

2023 Rule of Law Report - targeted stakeholder consultation

Fields marked with * are mandatory.

Introduction

The annual Rule of Law Report lies at the centre of the European rule of law mechanism, which acts as a preventive tool, deepening multilateral dialogue and joint awareness of rule of law issues. So far, three editions of the Rule of Law Report have been published in 2020, 2021 and 2022.

In the preparation of the first three editions of the Rule of Law Report, the Commission has relied on a diversity of relevant sources, including from Member States, country visits, and stakeholders' contributions collected through the targeted stakeholder consultation [1]. The information provided has informed the Commission's country-specific assessments in preparing the Report. Building on the positive experience from the first three editions of the Rule of Law Report, the Commission is now inviting stakeholders to provide written contributions for the preparation of the 2023 Rule of Law Report through this targeted consultation.

The contribution to be provided should include (1) information on measures taken to implement the recommendations addressed to the Member State in the 2022 Rule of Law report, as well as developments with regard to the points raised in the respective country chapter and (2) any other significant developments since January 2022 [2] falling under the 'type of information' outlined in the next section.

The input should be short and concise and summarise information related to one or more of the areas referred to in the template. You are invited to focus on the areas that relate to the scope of work and expertise of your organisation. Existing reports, statements, legislation or other documents may be referenced with a link (no need to provide the full text). Stakeholders are encouraged to make references to any contributions already provided in a different context or to Reports and documents already published. Contributions should focus on significant developments both as regards the legal framework and its implementation in practice.

If you wish to submit information concerning several Member States, you will have to fill-in the questionnaire separately for each Member States (due to the size of the questionnaire). There is no limit to the number of contributions submitted by a single participant. In such cases, you are not required to repeat the information in the section "about you" that is non-mandatory nor the information on horizontal developments.

Please provide your contribution by **20 January 2023**. Should you have any requests for clarifications or encounter difficulties in filling in the questionnaire, you can contact the Commission at the following email

address: rule-of-law-network@ec.europa.eu.

[1] For the consultation for the 2022 Report, see https://ec.europa.eu/info/publications/2022-rule-law-report-targeted-stakeholder-consultation_en

[2] Unless the information was already submitted in the consultation for the previous Rule of Law Reports.

Type of information

The topics are structured according to four pillars: I. Justice system; II. Anti-corruption framework; III. Media pluralism; and IV. Other institutional issues related to checks and balances. The replies could include aspects set out below under each pillar. This can include challenges, current work streams, positive developments and best practices:

Legislative developments

- Newly adopted legislation
- Legislative drafts currently discussed in Parliament
- Legislative plans envisaged by the Government

Policy developments

- Implementation of legislation
- Evaluations, impact assessment, surveys
- White papers/strategies/actions plans/consultation processes
- Follow-up to reports/recommendations of Council of Europe bodies or other international organisations
- Important administrative measures
- Generalised practices

Developments related to the judiciary / independent authorities

- Important case law by national courts
- Important decision/opinions from independent bodies/authorities
- State of play on terms, nominations and expired mandates for high-level positions (e.g. Supreme Court, Constitutional Court, Council for the Judiciary, heads of independent authorities included in the scope of the questionnaire[1])

Any other relevant developments

- Respondents are free to add any further information, which they deem relevant; however, this should be short and to the point.

If there are no changes, it is sufficient to indicate this and the information covered in the contributions for the previous Rule of Law Reports should not be repeated.

[1] Such as: media regulatory authorities and bodies, national human rights institutions, equality bodies, ombudsman institutions, supreme audit institutions and, where they exist, transparency authorities.

About you

* I am giving my contribution as

- ☐ Academic/research institution
- ☐ Business association
- ☒ Civil society organisation/NGO
- ☐ International organisation
- ☐ Judicial association or network
- ☐ Media organisation or association
- ☐ Public authority or network of public authorities
- ☐ Other

* Organisation name

250 character(s) maximum

Fundatia pentru Dezvoltarea Societatii Civile (Civil Society Development Foundation)

Main Areas of Work

- ☐ Justice System
- ☐ Anti-corruption
- ☐ Media Pluralism
- ☒ Other

If "Other", please specify

civil society and democratic participation

Please insert an URL towards your organisation's main online presence or describe your organisation briefly:

500 character(s) maximum

www.fdsc.ro; www.activecitizensfund.ro; www.instaredebine.ro

Transparency register number

Check if your organisation is in the transparency register. It's a voluntary database for organisations seeking to influence EU decision-making

