of the country visit to Romania.

¹¹⁹ This resulted in the loss of 40 (unoccupied) posts out of a total of 200 posts, the loss of around 40% of its middle-management positions and a reduction of salaries. Salaries within ANI are lower in comparison with other similar offices within the public administration of Romania. This is also because a 2017 law created a steady increase in salaries for public officials, which does not apply to ANI. Information received from ANI in the context of the country visit to Romania.

¹²⁰ Information received from ANI in the context of the country visit to Romania. There is limited interest in competitions organised to fill in positions in ANI because of non-competitive financial benefits, the complexity of the work and the lack of the statute regulating the specific status of the Integrity Inspector. External Audit of the Management of National Integrity Agency for 2022 (2023), Factual Findings Report.

¹²¹ ANI has asked the Ministry of Justice since 2021 to grant integrity inspectors (in contrast to the other people working in ANI) with a special statute that would allow them to receive a higher salary under the applicable legislation.

¹²² This concerned the case of a Bucharest Court judge, which is pending before the Wealth Investigation Commission attached to the Bucharest Court of Appeal. ANI also filed a request to the Prosecutor's office related to possible conflict of interest of the Bucharest's General Mayor and Mayor of District 5. In September 2023, the Bucharest Court of Appeal admitted the General Mayor's request to annul the evaluation report, which decision has been challenged before the High Court of Cassation and Justice, with a hearing scheduled for 24 September 2024. The Mayor of District 5 also challenged ANI's report but a hearing has not yet been planned. Information received from ANI in the context of the country visit to Romania.

¹²³ It is comprised of representatives of the categories of officials designated by law to submit asset declarations. ANI argues that the political representation within the 2020-2024 Council lacked equilibrium which presents a risk to its independence and mandate. ANI called upon the Senate in February 2024 to prevent the indirect formation of a majority of the same political colour members within the Council. Preferably, ANI considers that the NIC should not include members of political parties.

mandate ended in March 2024 but no new members have yet been appointed¹²⁴. ANI is also responsible for the verification and publication of asset declarations. By 31 December 2023, over 11.9 million asset declarations were published¹²⁵. In December 2023, the law was changed so as to no longer allow certain public officials, such as police officers, to anonymise their declarations¹²⁶. Since January 2024, ANI no longer accepts declarations signed by hand, which reduces the risk of errors¹²⁷. The risk analysis platform to help with the verification of the disclosures is expected to become operational in 2024¹²⁸.

ANI performs the role of main external whistleblower channel and redirects whistleblower reports on corruption to other competent authorities. The law on whistleblowers' protection, which is part of the RRP, made ANI the main body responsible for external reporting. Throughout the reporting period, ANI received reports on violations of law, offered counselling and established and maintained relations with relevant stakeholders. ANI redirected the 13 reports on corruption it received in 2023 to the DNA and other competent authorities. While ANI is not competent to investigate cases of corruption, it provided these whistleblowers with aid in further proceedings, as well as counselling¹²⁹. From the legally required 15 integrity inspectors in the Whistleblowing Directorate, six inspectors were operational in February 2024 (two in March 2023¹³⁰) and no further competitions will be held in 2024¹³¹. ANI considers the budget increase of 2024 to be sufficient for its additional tasks on whistleblower reporting¹³². Actions to facilitate the application of the whistleblower protection legislation include raising awareness among the Romanian National Bar Association about whistleblowers' right to free legal aid in case of retaliation for their reporting, irrespective of their income¹³³.

There has been no progress yet to introduce rules on lobbying for Members of Parliament. The 2023 Rule of Law Report recommended to Romania to 'introduce, without

¹²⁴ In 2023, a member of NIC was investigated by ANI integrity inspectors and the member was revoked by the Romanian Senate. In September 2023, the former Member accused ANI and management of abuse of office in the media. Information received from ANI in the context of the country visit to Romania.

¹²⁵ Written input from Romania in the context of the 2024 Rule of Law Report, p. 25 (up from 10.8 million in 2022). Declarations are posted on ANI's website for the duration of the term of office and three years after its termination.

¹²⁶ The only exception to this new provision applies to offices for which there is no obligation to submit disclosures (e.g. spouse of the public official working in a private company). Information received from ANI in the context of the country visit to Romania.

¹²⁷ See the 2023 Rule of Law Report, Country Chapter on the rule of law situation in Romania, p. 18. This date was postponed from 2023 to 2024 in order to grant all stakeholders the opportunity to allow for electronic signature. However, and despite awareness-raising measures over the past years, there remain public institutions that do not foresee for electronic signature. ANI has therefore started offering this possibility free of charge. The deadline to submit declarations is in June each year.

¹²⁸ Information received from ANI in the context of the country visit to Romania. The project was supposed to be introduced at the end of 2023. See the 2023 Rule of Law Report, Country Chapter on the rule of law situation in Romania, p. 18.

¹²⁹ ANI received in total 587 reports in 2023, of which 280 were closed, 260 were redirected to other authorities and 47 are under evaluation. ANI provided counselling in a total of 241 cases. Information received from ANI in the context of the country visit to Romania.

¹³⁰ 2023 Rule of Law Report, Country Chapter on the rule of law situation in Romania, p. 19.

¹³¹ On 15 December 2023, a Government Emergency Ordinance suspended the organising of competitions for the entire 2024 year. Information received from ANI in the context of the country visit to Romania.

¹³² ANI asked in 2023 for additional funds to comply with its new obligations as whistleblowing channel, see 2023 Rule of Law Report, Country Chapter on the rule of law situation in Romania, p. 19.

¹³³ Information received from ANI in the context of the country visit to Romania.

further delay, rules on lobbying for Members of Parliament’, following a similar recommendation made in the 2022 Rule of Law Report¹³⁴. The Committee for European Affairs of the Senate conducted a survey that indicated that eight out of twelve Senate Committees considered that lobbying should be regulated¹³⁵. However, there are no plans to introduce such rules¹³⁶. The engagement of members of Parliament with lobbyists and other third parties seeking to influence the legislative process therefore remains unregulated, and there are also no clear rules on gifts, hospitality, favours and other benefits¹³⁷. As noted in the 2022 and 2023 Rule of Law Reports, important legislative reforms in Romania, such as the introduction of lobbying rules, need to receive clear high-level political support¹³⁸. The Minister of Justice sent a letter in October 2023 to the two chambers of Parliament asking them for an update on the implementation of the Recommendations of GRECO related to the Parliament that call for improving the overall transparency of the parliamentary process, including by adopting rules on lobbying¹³⁹. Whilst there have been some developments on the enforcement of the lobbying rules for Members of Government, this has not been the case for members of Parliament¹⁴⁰. Therefore, there has been no progress yet on the implementation of the recommendation made in the 2023 Rule of Law Report.

The adoption of legislation to improve the transparency of political party financing remains pending¹⁴¹. Legislation drafted by the Permanent Electoral Authority (PEA) was approved without changes by the Senate in September 2023 and presented to the Chamber of Deputies in October 2023, without any follow up so far¹⁴². The draft legislation aims to improve the transparency of political party financing and the enforcement of related rules. Some CSOs consider that the draft law should have provided for the reduction of the overall public funding budget (EUR 63 million in 2024, 1/3 more than in 2023) as it tends to favour bigger parties, and that the draft law should have limited the amounts that parties can use for campaigns. They also criticised that campaign contributions are only made public 30 days

¹³⁴ The 2023 Rule of Law Report, Country Chapter on the rule of law situation in Romania, p. 2 reported that there has been no progress yet to introduce rules on lobbying for Members of Parliament. See also 2022 Rule of Law Report, Country Chapter on the rule of law situation in Romania, p. 2. GRECO has made this recommendation already in 2015 in the context of the 4th evaluation round report.