* Country of origin

Please add the country of origin of your organisation

- ☐ Afghanistan
- ☐ Albania

- ☐ Algeria
- ☐ Andorra
- ☐ Angola
- ☐ Antigua and Barbuda
- ☐ Argentina
- ☐ Armenia
- ☐ Australia
- ☐ Austria
- ☐ Azerbaijan
- ☐ Bahamas
- ☐ Bahrain
- ☐ Bangladesh
- ☐ Barbados
- ☐ Belarus
- ☐ Belgium
- ☐ Belize
- ☐ Benin
- ☐ Bhutan
- ☐ Bolivia
- ☐ Bosnia and Herzegovina
- ☐ Botswana
- ☐ Brazil
- ☐ Brunei Darussalam
- ☐ Bulgaria
- ☐ Burkina Faso
- ☐ Burundi
- ☐ Cabo Verde
- ☐ Cambodia
- ☐ Cameroon
- ☐ Canada
- ☐ Central African Republic
- ☐ Chad
- ☐ Chile
- ☐ China
- ☐ Colombia
- ☐ Comoros
- ☐ Congo
- ☐ Costa Rica
- ☐ Côte D'Ivoire
- ☐ Croatia
- ☐ Cuba
- ☐ Cyprus
- ☐ Czechia
- ☐ Democratic Republic of the Congo
- ☐ Denmark
- ☐ Djibouti
- ☐ Dominica

- ☐ Dominican Republic
- ☐ Ecuador
- ☐ Egypt
- ☐ El Salvador
- ☐ Equatorial Guinea
- ☐ Eritrea
- ☐ Estonia
- ☐ Eswatini
- ☐ Ethiopia
- ☐ Fiji
- ☐ Finland
- ☐ France
- ☐ Gabon
- ☐ Gambia
- ☐ Georgia
- ☐ Germany
- ☐ Ghana
- ☐ Greece
- ☐ Grenada
- ☐ Guatemala
- ☐ Guinea
- ☐ Guinea Bissau
- ☐ Guyana
- ☐ Haiti
- ☐ Honduras
- ☐ Hungary
- ☐ Iceland
- ☐ India
- ☐ Indonesia
- ☐ Iran
- ☐ Iraq
- ☐ Ireland
- ☐ Israel
- ☐ Italy
- ☐ Jamaica
- ☐ Japan
- ☐ Jordan
- ☐ Kazakhstan
- ☐ Kenya
- ☐ Kiribati
- ☐ Kuwait
- ☐ Kyrgyzstan
- ☐ Laos
- ☐ Latvia
- ☐ Lebanon
- ☐ Lesotho
- ☐ Liberia

- ☐ Libya
- ☐ Liechtenstein
- ☐ Lithuania
- ☐ Luxembourg
- ☐ Madagascar
- ☐ Malawi
- ☐ Malaysia
- ☐ Maldives
- ☐ Mali
- ☐ Malta
- ☐ Marshall Islands
- ☐ Mauritania
- ☐ Mauritius
- ☐ Mexico
- ☐ Micronesia
- ☐ Monaco
- ☐ Mongolia
- ☐ Montenegro
- ☐ Morocco
- ☐ Mozambique
- ☐ Myanmar
- ☐ Namibia
- ☐ Nauru
- ☐ Nepal
- ☐ Netherlands
- ☐ New Zealand
- ☐ Nicaragua
- ☐ Niger
- ☐ Nigeria
- ☐ North Korea
- ☐ North Macedonia
- ☐ Norway
- ☐ Oman
- ☐ Pakistan
- ☐ Palau
- ☐ Panama
- ☐ Papua New Guinea
- ☐ Paraguay
- ☐ Peru
- ☐ Philippines
- ☐ Poland
- ☐ Portugal
- ☐ Qatar
- ☐ Republic of Moldova
- ☒ Romania
- ☐ Russian Federation
- ☐ Rwanda

- ☐ Saint Kitts and Nevis
- ☐ Saint Lucia
- ☐ Saint Vincent and the Grenadines
- ☐ Samoa
- ☐ San Marino
- ☐ Sao Tome and Principe
- ☐ Saudi Arabia
- ☐ Senegal
- ☐ Serbia
- ☐ Seychelles
- ☐ Sierra Leone
- ☐ Singapore
- ☐ Slovakia
- ☐ Slovenia
- ☐ Solomon Islands
- ☐ Somalia
- ☐ South Africa
- ☐ South Korea
- ☐ South Sudan
- ☐ Spain
- ☐ Sri Lanka
- ☐ Sudan
- ☐ Suriname
- ☐ Sweden
- ☐ Switzerland
- ☐ Syrian Arab Republic
- ☐ Tajikistan
- ☐ Tanzania
- ☐ Thailand
- ☐ Timor-Leste
- ☐ Togo
- ☐ Tonga
- ☐ Trinidad and Tobago
- ☐ Tunisia
- ☐ Turkey
- ☐ Turkmenistan
- ☐ Tuvalu
- ☐ Uganda
- ☐ Ukraine
- ☐ United Arab Emirates
- ☐ United Kingdom
- ☐ United States of America
- ☐ Uruguay
- ☐ Uzbekistan
- ☐ Vanuatu
- ☐ Venezuela
- ☐ Viet Nam

- ☐ Yemen
- ☐ Zambia
- ☐ Zimbabwe

First name

Simona

Surname

Constantinescu

Email Address of the organisation (this information will not be published)

[REDACTED]

* Publication of your contribution and privacy settings

You can choose whether you wish for your contribution to be published and whether you wish your details to be made public or to remain anonymous.