¹³⁵ Input from Romania to the 2023 Rule of Law Report, p. 19.

¹³⁶ Information received from the Ministry of Justice in the context of the country visit to Romania.

¹³⁷ GRECO (2023) fourth evaluation round – third interim compliance report, p. 4.

¹³⁸ 2023 Rule of Law Report, Country Chapter on the rule of law situation in Romania, p. 19-20 and 2022 Rule of Law Report, Country Chapter on the rule of law situation in Romania, p. 13. According to the OECD, Romania should develop a strategy to increase support from top leadership in implementing the National Anti-Corruption Strategy. OECD (2023) Working Party of Senior Public Integrity Officials *Stocktaking of the Public Integrity System in Romania*, p. 11.

¹³⁹ Letter from the Minister of Justice to the President of the Romanian Senate; letter from the Minister of Justice to the Interim President of the Camera Deputaţilor, signed 30 October 2023 and GRECO (2016), fourth evaluation round, Romania evaluation report, p. 48-49.

¹⁴⁰ In June, the Government published for consultation a draft Code of Ethics for members of Government that would, amongst other things, require them to register meetings with lobbyists. Local level officials are not obliged to register an account of their meetings. See 2023 Rule of Law Report, Country Chapter on the rule of law situation in Romania, p. 19.

¹⁴¹ 2023 Rule of Law Report, Country Chapter on the rule of law situation in Romania, p. 20 and 2022 Rule of Law Report, Country Chapter on the rule of law situation in Romania, p. 20.

¹⁴² PL-x No. 516/2023 (cdep.ro) & The Chamber of Deputies is preparing to amend Law 334/2006 on political financing (comments on the draft law) | Expert Forum.

after the election campaign¹⁴³. In 2024, four rounds of elections are scheduled for local, parliamentary, presidential and European Parliament elections, and two took place already. There is no date foreseen for the adoption of the new legislation and the concerns raised in previous Rule of Law Reports therefore remain, including the lack of thorough auditing, investigation and enforcement of the rules and low penalties for non-compliance¹⁴⁴.

Public procurement remains a sector with a high risk of corruption, and as it is a high priority sector, steps are being taken to identify which areas and procedures are most prone to corruption in public procurement. The Flash Eurobarometer on businesses' attitudes towards corruption in the EU shows that 35% of companies in Romania (EU average 27%) think that corruption has prevented them from winning a public tender or a public procurement contract in practice in the last three years¹⁴⁵. Procurement remains a sector with a high risk of corruption¹⁴⁶. The number of integrity warnings issued by the electronic system to prevent conflicts of interests in public procurement continued to be stable over the last four years, while in October 2023, it identified a potential conflict of interest in a public procurement procedure of around EUR 1.4 billion¹⁴⁷. With the support of the EU's Technical Support Instrument, Romania aims to identify which areas and procedures of public procurement are most prone to corruption by the end of 2024¹⁴⁸. The NAS 2021-2025 also acknowledges that corruption an enabler for organised crime. The National Strategy against Organised Crime contains measures that aim to address this risk, such as identifying at an early-stage cases of corruption that are linked to organised crime¹⁴⁹. DIICOT reported that 13% of the analysed criminal groups in 2023 have used corruption to facilitate or cover up their crimes (compared to 11% in 2022 and 15% in 2021)¹⁵⁰.

III. MEDIA PLURALISM AND MEDIA FREEDOM

The right to freedom of expression as well as the right of access to any information of public interest is enshrined in the Constitution¹⁵¹. Access to information is regulated by the Law on free access to information of public interest¹⁵², which includes specific provisions¹⁵³ on access by the media to information of public interest¹⁵⁴. The provision of audiovisual media services is regulated by the Audiovisual Law¹⁵⁵, which transposes the Audiovisual Media

¹⁴³ Written input from Expert Forum in the context of the 2023 Rule of Law report questionnaire and Expert Forum (2023), Political party subsidies in 2023.

¹⁴⁴ Ibidem, p. 20.

¹⁴⁵ Flash Eurobarometer 543 on Businesses' attitudes towards corruption in the EU (2024). This is 8 percentage points above the EU average.

¹⁴⁶ Written input from Romania to the 2024 Rule of Law Report, p. 30-31.

¹⁴⁷ There were 21 integrity warnings in 2023, in comparison to 22 in 2022, 26 in 2021, and 20 in 2020. Written input from Romania for the 2024 Rule of Law Report, p. 27 and information received from ANI in the context of the country visit to Romania. See also the 2023 Rule of Law Report, Country Chapter on the rule of law situation in Romania, p. 21.

¹⁴⁸ Information received from the Ministry of Justice in the context of the country visit to Romania.

¹⁴⁹ Information received from the Ministry of Justice and Prosecutor General in the context of the country visit to Romania.

¹⁵⁰ DIICOT (2024) Annual Activity Report 2023, p. 23.

¹⁵¹ Constitution of Romania, arts. 30 and 31.

¹⁵² Law on free access to information of public interest 544 of 12 October 2001.

¹⁵³ Ibidem, section 2.

¹⁵⁴ Romania ranks 49th in the 2024 Reporters without Borders World Press Freedom Index compared to 53rd in the previous year.

¹⁵⁵ Audiovisual Law 504/2002 of 11 July 2022.

Services Directive (AVMSD)¹⁵⁶, and the Code governing audiovisual content¹⁵⁷. The media regulator (National Audiovisual Council) is the sole regulatory authority in the field of audiovisual media services. The mission and composition of the media regulator are set out in the Audiovisual Law. The organisation and functioning of the Romanian Broadcasting Society and the Romanian Television Society are regulated by Law 41/1994.

The functioning and effectiveness of the National Audiovisual Council (CNA) is expected to be improved with the update of its technology systems. The CNA is the guarantor of the public interest in the field of audiovisual communication and must ensure the respect of the pluralistic expression of ideas and opinions within the content of audiovisual media services¹⁵⁸. The Audiovisual Law provides¹⁵⁹ that the Council's activity is to be financed from the state budget. The CNA expects to have its technology systems updated by the end of 2024, which would help it with enforcement actions¹⁶⁰. The CNA is empowered to monitor the editorial content of the broadcasters and take measures in cases of infringements. In 2022 it imposed 63 injunctions and 52 fines for "breach of the provisions on ensuring correct information and pluralism"¹⁶¹. Stakeholders' views on the work of the CNA differ¹⁶². The work on secondary legislation that the CNA has been undertaking since 2022, is ongoing and the precise timetable is not yet available¹⁶³.

While information on the shareholding structure of companies holding audiovisual licenses is now public, it still appears difficult for the general public to know who ultimately owns media companies beyond the audiovisual sector. Issues regarding the transparency of media ownership referred to in the 2023 Rule of Law Report remain¹⁶⁴. The Constitution states that the law may impose an obligation on the media to disclose the source of funding¹⁶⁵. By law all legal persons holding an audiovisual license are obliged to make public some basic information about the outlet's status and ownership¹⁶⁶. The CNA has published information on the shareholding structure of companies holding audiovisual licenses¹⁶⁷, but there are still no media-specific transparency and concentration regulations beyond those aimed at audiovisual media. Thus, it still is difficult for the general public to know who ultimately owns media companies outside the audiovisual sector¹⁶⁸. The

¹⁵⁶ Directive (EU) 2018/1808 amending Directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) in view of changing market realities.