- ☐ Anonymous - Only your type of respondent, country of origin and contribution will be published. Organisation name, URL, transparency register number, first name and surname given above will not be published. **To maintain anonymity, please refrain from mentioning the name of your organisation and any details from which your organisation can be identified in the rest of your contribution.**
- ☒ Public - Your personal details (name, organisation name, transparency register number, country of origin will be published with your contribution).
- ☐ No publication - Your contribution will not be published. Elements of your contribution may be referred to anonymously in documents produced by the Commission based on this consultation.

☒ I agree with the personal data protection provisions.

[Specific privacy statement targeted stakeholder consultation 2023 rule of law report.pdf](#)

Questions on horizontal developments

In this section, you are invited to provide information on general horizontal developments or trends, both positive and negative, covering all or several Member States. In particular, you could mention issues that are common to several Member States, as well as best practices identified in one Member State that could be replicated. Moreover, you could refer to your activities in the area of the four pillars and sub-topics (an overview of all sub-topics can be found below), and, if you represent a Network of national organisations, to the support you might have provided to one of your national members.

Overview topics for contribution

[list of topics 2023 Report.pdf](#)

Please provide any relevant information on horizontal developments here

5000 character(s) maximum

Questions for contribution

The following four pillars (I.-IV.) are sub-divided into topics (A., B., etc.) and sub-topics (1., 2., 3., etc.). For each of the topics and sub-topics, you are invited to provide (1) information on measures taken to implement the recommendations addressed to the Member States in the 2022 Rule of Law report, as well as developments with regard to the points raised in the respective country chapter of the 2022 Rule of Law Report and (2) any other significant developments since January 2022^[1]. Please include a link to and reference relevant legislation/documents (in the national language and/or where available, in English) if relevant. Significant developments can include challenges, positive developments and best practices, covering both legislative developments or implementation and practices.

If there are developments you consider relevant under each of the four pillars that are not mentioned in the sub-topics, please add them under the section "other - please specify". Only significant developments should be covered.

Information provided in reply to the first question under each pillar, related to the follow-up to the recommendations, does not need to be repeated in subsequent parts of the questionnaire, but can be cross-referenced in the subsequent questions, where relevant. All other questions are not limited to the recommendations, but as in previous years, cover the entire scope of the Report.

[1] Unless already covered in the input for the previous Rule of Law Reports.

Member State covered in contribution [only one choice possible]

If you wish to submit information concerning several Member States, please fill in the questionnaire separately for each Member State. There is no limit to the number of contributions submitted by a single participant.

- ☐ Austria
- ☐ Belgium
- ☐ Bulgaria
- ☐ Croatia
- ☐ Cyprus
- ☐ Czechia
- ☐ Denmark
- ☐ Estonia
- ☐ Finland
- ☐ France
- ☐ Germany
- ☐ Greece
- ☐ Hungary
- ☐ Ireland
- ☐ Italy
- ☐ Latvia
- ☐ Lithuania

- ☐ Luxembourg
- ☐ Malta
- ☐ Netherlands
- ☐ Poland
- ☐ Portugal
- ☒ Romania
- ☐ Slovak Republic
- ☐ Slovenia
- ☐ Spain
- ☐ Sweden

I. Justice System

Please provide information on measures taken to follow-up on the recommendations received in the 2022 Report regarding the justice system (if applicable)

3000 character(s) maximum

Recommendation: Ensure that the revision of the Justice Laws reinforces safeguards for judicial independence, including to reform the disciplinary regime for magistrates, and take 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.

Our comment: The main legal instruments on the justice system were modified in 2022 in an expedient manner, with little public consultation, a procedure which was criticized by the Venice Commission which was asked for an urgent opinion on these laws but they were passed before the opinion was adopted.

A. Independence

Appointment and selection of judges, prosecutors and court presidents (incl. judicial review)

(The reference to 'judges' concerns judges at all level and types of courts as well as judges at constitutional courts)

3000 character(s) maximum

Irremovability of judges, including transfers, (incl. as part of judicial map reform), dismissal and retirement regime of judges, court presidents and prosecutors (incl. judicial review)

3000 character(s) maximum

Promotion of judges and prosecutors (incl. judicial review)

3000 character(s) maximum

Allocation of cases in courts

3000 character(s) maximum

Independence (including composition and nomination and dismissal of its members), and powers of the body tasked with safeguarding the independence of the judiciary (e.g. Council for the Judiciary)

3000 character(s) maximum

Accountability of judges and prosecutors, including disciplinary regime and bodies and ethical rules, judicial immunity and criminal/civil (where applicable) liability of judges (incl. judicial review)