¹⁵⁷ Audiovisual content regulatory code of 24 February 2011.

¹⁵⁸ Audiovisual Law 504/2002, art. 10(3).

¹⁵⁹ Ibidem, art. 16.

¹⁶⁰ Information received in the context of the country visit to Romania from the CNA.

¹⁶¹ CNA (2023), Annual report, p. 118.

¹⁶² Active Watch thinks that the current system of penalties for ethical misconduct is not effective and does not bring about significant changes in the behaviour of news television, while the Romanian Press Club, that gathers owners and managers of media outlets, criticised the CNA, which is seen as 'increasingly censoring the press under the pretext of protecting citizens'. Active Watch (2023), *Breaking News Democracy*, p.5; Press Club (2023), *What to do with the CNA?*, 7 October 2023.

¹⁶³ Information received in the context of the country visit to Romania from CNA.

¹⁶⁴ 2023 Rule of Law Report, Country Chapter on the rule of law situation in Romania, p. 21.

¹⁶⁵ Constitution of Romania, art. 30(5).

¹⁶⁶ Audiovisual Law 504/2002, arts. 48 and 74.1.

¹⁶⁷ https://www.cna.ro/IMG/pdf/Structura_actionariatului_societatilor_detinatoare_de_licente_SITE.pdf.

¹⁶⁸ 2024 Media Pluralism Monitor, country report for Romania, p. 17: 'Completely full transparency is also hindered by the fact that media companies can be owned in part or in full by companies registered abroad whose ownership may or may not be fully known depending on regulations in the relevant country'.

audiovisual law includes provisions on pluralism for the television market but there are no concentration regulations for non-audiovisual media or cross-media ownership¹⁶⁹. According to the Media Pluralism Monitor, plurality of media providers is at high risk (85%)¹⁷⁰.

There has been no progress to enhance the independent governance and editorial independence of public service media. The 2023 Rule of Law Report recommended to Romania to ‘strengthen the rules and mechanisms to enhance the independent governance and editorial independence of public service media taking into account the European standards on public service media’¹⁷¹. A bill of June 2021 to reform the law on public broadcasting and radio companies¹⁷² is still under discussion in Parliament and no further mechanisms to ensure the independence of public service media have been adopted. The system for appointing and dismissing the Board of Directors of the public service broadcaster remains subject to political influence¹⁷³. According to a 2023 flash Eurobarometer, 43% of respondents in Romania select public TV and radio stations (including their online presence) as a news source they trust most¹⁷⁴. However, TVR1, the main channel of the public broadcaster, only attracted 1.4% share of viewing in 2023, down from 2.1% in 2022, which pales in comparison to that of private channels¹⁷⁵, the second most trusted source for respondents (38%)¹⁷⁶. The lack of adequate financial resources for the fulfilment of their public service mission is presented as a reason for the PSM having difficulties to provide relevant content¹⁷⁷. This is true in particular for TVR: 80% of the TVR budget serves to pay salaries and the remaining 20% is insufficient to purchase or produce competitive, informative content¹⁷⁸. This lack of funding appears to hamper the ability of the public TV to fulfil its public service mandate. The public radio, on its side, is among the top stations in the country¹⁷⁹. Overall, no progress has been made on the recommendation made in the 2023 Rule of Law Report.

Despite a strong legal framework and the application of penalties, some political parties are reported to have increased their financing of private media for political advertising. This financing, which has become a significant share of the overall TV advertising market in Romania, also affects online and local media¹⁸⁰. Journalists and CSOs

¹⁶⁹ 2024 Rule of Law Report, Country Chapter on the rule of law situation in Romania, p. 17.

¹⁷⁰ 2024 Media Pluralism Monitor, country report for Romania, p. 17.

¹⁷¹ The 2023 Rule of Law Report, Country Chapter on the rule of law situation in Romania, p. 3, reported that there had been no progress on strengthening the rules and mechanisms to enhance the independent governance and editorial independence of public service media taking into account the European standards on public service media.

¹⁷² Legislative proposal to amend Law no. 41/1994 of 17 June 1994, on the organisation and functioning of the Romanian Broadcasting Company and the Romanian Television Company, Pl-x. nr. 262/2021.

¹⁷³ 2022 and 2023 Rule of Law Reports, Country Chapter on the rule of law situation in Romania, p. 22.

¹⁷⁴ European Parliament, Flash Eurobarometer, Media & News Survey 2023, p. 44.

¹⁷⁵ [Paginademedia.ro](https://paginademedia.ro), AUDIENȚELE ANULUI 2023 după media pe zi. Cum s-a văzut competiția televiziunilor anul trecut. Consumul TV în continuare în scădere. Televiziunile de știri, pe minus. Posturile de filme au fost pe plus, 5 January 2024.

¹⁷⁶ European Parliament, Flash Eurobarometer, Media & News Survey 2023.

¹⁷⁷ Information received in the context of the country visit to Romania from TVR.

¹⁷⁸ Information received in the context of the country visit to Romania from TVR.

¹⁷⁹ Information received in the context of the country visit to Romania from TVR; 2024 Media Pluralism Monitor, country report for Romania, p.p. 7 & 22.

¹⁸⁰ Information received in the context of the country visit to Romania from journalists; Active Watch (2023), Political parties, money and the media - a toxic relationship, p 12. According to information received from

report that some political parties spent around 39.3 million lei (EUR 8 million) in 2022 on electoral audiovisual content presented to the audience as journalistic content and not as advertisement and that a similar or higher amount would have been spent in 2023, mainly through the websites of TV stations¹⁸¹. The audiovisual law prohibits the sponsoring of news and current affairs programmes¹⁸², while the audiovisual content regulation code prohibits advertising, positive or negative, in relation to political parties, politicians, political messages, except during election campaign periods¹⁸³. Although the CNA imposed 5 injunctions and 2 fines for non-compliance with these regulations¹⁸⁴, these penalties do not seem to be effectively dissuasive¹⁸⁵. The law on the financing of political parties' activity and electoral campaigns sets the principle of transparency of revenue and expenditure and provides that expenses related to electoral campaigns should be notified to the Permanent Electoral Authority¹⁸⁶. Stakeholders report that some political parties involved in this financing invoke the confidentiality clauses of the commercial contracts they conclude with intermediary companies or directly with media companies so as not to disclose why they direct money to these media¹⁸⁷. According to stakeholders, the bill¹⁸⁸ to reform the law on the financing of political parties pending in Parliament would still not solve the lack of transparency on how political parties direct money to the media¹⁸⁹.

There have been no significant improvements to the legal framework on access to information. A bill¹⁹⁰ intended to update the freedom of information act¹⁹¹ is still pending approval. Stakeholders express concerns that the current law is not efficiently enforced, and that the protection of personal data is often used as a blanket reason to refuse access to documents. Some political parties have refused to comply with courts' decisions to provide data¹⁹².

Freedom House in the context of the country visit to Romania, up to 90% of local media would be receiving money from public authorities and very few media outlets at local level would publish articles critical of the public sector; MFRR (2022), Romania: the interference of parties in the media; 2024 Media Pluralism Monitor, country report for Romania, p. 25.

¹⁸¹ Information received in the context of the country visit to Romania from journalists and Expert forum, Freedom House, Funky Citizens; Libertatea (2023), INVESTIGAȚIE Un milion de euro din bani publici de la PNL pentru site-ul Digi24. Articolele nu au fost marcate cu semnul P-publicitate, dar au fost trimise pentru plată la partid cu semnul P-publicitate, dar au fost trimise pentru plată la partid, 12 December 2023; Mapping Media Freedom (2023), PSD refuses to provide Libertatea information related to media spending and contracts with press, 1 October 2023; 2024 Media Pluralism Monitor, country report for Romania, p.p. 11, 12 & 22.

¹⁸² Audiovisual Law 504/2002, art. 34(4).

¹⁸³ Audiovisual content regulatory code of 24 February 2011, art. 139.

¹⁸⁴ CNA (2023), Annual report, page 120.

¹⁸⁵ Active Watch (2023), Political parties, money and the media - a toxic relationship, p 8.

¹⁸⁶ Law on the financing of political parties' activity and electoral campaigns 334/2006, arts. 1 and 28.

¹⁸⁷ Mapping Media Freedom: 'PSD refuses to provide Libertatea information related to media spending and contracts with press', 1 October 2023.

¹⁸⁸ Legislative proposal for amending and supplementing Law no. 334/2006 on financing the activity of political parties and electoral campaigns, L313/2023.

¹⁸⁹ Active Watch (2023), 'Political parties, money and the media - a toxic relationship', p. 5.

¹⁹⁰ Draft Law for the transparency of information of public interest and the ease of access for citizens by amending and supplementing Law no. 544/2001 on free access to information of public interest, PL-x 529/2020.

¹⁹¹ Law on free access to information of public interest 544, of 12 October 2001.

¹⁹² Information received in the context of the country visit to Romania from journalists. Contribution from the Association Center for Public Innovation for the 2024 Rule of Law Report, page 19; Active Watch (2023),

Threats and instances of harassment against journalists remain an issue and commercial and political pressure on editorial independence affects journalists' work.

The Council of Europe's Platform to Promote the Protection of Journalism and Safety of Journalists registers 13 active alerts in total¹⁹³. Romania has replied to 12 alerts, and there has been progress in two of them. Journalists report that strategic lawsuits against public participation (SLAPPs) remains an issue, although the data is scarce¹⁹⁴. Commercial pressure from media owners and advertisers also affects journalists' work¹⁹⁵. In a case involving two mainstream media outlets¹⁹⁶, almost 100 journalists confirmed this type of editorial pressure¹⁹⁷. CNA issued a press release expressing its concern about the situation reported by the journalists "*on whom the employers exercised pressure to eliminate the separation between commercial and editorial*"¹⁹⁸. The case has been highlighted by both national and international journalists' associations¹⁹⁹. Similar issues arguably affect the local level, where journalists are afraid of losing their jobs if they do not follow media owners' directions²⁰⁰. In the smear campaign against an investigative journalist, referred to in the 2023 Rule of Law Report²⁰¹, the Prosecutor's Office closed the investigation in November 2023, arguing that 'the offences' – including the publication of stolen private photos and the presumed disclosure of evidence held by the police – 'were not provided for by the criminal law'²⁰². International press organisations criticised this decision²⁰³, which the journalist has

Political parties, money and the media - a toxic relationship, p 8. 2024 Media Pluralism Monitor, country report for Romania, p. 14.

¹⁹³ Council of Europe, Platform to promote the protection of journalism and safety of journalists, Romania.

¹⁹⁴ Center for the Independent Journalism Romania (2023), Case study – SLAPP in Romania.

¹⁹⁵ 2024 Media Pluralism Monitor, country report for Romania, p. 28: 'Commercial and political pressures, combined with relatively limited regulation, leave journalists and journalistic norms vulnerable to the whims of owners, clients and other factors'.

¹⁹⁶ In 2023, the owner of two mainstream media outlets' Gazeta Sporturilor and Libertatea, asked the editor-in-chief to provide advance copies of articles concerning advertisers that buy advertisement space from these publications. The editor in chief and the editorial coordinator eventually were asked to leave the company, which dismissed accusations of editorial interference and argued differing views on the strategic direction of the paper. GSP.RO (2023), Gazeta Sporturilor announces leadership transition as the Editor-in-Chief Cătălin Tepelin departs, 3 October 2023; Mapping Media Freedom (2023), Editor-in-chief of Gazeta Sporturilor forced by Ringier management to resign after opposing pressure on editorial independence, 2 October 2023; 2024 Media Pluralism Monitor, country report for Romania, pp. 10 & 19.

¹⁹⁷ Libertatea (2023), 'GSP și Libertatea informează publicul: după ce am refuzat cererile unor manageri din conducerea Ringier de a arăta în avans articolele despre firmele de jocuri de noroc care sunt clienți de publicitate, Ringier a cerut luni, 2 octombrie, plecarea redactorului-șef al GSP, Cătălin Țepelin. Ne opunem', 3 October 2023.

¹⁹⁸ CNA (2023), Press release, 4 October 2023.

¹⁹⁹ MediaSind (2023), The International Federation of Journalists condemns the editorial interventions of the RINGIER Media Group, 5 October 2023; PaginadeMedia (2023), 'How Romania's biggest sports newspaper killed betting'. 'What the Swiss wouldn't do for money' - GSP-Ringier case, in newspapers around the world, 17 November 2023; International Federation of Journalists IFJ (2023), Romania: IFJ condemns editorial interference by Ringier Media Group, 5 October 2023; Center for Independent Journalism CJI (2023), Ringier management infringes editorial independence of GSP and Libertatea, 4 October 2023.

²⁰⁰ Information received in the context of the country visit to Romania from journalists; 2024 Media Pluralism Monitor, country report for Romania, p.p. 10 & 19.

²⁰¹ Case of Emilia Sercan, 2023 Rule of Law Report, Country Chapter on the rule of law situation in Romania, p. 24.

²⁰² Mapping Media Freedom (2023), Journalist Emilia Sercan victim of smearing campaign after investigating PM's plagiarism, 4 April 2022; 2024 Media Pluralism Monitor, country report for Romania, p. 14.

²⁰³ International Press Institute IPI (2023), Romania: Dismay at abrupt closure of investigation into smear campaign against journalist, 7 November 2023.

appealed against²⁰⁴.

IV. OTHER INSTITUTIONAL ISSUES RELATED TO CHECKS AND BALANCES

Romania is a semi-presidential representative democratic republic. The Romanian Parliament is bicameral, comprising the Senate (the upper house), and the Chamber of Deputies (the lower house). The Government, Deputies, Senators, or a group of no less than 100.000 citizens have the right of legislative initiative²⁰⁵. The Constitutional Court is competent to review the constitutionality of laws and to settle conflicts of constitutional nature between public authorities²⁰⁶. Romania does not yet have an accredited National Human Rights Institution that complies with the UN Paris Principles. The National Council for Combating Discrimination is the equality body.