3000 character(s) maximum

Remuneration/bonuses/rewards for judges and prosecutors, including observed changes (significant and targeted increase or decrease over the past year), transparency on the system and access to the information

3000 character(s) maximum

Independence/autonomy of the prosecution service

3000 character(s) maximum

Independence of the Bar (chamber/association of lawyers) and of lawyers

3000 character(s) maximum

Significant developments capable of affecting the perception that the general public has of the independence of the judiciary

3000 character(s) maximum

In 2022, one of the most affected pillars of the rule of law in Romania was the Justice system. Renewed discussions about changing the pension schemes for judges coupled with worsening working conditions lead to an unprecedented number of judges and prosecutors leaving the Romanian judiciary, which has sparked widespread concern on how this may affect the justice system and access to courts (Hotnews article, November 3, 2022: <https://www.hotnews.ro/stiri-esential-25882142-situatie-fara-precedent-60-cereri-pensionare-ale-judecatorilor-aprobate-intr-singura-sedinta-gabriela-baltag-nu-dorm-cateva-nopti.htm>)

Also, one of the more widely known Romanian judges, Cristi Danilet was sanctioned three times and excluded from the justice system (G4media, July 20, 2022: <https://www.g4media.ro/judecatorul-cristi-danilet-exclus-pentru-a-treia-oara-din-magistratura-de-catre-sectia-pentru-judecatori-a-csm-pentru-o-eroare-materiala-decizia-luata-de-catre-gruparea-savonea-cu-majoritate-de-5.html>). One of these exclusions is particularly worrisome as it seems to be made on account of his activity in two NGOs which deal with rule of law issues. The Council of Magistrates considered that this activity constitutes political activity which is forbidden to judges and decided to exclude him from the profession (G4media article, May 05, 2022, available in Romanian at <https://www.g4media.ro/breaking-csm-l-a-exclus-din-nou-pe-judecatorul-cristi-danilet-din-magistratura-pe-motiv-ca-a-activat-in-ong-uri-care-ar-fi-facut-politica.html>).

The main legal instruments on the justice system were modified in 2022 in an expedient manner, with little public consultation, a procedure which was criticized by the Venice Commission which was asked for an urgent opinion on these laws but they were passed before the opinion was adopted (Venice Commission, Urgent Opinion on three Laws concerning the justice system, November 18, 2022: [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2022\)045-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2022)045-e)). The amendments also implement a CJUE decision from February which reinforces supremacy of EU law and establishes that national judges who apply EU law in the detriment of Constitutional Court decisions should not be subject to disciplinary sanctions (CJEU, Judgment of the Court (Grand Chamber) from 22 February 2022, In Case C-430/21).

B. Quality of justice

(Under this topic, you are not required to give statistical information but should provide input on the type of information outlined under section 2)

Accessibility of courts (e.g. court/legal fees, legal aid, language)

3000 character(s) maximum

The amount spent on legal aid vs amount spent on court system/judicial salary which is quite high worth being assessed as legal aid is not actively promoted by relevant institutions and the general infrastructure of access particularly for disadvantaged groups has no learning in school, no legal clinics, low interest on the theme of legal practitioners regulatory bodies, and pro bono legal services are perceived as unfair competition to state legal aid.

Resources of the judiciary (human/financial/material)

(Material resources refer e.g. to court buildings and other facilities)

3000 character(s) maximum

Training of justice professionals (including judges, prosecutors, lawyers, court staff)

3000 character(s) maximum

Digitalisation (e.g. use of digital technology, particularly electronic communication tools, within the justice system and with court users, including resilience of justice systems in COVID-19 pandemic)

3000 character(s) maximum

Use of assessment tools and standards (e.g. ICT systems for case management, court statistics and their transparency, monitoring, evaluation, surveys among court users or legal professionals)

3000 character(s) maximum

Geographical distribution and number of courts/jurisdictions (“judicial map”) and their specialization, in particular specific courts or chambers within courts to deal with fraud and corruption cases

3000 character(s) maximum

C. Efficiency of the justice system

(Under this topic, you are not required to give statistical information but should provide input on the type of information outlined under section

2)

Length of proceedings

3000 character(s) maximum

Based on discussions with practitioners in the field, CSOs report too long judicial proceedings both in case of initial registration (the average duration is 45 days while the law mentions explicitly 3 days from the moment the request and all necessary documents are filed to court), and of changing various elements in the statute (i.e the composition of the Board of Directors or the membership). While the duration may be also influenced by the lack of completeness of the dossier prepared by the CSO, the judicial practice is not similar at country level (some judges ask for more supporting documents than others and sometimes CSOs appreciate that the requirements go beyond the letter of the law), the law is not clear in all aspects (e.g. the changes in Board of Directors composition are effective from the moment of the CSO decision or only after being recorded in the register held by the court) and the level of details the judges assess may exceed the optimal legality requirements for the existence of a legit CSO. The duration of court procedures are particularly affecting the CSOs activity in various aspects pertaining on their capacity to be recognized by third parties (donors, banks, partners) as it impacts upon their capacity to act and react in various legal relations. We consider that the judicial procedure related to the registration and dissolution of a CSO should be maintained in the law as a guarantee for the independence and protection of CSOs and civic activists groups, and further assessment of the law on associations and foundations should consider the entirety of factors generating the length of the judicial proceedings and find the optimal balance between safeguarding guarantees and the simplification of procedures (consider a more administrative approach in dealing with particular changes interfered and notified during the existence of the CSO i.e. change of address, change of Board of Directors, members, etc.), whilst making effective use of digital tools/solutions for ease of processing).

Other - please specify

3000 character(s) maximum

II. Anti-Corruption Framework

Where previous specific reports, published in the framework of the review under the UN Convention against Corruption, of GRECO, and of the OECD address the issues below, please make a reference to the points you wish to bring to the Commission's attention in these documents, indicating any relevant updates, changes or measures introduced that have occurred since these documents were published.

Please provide information on measures taken to follow-up on the recommendations received in the 2022 Report regarding the anti-corruption framework (if applicable)

3000 character(s) maximum

A. The institutional framework capacity to fight against corruption (prevention and investigation / prosecution)

List any changes as regards relevant authorities (e.g. national agencies, bodies) in charge of prevention detection, investigation and prosecution of corruption and the resources allocated to each of these authorities (the human, financial, legal, and technical resources as relevant), including the cooperation

among domestic authorities. Indicate any relevant measure taken to effectively and timely cooperate with OLAF and EPPO (where applicable)

3000 character(s) maximum

Safeguards for the functional independence of the authorities tasked with the prevention and detection of corruption

3000 character(s) maximum

Information on the implementation of measures foreseen in the strategic anti-corruption framework (if applicable). If available, please provide relevant objectives and indicators

3000 character(s) maximum

B. Prevention

Measures to enhance integrity in the public sector and their application (including as regards incompatibility rules, revolving doors, codes of conduct, ethics training). Please provide figures on their application

3000 character(s) maximum

General transparency of public decision-making, including rules on lobbying and their enforcement, asset disclosure rules and enforcement, gifts policy, transparency of political party financing

3000 character(s) maximum

One particular issue with the media is finances coming from political parties. An investigation from an independent media outlet showed that large sums of money are spent by political parties on favorable media reports and coverage, mostly through various intermediaries (according to the media investigation of Recorder, October 14, 2022: <https://recorder.ro/pretul-tacerii-o-investigatie-in-contabilitatea-presei-de-partid/>). A report done by an anticorruption NGO shows that albeit political parties receive large sums of money from the state there is very little transparency in respect to how and on what these sums of money are spent (Expert Forum analysis from June 2022: <https://expertforum.ro/raport-finantarea-partidelor-2021/>).

Rules and measures to prevent conflict of interests in the public sector. Please specify the scope of their application (e.g. categories of officials concerned)

3000 character(s) maximum

Measures in place to ensure whistleblower protection and encourage reporting of corruption.

3000 character(s) maximum

This year, after much debate the Whistleblower directive was transposed into law. The process of transposition was contested by civil society groups which managed to block an early version but have still expressed discontent with the adopted version, particularly with the provision on anonymous complaints (in December 2022, several CSOs issued a letter showing the main deficiencies in the law transposing the EU Whistleblower Directive that was adopted in Romanian Parliament: <https://activewatch.ro/articole/legea-avertizorilor-de-integritate-adoptata-psd-si-pnl-au-aratat-inca-o-data-ca-nu-doresc-o-protectie-reala-a-acestora/>).

List the sectors with high-risks of corruption in your Member State and list the relevant measures taken /envisaged for monitoring and preventing corruption and conflict of interest in these sectors (e.g. public procurement, healthcare, citizen investor schemes, risk or cases of corruption linked to the disbursement of EU funds, other), and, where applicable, list measures to prevent and address corruption committed by organised crime groups (e.g. to infiltrate the public sector)

3000 character(s) maximum

Any other relevant measures to prevent corruption in public and private sector

3000 character(s) maximum

C. Repressive measures

Criminalisation, including the level of sanctions available by law, of corruption and related offences, including foreign bribery

3000 character(s) maximum

Data on investigation and application of sanctions for corruption offences, including for legal persons and high level and complex corruption cases and their transparency, including as regards to the implementation of EU funds

(Please include, if available the number of (data since 2019): indictments; first instance convictions; first instance acquittals; final convictions; final acquittals; other outcomes (final) (i.e. excluding convictions and acquittals); cases adjudicated (final); imprisonment / custodial sentences through final convictions; suspended custodial sentences through final convictions; pending cases at the end of the reference year)

3000 character(s) maximum

Potential obstacles to investigation and prosecution as well as to the effectiveness of criminal sanctions of high-level and complex corruption cases (e.g. political immunity regulation, procedural rules, statute of limitations, cross-border cooperation, pardoning)