With persisting shortcomings in the consultation process, there has been no further progress in ensuring effective public consultations. The 2023 Rule of Law Report recommended to Romania to '[s]tep up efforts to ensure effective public consultations before the adoption of legislation'. The General Secretariat of the Government coordinates²⁰⁷ the publication and updating of information on the decision-making transparency portal²⁰⁸, launched in March 2019. This portal serves as a catalogue of draft legislative acts in public consultation at central public administration level²⁰⁹. It aims to promote the participation of citizens and civil society in the decision-making process²¹⁰. However, there are a number of shortcomings, notably due to the late publication of drafts submitted for public consultation²¹¹, and many CSOs also reported on being excluded from consultation processes

²⁰⁴ The High Court of Cassation and Justice has asked the Prosecutor General to reopen the investigation.

²⁰⁵ Art. 74, Constitution of Romania. The citizens who exercise their right to a legislative initiative must belong to at least one quarter of the country's counties, while, in each of those counties or the Municipality of Bucharest, at least 5 000 signatures should be registered in support of such initiative.

²⁰⁶ Constitution of Romania, Art. 146.

²⁰⁷ In accordance with Government Decision No 137/2020, as subsequently amended and supplemented, notably by provisions of Article III of Government Decision No 830/2022 amending and supplementing the Implementing Rules for Law No 544/2001 on free access to information of public interest, approved by Government Decision No 123/2002 and Article 12 of the Methodological Rules for the application of Law No 52/2003 on the transparency of decision-making in the public administration, approved by Government Decision No 831/2022, according to which the General Secretariat of the Government will develop the functionalities of the E- Consultation platform and shall approve, by order of the Secretary-General of the Government, the methodology for its use, within 18 months of the entry into force of the aforementioned decisions.

²⁰⁸ <http://www.e-consultare.gov.ro/>.

²⁰⁹ Statistical information of 10 January 2023: total number of draft legislative acts uploaded: 7 409; total number of uploaded draft legislative acts for which public debates were held: 72; total number of suggestions/recommendations submitted through the platform: 1 041; total number of subscribers: 565; total number of newsletters sent to subscribers: 184.

²¹⁰ The extension of the functionalities of this website also corresponds to Component 14 on Good Governance, Milestone 407 of the Romanian RRP: 'The process of public consultation and stakeholder involvement [should be] improved with a 20 % increase in the number of draft legislative acts subject to public consultation and stakeholder involvement at central level'.

²¹¹ As mentioned in the Report on the operationalisation of the e-Consultation Platform, in the period January 2023 – January 2024, which can be downloaded on the website. Other shortcomings mentioned are: no date of publication of draft legislative acts, non-standard publication of notices and debates. The OECD(2023) Civil Space Review of Romania, p. 22, sees as a main challenge the need to improve the current legal framework and strengthen use of the e-consultation platform.

or involved only at a too late stage²¹². Normally the minimum timeframe for a public consultation should be 10 days²¹³, but it is often less²¹⁴. Some stakeholders maintained that their input was rarely taken into account²¹⁵, often not published and reasons for rejection not disclosed²¹⁶. It also seems that public access to the works of the parliamentary commissions and plenary sessions is difficult to obtain²¹⁷. The use of *ex ante* regulatory impact assessments continues to be below the EU average²¹⁸. Therefore, no further progress has been made on the implementation of the recommendation made in the 2023 Rule of Law Report.

Considerable efforts are being made to increase the quality and transparency of the decision-making process but the use of government emergency ordinances, albeit decreasing, remains frequent. Since November 2023, the Legislative Council has been publishing consolidated legislation on its website²¹⁹. It also intends to develop a software application, which would facilitate the drafting of laws in compliance with the rules of legislative technique, as provided for by Law No. 24/2000²²⁰. The Government is still making frequent use of emergency ordinances (GEOs)²²¹, though their number is decreasing²²². This is a source of concern, including for companies²²³, in particular when GEOs are used for

²¹² OECD (2023) Civil Space Review of Romania, p. 25. CSOs perceive consultations as box-ticking exercises where they are not given sufficient time to review draft policies or laws and where their recommendations are rarely taken into account, with little or no explanations as to why.

²¹³ Art. 7 of Law No 52/2003 on transparency in decision making. Even when this timeframe is respected for the consultation, it is not always considered by CSOs as sufficient in case of complex proposals. Contribution from ENNRHI for the 2024 Rule of Law Report, p. 426. The contribution cites a report from APADOR-CH from October 2023 denouncing a 10-day-consultation opened about three draft laws, with the acknowledged aim to protect fundamental rights among other things, and amending seven laws and ordinances. See also GRECO Fifth Evaluation Round – Evaluation Report, assessment p. 25.

²¹⁴ Information received in the context of the country visit to Romania from the Romanian Institute for Human Rights.

²¹⁵ Information received in the context of the country visit to Romania from CSOs (Expert Forum, Funky Citizens, Freedom House and the Foundation for the Development of civil society).

²¹⁶ GRECO Fifth Evaluation Round – Evaluation Report, recommendation ix, p. 67 and assessment p. 25. Contribution from ENNRHI for the 2024 Rule of Law Report, p. 427. The contribution cites a petition addressed by the National Council of Disability in Romania to the Ministry of Labour, noting a lack of responsiveness on the part of the public authorities as regards the steps to be taken to respect the rights of people with disabilities.

²¹⁷ Contribution of ILGA-Europe for the 2024 Rule of Law Report, p. 19.

²¹⁸ European Commission (2024), 2024 European Semester, Country reports: Romania, p. 67.

²¹⁹ Website of the Legislative Council, Press release of 9 November 2023, <http://www.clr.ro/media/comunicate-de-presa/>.

²²⁰ Written input of Romania to the 2024 Rule of Law Report.

²²¹ According to the Legislative Council, as in previous years, the use of GEOs for instance allowed for the transposition of EU directives (in case of imminent infringement procedure), the adoption of fiscal-budgetary measures and measures taken in the context of Russia's war of aggression against Ukraine. Written input of Romania to the 2024 Rule of Law Report.

²²² 131 GEOs out of 522 normative acts were adopted in 2023, as compared to 192 out of 621 in 2022 and 145 out of 1685 in 2021. Input from Romania for the 2023 Rule of Law Report, pp. 38-39 and for the 2024 Rule of Law report, pp. 48 and 49. One Government Emergency Ordinance can amend the provisions of several laws.

²²³ Information received in the context of the country visit to Romania by the Romanian Foreign Investment Council. In Romania, 35% of the surveyed companies perceive the quality of law-making and the frequent changes in legislation as a reason for the lack of confidence in the investment protection in Romania. Figure 56, 2024 EU Justice Scoreboard.

politically sensitive topics²²⁴ and important reforms²²⁵. The 2023 Rule of Law Report noted that the extensive use of GEOs raises concerns, notably due to the derogatory rules on shortened public consultations, limited constitutional review and delayed approval by Parliament following their entry into force²²⁶. In addition, when a GEO is to be adopted by the government, the Legislative Council has only 24 hours to issue its advisory opinion, to ensure its quality²²⁷. The GRECO shares these concerns and in 2023, made recommendations to address the situation²²⁸. As required by the recovery and resilience plan, a new methodology for the use of GEOs was adopted in September 2022 with the aim of fostering good practices in their elaboration, substantiation and consistent use²²⁹. The new methodology's impact has so far not been evaluated and it is therefore difficult to determine the extent to which it has improved the effectiveness of the consultation process²³⁰. The

²²⁴ See e.g., GEO No. 21/2024, which pertains to certain measures for the organisation and conduct of elections for members from Romania to the European Parliament in 2024 and for local public administration authorities in 2024; it gave rise to debates, since emergency ordinances should not be used to amend rules of the elections, in particular a few months before the elections taking place. See also GEO No. 34/2023 of 15 May 2023 suspending the filling by competition or examination of vacant positions in public institutions or authorities until 31 December 2023, which was prolonged until the end of 2024 (see para. on quality of justice); GEO No 115/2023 of December 2023, which restricts CSO's ability to receive sponsorship (see paragraph on CSOs).