3000 character(s) maximum

Information on effectiveness of non-criminal measures and of sanctions (e.g. recovery measures and administrative sanctions) on both public and private offenders

3000 character(s) maximum

Other - please specify

3000 character(s) maximum

III. Media Freedom and Pluralism

Please provide information on measures taken to follow-up on the recommendations received in the 2022 Report regarding media freedom and pluralism (if applicable)

3000 character(s) maximum

A. Media authorities and bodies

(Cf. Article 30 of Directive 2018/1808)

Measures taken to ensure the independence, enforcement powers and adequacy of resources (financial, human and technical) of media regulatory authorities and bodies

3000 character(s) maximum

At the beginning of 2022 civil society actors raised concerns about a proposed mechanism of fake news (press release issued by APADOR-CH, human rights NGO on March 11, 2022: <https://apador.org/en/opinia-apador-ch-privind-intentia-guvern-ong-uri-de-a-infiinta-ministerul-adevarului/>). The proposed mechanism would establish an automated platform that would identify fake news based on algorithms. This raised concerns from civil society groups which argued it may result in censorship. NGOs have already condemned the fact that several websites that been closed down without warning and reasoning by the Romanian National Cyber Security Agency, also based on fake news provisions (as shown in a press release issued by Active Watch (freedom of speech NGO) on 15.03.2022, available in Romanian at <https://activewatch.ro/blog/roskomnador-ul-romanesc-in-actiune-noile-victime-ale-dnsc-un-blog-de-carti-un-site-al-unui-magazin-din-beius-doua-subdomenii-google-firebase-si-un-subdomeniu-al-unui-furnizor-de-publicitate-din/>) .

Conditions and procedures for the appointment and dismissal of the head / members of the collegiate body of media regulatory authorities and bodies

3000 character(s) maximum

Existence and functions of media councils or other self-regulatory bodies

3000 character(s) maximum

B. Safeguards against government or political interference and transparency and concentration of media ownership

Measures taken to ensure the fair and transparent allocation of state advertising (including any rules regulating the matter)

3000 character(s) maximum

Safeguards against state / political interference, in particular:

- safeguards to ensure editorial independence of media (private and public)
- specific safeguards for the independence of heads of management and members of the governing boards of public service media (e.g. related to appointment, dismissal), safeguards for their operational independence (e.g. related to reporting obligations and the allocation of resources) and safeguards for plurality of information and opinions
- information on specific legal provisions and procedures applying to media service providers, including as regards granting/renewal/termination of licenses, company operation, capital entry requirements, concentration and corporate governance

3000 character(s) maximum

Transparency of media ownership and public availability of media ownership information, including on direct, indirect and beneficial owners, as well as any rules regulating the matter

C. Framework for journalists' protection, transparency and access to documents

Rules and practices guaranteeing journalist's independence and safety, including as regards protection of journalistic sources and communications

3000 character(s) maximum

A well known Romanian investigative journalist, Emilia Sercan was targeted by a smear campaign, by which several intimate pictures of hers were posted without consent in several adult websites. She filed a criminal complaint about this and part of the evidence she submitted to the police was also leaked into the media and used in the smear campaign against her. The investigation into who stole and shared her pictures and who leaked evidence from her case is at a standstill, with authorities still not having any clear suspect, albeit this case has stirred significant outcry. This whole campaign started soon after she published an article showing that the current Romanian Prime-minister plagiarized his PHD thesis. In the past she exposed several high-profile politicians of plagiarism (as shown in an article published on April 8, 2022 by the Committee to Protect Journalists, available at <https://cpj.org/2022/04/romanian-investigative-journalist-emilia-sercan-targeted-by-smear-campaign/>).

Prosecutors raided the house of a local journalist, searched even his parent's house, the office of the publication and they seized phones and computers. The journalist and the publication were accused of child pornography, because the publication wrote an article about a local case of aggression against a minor. Media freedom NGOs claimed that the raid and criminal charges were a means of intimidation against the journalist who few days prior to the raid wrote a series of damaging articles about the head of local police (as shown in the press release issued by Active Watch (freedom of speech NGO) on January 19, 2022: <https://activewatch.ro/blog/diicot-recidiveaza-in-hartuirea-jurnalistilor/>). The charges were dropped later in the year and a court confirmed that the journalist and the publication did not commit any crime, but media freedom NGO still ask for an inquiry into how it was possible for the journalist to be harassed for almost a year for just doing his job (as shown in a press release issued by Active Watch (freedom of speech NGO) on November 29, 2022: <https://activewatch.ro/articole/instanta-de-judecata-confirma-abuzul-diicot-braila-impotriva-jurnalistului-alin-cristea-si-a-publicatiei-debrailaro/>).

Law enforcement capacity, including during protests and demonstrations, to ensure journalists' safety and to investigate attacks on journalists

3000 character(s) maximum

Access to information and public documents (incl. transparency authorities where they exist, procedures, costs/fees, timeframes, administrative/judicial review of decisions, execution of decisions by public authorities, possible obstacles related to the classification of information)

3000 character(s) maximum

Lawsuits (incl. SLAPPs - strategic lawsuits against public participation) and convictions against journalists (incl. defamation cases) and measures taken to safeguard against manifestly unfounded and abusive lawsuits

3000 character(s) maximum

Other - please specify

3000 character(s) maximum

IV. Other institutional issues related to checks and balances

Please provide information on measures taken to follow-up on the recommendations received in the 2022 Report regarding the system of checks and balances (if applicable)

3000 character(s) maximum

A. The process for preparing and enacting laws

Framework, policy and use of impact assessments and evidence based policy-making, stakeholders'[1] /public consultations (particularly consultation of judiciary and other relevant stakeholders on judicial reforms), and transparency and quality of the legislative process

[1] *This includes also the consultation of social partners*

3000 character(s) maximum

Rules and use of fast-track procedures and emergency procedures (for example, the percentage of decisions adopted through emergency/urgent procedure compared to the total number of adopted decisions)

3000 character(s) maximum

Regime for constitutional review of laws

3000 character(s) maximum

COVID-19: provide update on significant developments with regard to emergency regimes/measures in the context of the COVID-19 pandemic

- judicial review (including constitutional review) of emergency regimes and measures in the context of COVID-19 pandemic
- oversight (incl. ex-post reporting/investigation) by Parliament of emergency regimes and measures in the context of COVID-19 pandemic
- processes related to lessons learned/crisis preparedness in terms of the functioning of checks and balances

3000 character(s) maximum

B. Independent authorities

Independence, resources, capacity and powers of national human rights institutions ('NHRIs'), of ombudsman institutions if different from NHRIs, of equality bodies if different from NHRIs and of supreme audit institutions

(Cf. the website of the European Court of Auditors: <https://www.eca.europa.eu/en/Pages/SupremeAuditInstitutions.aspx#>)

3000 character(s) maximum

Statistics/reports concerning the follow-up of recommendations by National Human Rights Institutions, ombudsman institutions, equality bodies and supreme audit institutions in the past two years

3000 character(s) maximum

LGBTQI groups have showed that there has been an increasing trend of violence against members of the LGBTQI community, including physical assaults, threats which contribute to an increasingly hostile environment (as shown in a press release issued by Mozaic, on August 10, 2022: <https://www.mozaiclgbt.ro/2022/08/comunicat-de-presa-violenta-si-discurs-al-urii-impotriva-lgbtq/>).

NGOs have also criticized a proposal law which would basically ban any information/communication about sex changes or homosexuality, claiming it is a clearly homophobic proposal (as shown in a press release issued by Mozaic, on June 06, 2022: <https://www.mozaiclgbt.ro/2022/06/urgent-trimite-e-mail-pentru-respingerea/>). The draft law was adopted by the Senate and is still in debate in the Chamber of Deputies.

C. Accessibility and judicial review of administrative decisions

Transparency of administrative decisions and sanctions (incl. their publication and rules on collection of related data)

3000 character(s) maximum

Judicial review of administrative decisions:

- short description of the general regime (in particular competent court, scope, suspensive effect, interim measures, and any applicable specific rules or derogations from the general regime of judicial review)

3000 character(s) maximum

Follow-up by the public administration and State institutions to final (national/supranational) court decisions, as well as available remedies in case of non-implementation

3000 character(s) maximum

D. The enabling framework for civil society

Measures regarding the framework for civil society organisations and human rights defenders (e.g. legal framework and its application in practice incl. registration and dissolution rules)

3000 character(s) maximum

The framework legislation on associations and foundations needs further changes in order to respond to the NGOs requirements related to less bureaucracy needed to set up, run and even close an NGO. Neither the successive GoRs nor the MPs have had a strategic/ focused approach towards smoothing the registration and functioning of CSOs (whilst still maintaining safeguarding guarantees for their independence), choosing to act in ad-hoc manner and promote individual measures/ actions whose effects in practice have never been appropriately and upfront estimated. Bits and parts of the framework legislation were modified but without making the effort to assess the entirety of the legal environment and appreciate the effects of one isolate modification to the entire CSOs legal system and without investing in bringing the legal practitioners (judges, prosecutors, lawyers) closer to the reality of CSOs.