²²⁵ GEOs have been adopted for key investments and major reforms related to the six main pillars established by the Recovery and Resilience Plan (RRP). While the authorities explained that these measures were needed for a swift implementation of the RRP, some stakeholders regretted that it did not allow for public debate in relation to these investments and reforms. See written input of Romania to the 2024 Rule of Law Report. See also contribution from the Center for Public Innovation for the 2024 Rule of Law Report, mentioning the *amicus curiae* position it sent with 2 other CSOs to the Constitutional Court. This document reports about the adoption without consultation of 16 emergency ordinances related to the Recovery and Resilience Facility and concludes that the legislation related to how the RRF funds are spent was adopted without proper consultation. See concurring information received in the context of the country visit to Romania from Funky Citizens.

²²⁶ 2023 Rule of Law Report, Country Chapter on the rule of law situation in Romania, p.25. See also OECD (2023), Civic Space Review of Romania, p.21. A Government Emergency Ordinance of March 2022 expanded the exception to the general procedures on transparency to 'emergency situations'. CSOs warned that this allowed the government to classify many draft legislations as urgent and thus avoid the public consultation process. The Ombudsperson challenged the Government Emergency Ordinance before the Constitutional Court. In July 2024, no progress had been made on the case. In September 2023, three civil society organisations sent an *amicus curiae* position to the Constitutional Court, urging it to debate and rule on the exception raised by the Ombudsperson. Written contribution from the Romanian Institute for Human Rights (RIHR) in the context of the country visit to Romania; contribution from FRANET to the Fundamental Rights Report 2024 – Romania, p. 19. The RIHR is of the opinion that the Constitutional Court refuses to discuss this issue.

²²⁷ Input from the Legislative Council during the country visit.

²²⁸ GRECO Fifth Evaluation Round – Evaluation Report, recommendation viii, p. 67 and assessment p. 23.

²²⁹ Milestone 411 of Romania's RRP, part of the 3rd payment request which is currently under assessment, requires the 'entry into force of the Methodology for the use of Emergency Ordinances', intended to 'specify the circumstances under which these ordinances may be used and how their impact shall be assessed (ex post, ex ante) as well as the associated procedures for their preparation and approval and the role of Government Secretariat General and Ministry of Justice for ensuring gatekeeping and overall quality control'. See Annex to Council Implementing Decision 15833/23 amending the Council Implementing Decision 12319/21, pp. 508-509. The methodology, adopted through Government Decision 1173/2022, is not creating new rules, but consolidating all the applicable rules deriving from the Constitution, legislation and other relevant regulatory acts, and describing the procedures for their initiation and adoption.

²³⁰ See FRANET contribution to the 2024 Fundamental Rights Report, p. 16.

drafting of a new Administrative Procedure code is underway, which will include provisions on transparency in decision-making²³¹.

On 1 January 2024, Romania had 115 leading judgments of the European Court of Human Rights pending implementation, an increase of two compared to the previous year²³². At that time, Romania's rate of leading judgments from the past ten years that remained pending was at 59% (compared to 60% in 2023), and the average time that the judgments had been pending implementation was over 5 years and 5 months (compared to over 4 years and 8 months in 2023)²³³. The oldest leading judgment, pending implementation for 18 years, concerns the right to protection of property due expropriations and nationalisations²³⁴. As regards the respect of payment deadlines, on 31 December 2023 there were 176 cases in total awaiting confirmation of payments (compared to 215 in 2022)²³⁵. On 1 July 2024, the number of leading judgments pending implementation had increased to 116²³⁶. Measures have been taken to reduce the high number of judgments of the European Court of Human Rights pending implementation. In 2023, 121 cases have been closed²³⁷. This is the highest number of closures since 2016. Information on the implementation of other cases has been sent to the Council of Europe²³⁸. In April 2023, a specific office was set up in the Secretariat General of the Government (SGG), the Office for the Execution and Monitoring of ECHR judgments²³⁹, to deal in particular with judgments on the non-application or delayed application of national court decisions²⁴⁰. A significant number of non-

²³¹ Contribution from ENNRHI for the 2024 Rule of Law Report, p. 428. At the end of 2023, the preamble of the Code was adopted by Government Decision No 946/2003, which provides at point IV.h. that 'the Code must guarantee respect for the fundamental rights of citizens, in particular the right to participate in decision-making and the right to information'.

²³² The adoption of necessary execution measures for a judgment by the European Court of Human Rights is supervised by the Committee of Ministers of the Council of Europe. It is the Committee's practice to group cases against a State requiring similar execution measures, particularly general measures, and examine them jointly. The first case in the group is designated as the leading case as regards the supervision of the general measures and repetitive cases within the group can be closed when it is assessed that all possible individual measures needed to provide redress to the applicant have been taken.

²³³ All figures are calculated by the European Implementation Network and are based on the number of cases that are considered pending at the annual cut-off date of 1 January 2024. See the Contribution from the European Implementation Network for the 2024 Rule of Law Report, p. 7.

²³⁴ Judgment of the European Court of Human Rights of 21 July 2005, *Strain and Others v. Romania*, 57001/00, pending implementation since 2005.

²³⁵ Council of Europe (2024), Supervision of the execution of judgments decisions of the European Court of Human Rights – 17th Annual Report of the Committee of Ministers – 2023, p. 138.

²³⁶ Data according to the online database of the Council of Europe (HUDOC).

²³⁷ Council of Europe (2024), Supervision of the execution of judgments and decisions of the European Court of Human Rights in 2023, p. 104. The closure of the supervision of the enforcement of several ECHR judgments in leading cases was obtained, notably the judgment of 5 May 2020 in *Kövesi* (3594/19) and the judgment of 20 October 2020 in *Camelia Bogdan* (36889/18).

²³⁸ Written input from Romania to the 2024 Rule of Law Report and the Council of Europe.

²³⁹ Competitions were held to fill the post of Head of Office and a post of Legal Adviser.

²⁴⁰ Work started in particular on the *Săcăleanu* group of judgments (Judgment of the European Court of Human Rights of 5 September 2005 in case 73970/01, which is about longstanding structural disfunctions related to the non-implementation or delayed implementation of national final court decisions by the State or legal persons under the responsibility of the State). However, with Government Decision No. 1303/2023 of 22 December 2023, this office has been removed from the SGG organisational chart, while the SGG has kept this attribution. The provision in Government Decision No. 137/2020 establishing that the SGG monitors the execution of ECtHR judgments finding violations of the European Convention on Human Rights as result of the non-implementation of judgments against public debtors in Romania has not been abolished. See also

executed judgments concern human rights violations of persons admitted into mental health care institutions, in particular because they are forcibly detained, or because they are receiving treatments against their will²⁴¹. In this respect, an Action Plan was adopted by the Government on 16 May 2024²⁴².

There has been some progress on obtaining accreditation for a National Human Rights Institution. The 2023 Rule of Law Report recommended to Romania to ‘[s]tep up efforts to obtain the accreditation of a National Human Rights Institution taking into account the UN Paris Principles’²⁴³. The Romanian Institute for Human Rights (RIHR) concluded a collaboration agreement with the Ombudsman in accordance with Article 6.3(i) of the Rules of Procedure for the GANHRI Sub-Committee on Accreditation²⁴⁴, in order to allow for the assessment of the accreditation of both institutions. The GANHRI sub-committee on accreditation had provisionally placed the consideration of the accreditation of both the RIHR and the Ombudsman on its schedule for the second session of 2024²⁴⁵. The sub-committee however informed the two institutions that they will be invited to submit their application for accreditation only when all the requirements of Article 6.3 of the Rules of Procedure for the GANHRI Sub-Committee on Accreditation are met²⁴⁶. Recently, the Government has formally expressed its consent to support the accreditation of the two national human rights institutions: RIHR and Ombudsman. The UN Committee on Economic, Social and Cultural Rights²⁴⁷ and some stakeholders consider that further legislation would be needed for the two

FRANET National contribution to the Fundamental Rights Report 2024. – Romania, and contribution from the Centre for Public Innovation to the 2024 Rule of Law Report, p. 21.

²⁴¹ H/Exec(2023)5 - Memorandum - Parascineti (Application No. 32060/05), Cristian Teodorescu group (Application No. 22883/05) and N. group (Application No. 59152/08) v. Romania. In view of the gravity of the situation in certain institutions, a working group was set up in Bucharest, which will make proposals to be endorsed by the government. These proposals might have huge financial implications. Consultations are also ongoing between Romanian authorities and the Council of Europe: Visit to Romania: Consultations on the execution of judgments concerning rights of people with mental health conditions or disabilities - Department for the Execution of Judgments of the European Court of Human Rights (coe.int).

²⁴² DH-DD(2024)635, Action Plan (04/06/2024) Communication from Romania concerning the cases of CRISTIAN TEODORESCU v. Romania (Application No. 22883/05), PARASCINETI v. Romania (Application No. 32060/05), R.D. and I.M.D. v. Romania (Application No. 35402/14), ATUDOREI v. Romania (Application No. 50131/08), N. v. Romania (Application No. 59152/08), TICU v. Romania (Application No. 24575/10), CENTRE FOR LEGAL RESOURCES ON BEHALF OF VALENTIN CAMPEANU (Application No. 47848/08), N. (No 2) (Application No. 38048/18).

²⁴³ After the 2022 Rule of Law Report had recommended to Romania to continue efforts to establish a National Human Rights Institution taking into account the UN Paris Principles, the 2023 Rule of Law Report had concluded that there has been no further progress on obtaining accreditation for the National Human Rights Institution. 2023 Rule of Law Report, Country Chapter on the rule of law situation in Romania, p. 27.

²⁴⁴ Input from Romania to the 2024 Rule of Law Report, p. 46. Article 6.3 is about applications by more than one NHRI in a UN Member State. Written contribution from RIHR in the context of the country visit to Romania.

²⁴⁵ Contribution from ENNRHI for the 2024 Rule of Law Report, p. 423 and information received in the context of the country visit to Romania from the Ombudsman. Both the RIHR and the Ombudsman have a general mandate in the field of human rights, but they have different competences. The RIHR is an associate member of ENNRHI, which is not the case of the Ombudsman.

²⁴⁶ A written consent from the Government was still missing in this regard. Written contribution from RIHR in the context of the country visit to Romania.

²⁴⁷ In its Concluding observations on the sixth periodic report of Romania, at its 29th meeting, held on 1 March 2024, the Committee recommended that [Romania] adopts legislative measures, particularly in relation to Law No. 9/1991 on the Establishment and Functioning of the Romanian Institute for Human Rights, to bring the Romanian Institute for Human Rights into full compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), including by

institutions to fulfil the accreditation criteria²⁴⁸. The European Network of National Human Rights Institutions (ENNHRI) expressed concerns, in a letter addressed to the Romanian authorities, about the “reported lack of an enabling environment for the operation of the RIHR and recommends to the Romanian authorities to take urgent action to address the situation”²⁴⁹. ENNHRI is particularly concerned about the financial conditions faced by the RIHR due to the lack of adequate State funding, leading to a vacancy rate of 60%, which affects expert-level staff²⁵⁰. The ENNHRI is also concerned about the inadequacy of the RIHR’s legal framework, which it considers negatively impacting on its functioning and efforts to comply with the UN Paris Principles²⁵¹. Overall, there has been some progress on the implementation of the recommendation made in the 2023 Rule of Law Report.

Draft legislation and an upcoming new strategy could contribute to improving the situation of civil society organisations, which continue to face legal and financial challenges. The civil society space continues to be assessed as narrowed²⁵². Romania is taking steps to develop the country’s first national open government strategy, which is expected to be adopted by the Government before mid-2026²⁵³. A draft law amending Government Order No. 26/2000 on associations and foundations²⁵⁴, developed in consultation with CSOs²⁵⁵, was approved by the Senate in December 2023 and is now examined by the Chamber of Deputies. It simplifies the functioning of associations and foundations, notably with increased digitalised and less bureaucratic procedures²⁵⁶. The current situation is considered as insufficient by some CSOs²⁵⁷, which view the lack of sustainable funding as

further strengthening its independence and by providing it with adequate financial and human resources to effectively and independently carry out its mandate.

²⁴⁸ Contribution from the Centre for Public Innovation to the 2024 Rule of Law Report, p. 20; FRANET contribution to the 2024 Fundamental Rights Report, p. 23.

²⁴⁹ Letter received with a written contribution from the Romanian Institute for Human Rights in the context of the country visit to Romania.

²⁵⁰ For example, the RIHR was not given enough funding when being assigned a role in the implementation of Recommendation (EU) 2022/758 in relation to strategic lawsuits against public participation (SLAPP). *Ibidem* and Contribution from ENNHRI for the 2024 Rule of Law Report, p. 425.

²⁵¹ *Ibidem*. The Paris principles require NHRIs to be independent in law, membership, operations, policy and control of resources; to have a broad mandate; pluralism in membership; broad functions; adequate powers; adequate resources; cooperative methods; and engage with international bodies.

²⁵² Rating by CIVICUS: ratings are open, narrowed, obstructed, repressed and closed.

²⁵³ Romania’s National Recovery and Resilience Plan includes a target to adopt the country’s first national open government strategy (Romania, National Recovery and Resilience Plan, Section 14 – ‘Good governance’, target 407). This target, due by Q2 2026 and part of the 8th payment request, is correlated with Romania’s objective to join the Organization for Economic Development and Cooperation (OECD), which requires improving the civic space wellbeing to meet OECD’s standards.

²⁵⁴ Registered at the Chamber of Deputies under reference 763/11.12.2023. Possible update.

²⁵⁵ FRANET contribution to the 2024 Fundamental Rights Report, p.27.

²⁵⁶ Following a consultation process organised on the draft legislation in spring 2023, involving more than 200 CSOs, improvements were made to the draft legislation, including: streamlining the procedure for changing the headquarters of CSOs, unification of the public registries of CSOs under the National Register of Non-Profit Legal Entities held by the Ministry of Justice. Contribution from the Committee to Protect Journalists for the 2024 Rule of Law Report, p. 19. The digitalisation of the national registry of associations and foundations was particularly welcome. FRANET National contribution to the Fundamental Rights Report 2024 – Romania, p. 28.

²⁵⁷ There seem to be no uniform interpretation of the procedures to register CSOs; any changes to the statute, including with regard to board members and office, must be approved ex-post following judiciary proceedings to take effect. Contribution from the *Jeunes Européens France* – Europe for the 2024 Rule of Law Report, p. 19. In addition, clarifications would be needed on the typologies of legal persons covered by

well as lengthy and burdensome registration proceedings among their top concerns²⁵⁸. In addition, recent fiscal legislation²⁵⁹ restricts CSO's ability to receive sponsorship since now they can only receive sponsorship that corresponds to up to 3,5% of the tax that individual donors pay on income derived from wages and salaries. CSOs can no longer receive sponsorship from self-employed persons or independent professionals²⁶⁰. These taxpayers could, before the change in law, decide to affect part of their taxes to associations and foundations, but that possibility is now limited²⁶¹. Private persons and companies are the main funding sources for CSOs²⁶². The law was adopted despite the important protests it generated. CSOs are advocating for a draft law that would prevent the dissolution of an association or foundation as a result of a public interest litigation²⁶³. At the same time, a legislative proposal from December 2023, adopted by both chambers in 2024, removes the possibility for the judge to decrease the costs to be paid by one party to the other (i.e. the lawyers' fees)²⁶⁴. In general, several CSOs reported that they feel discouraged to launch proceedings in court, in particular against the national administration²⁶⁵. This includes access

the law, the public utility status, the economic activities of NGOs and the publicity, accessibility, and range of information available to the third parties in the National Register. Contribution of the Foundation for the Development of Civil Society to the 2024 Rule of Law Report, p. 20.

²⁵⁸ OECD (2023), Civic Space Review of Romania, p. 21 and p. 149: registration procedures take between one and three months, which is a long time compared to most other Member States of the EU and of the OECD.

²⁵⁹ Government Emergency Ordinance No 115/2023 of December 2023: the self-employed persons, the independent professionals and the microenterprises (companies with a turnover up to EUR 60 000 that are taxed 1% on the revenues or up to EUR 500 000 that are taxed with 3% on the revenues instead of on their profit) can no longer make sponsorships. In addition, the Ordinance introduced the obligations for CSOs that receive money through sponsorship and other similar mechanisms to conduct a compulsory procedure that would generate a new declaration submitted along the annual financial statements.

²⁶⁰ Contribution from ENNRHI for the 2024 Rule of Law Report, p. 430.

²⁶¹ Information received in the context of the country visit to Romania from the Romanian Institute for Human Rights; written contributions from CSOs for the 2024 Rule of Law Report

²⁶² Followed by EU and International foundations. World Bank (2020), mentioned in OECD (2023), Civic Space Review of Romania, p. 21. Government funding contributes to 18% to financial needs of CSOs (p. 153). Access to public funding seems to be discretionary, based on the political support an organisation has. Contribution of the *Jeunes Européens France* – Europe for the 2024 Rule of Law Report, p. 20.

²⁶³ In 2023, CSOs lost cases against real estate developers in court and had to pay high court costs, moral damages and even unrealised profits, which are not affordable for CSOs defending the public interest. These costs brought them to dissolution in one case, while dissolution in another case was avoided thanks to private donations. To find a solution to this kind of cases, a meeting was organised between CSOs and the Prime Minister office but without concrete results. Written information from FDSC in the context of the country visit to Romania, <https://www.stareademocratiei.ro/2024/02/23/mai-multe-ong-uri-solicita-o-intalnire-cu-premierul-pe-tema-ruletei-rusesti-din-justitie/>. See letter to the Prime Minister on this platform, signed by 13 CSOs. See also complaint from Bankwatch Romania to the UN Special Rapporteur on Environmental Defenders, claiming persecution, penalisation and harassment acts against them in connection with the exercise of their rights under the Aarhus Convention. In its letter to Romanian authorities, the UN Special Rapporteur on Environmental Defenders expresses his 'grave concerns about the (...) sequence of events [presented by the CSO] which appears to amount to an ongoing, serious campaign of harassment and intimidation specifically targeting Bankwatch Romania and its staff members because of the exercise of their rights under the Aarhus Convention'.

²⁶⁴ The law, if enacted, will also place the burden of proof of the disproportionate payment against the value or complexity of that specific case or against the activity performed by the lawyer to the miscontent party. That might require specialised legal assistance that CSOs might not be able to afford and impact their ability/ will to further initiate public interest legal procedures. Written contribution from FDSC in the context of the country visit to Romania. The draft law, initiated by the Parliament was adopted and it is now under *ex-ante* constitutional control.

²⁶⁵ Information received in the context of the country visit to Romania by CSOs (Expert Forum, Funky Citizens, Freedom House and the Foundation for the Development of civil society).

to information cases pertaining, for example, to the financing of political parties and to the use of public funding²⁶⁶.

²⁶⁶ Contribution from ENNRHI for the 2024 Rule of Law Report, p. 428. 2 cases initiated in 2021 on public funding received by political parties in electoral year 2020: no final court decisions in January 2024, another electoral year. On access to information, see pillar 3.

Annex I: List of sources in alphabetical order*

* The list of contributions received in the context of the consultation for the 2024 Rule of Law report can be found at https://commission.europa.eu/publications/2024-rule-law-report-targeted-stakeholder-consultation_en.

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Annex II: Country visit to Romania

The Commission services held virtual meetings in February 2024 with:

- Active Watch
- ANABI
- Asociația Forumul Judecătorilor din România
- Asociația ‘Inițiativa pentru Justiție’
- Asociația Judecătorilor pentru Apărarea Drepturilor Omului
- Asociația Magistraților din România
- Asociația Miscarea pentru Apărarea Statutului Procurorilor
- Asociația Procurorilor din România
- Centre for Independent Journalism
- Cluj Press Professionals Association
- Constitutional Court
- Expert Forum
- Foreign Investors’ Council
- Foundation for the Development of civil society
- Freedom House
- Fundația pentru Dezvoltarea Societății Civile (Foundation for the Development of civil society)
- Funky Citizens
- High Court of Cassation and Justice
- Judicial Inspection
- Legislative Council
- Ministry of Justice
- National Bar Association (UNBR) National Anti-Corruption Directorate
- National Audiovisual Council
- National Institute of Magistracy
- National Integrity Agency
- People’s Advocate
- Prosecutor General
- Romanian Institute for Human Rights
- Romanian Radio and Television Society
- Secretariat General of the Government
- Superior Council for the Magistracy
- Uniunea Națională a Judecătorilor din România

* The Commission also met the following organisations in a number of horizontal meetings:

- Amnesty International EU
- Centre for Democracy and Technology Europe
- Centre for European Volunteering
- Civil Liberties Union for Europe
- Civil Rights Defenders

- Civil Society Europe
- Culture Action Europe
- Democracy Reporting International
- European Centre for Non-Profit Law
- European Civic Forum
- European Federation of Journalists
- European Partnership for Democracy
- European Youth Forum
- Free Press Unlimited
- International Federation for Human Rights
- International Planned Parenthood Federation
- International Press Institute
- Irish Council for Civil Liberties
- JEF Europe
- Open Society Foundations
- Philanthropy Europe Association
- PICUM
- Reporters Without Borders
- SOLIDAR
- Transparency International EU