The discussions with the Ministry of Justice have started in 2021 ([https://www.stiri.org/institutii-si-legislatie/romania/scrisoare-catre-ministerul-justitiei-pentru-colaborarea-cu-societatea-civila-in-procesul-de-reorganizare-a-registrului-national-ong?](https://www.stiri.org/institutii-si-legislatie/romania/scrisoare-catre-ministerul-justitiei-pentru-colaborarea-cu-societatea-civila-in-procesul-de-reorganizare-a-registrului-national-ong?fbclid=IwAR3q_5ZhpFV8uCR9i5UqEvfT9eVD1e4kJlirqudI2jEXM8_7F_9LD4yOofA)

[fbclid=IwAR3q_5ZhpFV8uCR9i5UqEvfT9eVD1e4kJlirqudI2jEXM8_7F_9LD4yOofA](https://www.stiri.org/institutii-si-legislatie/romania/scrisoare-catre-ministerul-justitiei-pentru-colaborarea-cu-societatea-civila-in-procesul-de-reorganizare-a-registrului-national-ong?fbclid=IwAR3q_5ZhpFV8uCR9i5UqEvfT9eVD1e4kJlirqudI2jEXM8_7F_9LD4yOofA) (stiri.org) and <https://www.just.ro/simplificarea-vietii-asociative-analizata-de-secretarul-de-stat-mihai-pasca-si-52-de-ong-uri>) but no concrete legislative proposal has been formulated until the end of 2022.

In 2022 there have been 3 new law proposals which seek to modify existing framework legislation, none of them addressing real problems of Romanian CSOs and pick up on very particular aspects:

1st one would seek to bring minor amendments in relation to national minority organizations (Law proposal no 620/2022: https://senat.ro/legis/lista.aspx?nr_cls=L620&an_cls=2022), and the 2nd looks at NGOs which have public utility status and would enshrine an obligation for them to publish any public good they were given and also would establish an obligation on behalf of the Government to verify, every 3 years, if the NGO still has public utility (Law proposal 737/2002: https://senat.ro/legis/lista.aspx?nr_cls=b737&an_cls=2022).

The public utility topic is critical in itself and should be clarified in legislative terms and procedures, but the proposal on the table is insufficient. For instance, it would be more important to clarify the access to local public resources (i.e. according to the Administrative Code issued in 2019, the public local and county councils decide upon allowing the free use of public goods for public utility institutions) as several local administrations were reluctant in 2022 to offer free functioning space for community services CSOs not having formal public utility status. The 3rd proposals is described in the section below.

Rules and practices having an impact on the effective operation and safety of civil society organisations and human rights defenders. This includes measures for protection from attacks – verbal, physical or on-line –, intimidation, legal threats incl. SLAPPs, negative narratives or smear campaigns, measures capable of affecting the public perception of civil society organisations, etc. It also includes measures to monitor threats or attacks and dedicated support services.

3000 character(s) maximum

The most recent law proposal on amending the GO 26/ 2000 is however really worrisome, as it would impose severe restrictions on the ability of NGOs to challenge any administrative acts in courts (Law proposal 758/2002: https://senat.ro/legis/lista.aspx?nr_cls=L857&an_cls=2022). It aims at introducing additional restrictive conditions for an NGO to be "entitled" to challenge an administrative act in court, measures that seriously infringe access to justice, and seriously limit the mission of NGOs to protect the public interest (i.e. the introduction of the patrimonial liability of Board members for any damage caused to third parties, if the action has been rejected by a final court decision; the length of time the organization has been in existence – min. 2 years, proof that "the association has actively pursued the aims mentioned in the statute which are related to the administrative act challenged" - a highly subjective criterion; the payment of a deposit of 1% of the value of the investment subject to the administrative act). Basically if an NGO would like to challenge an administrative act in court it would need its members to vote on it and the members in favor would be held liable if they lose the case. The NGO also would need to have 2 years of proven activity in the area affected by the administrative act in question and would need to put forward a court bond.

This proposal is heavily opposed by NGOs which argue this would limit their right to access to a court and would limit the ability of environmental NGOs in particular to challenge development projects (the open letter from November 29, 2022, signed by tens of NGOs: <https://www.stareademocratiei.ro/2022/11/29/parlamentul-romaniei-manifesta-tendinte-iliberale-dreptul-ong-urilor-la-litigare-strategica-limitat-drastic/>). No reaction from the MPs initiators has been reported and the draft law has not been withdrawn.

Possibly connected to the draft proposal described above, we have seen a worrying trend in which environmental NGOs in particular are targeted by real estate developers in a series of SLAPP cases by which they seek their closure. This year two NGOs have been closed at the request of real-estate developers, in cases in which the NGOs contested before national courts real estate projects, lost and had to pay legal fees of the real estate investors and because they did not have the means to pay these costs the investors asked for and obtained their closure (the 1st case is against an NGO Militia Spirituala from Bucharest closed down by a decision from September 28, 2022, upheld by the appeal court on December 12, 2022. The 2nd is NGO SOS ORASUL from Cluj Napoca, closed down on the November 18, 2022 by a court decision which is now contested before the appeal court.

Organisation of financial support for civil society organisations and human rights defenders (e.g. framework to ensure access to funding, and for financial viability, taxation/incentive/donation systems, measures to ensure a fair distribution of funding)

3000 character(s) maximum

In Romania existing legislation allows citizens to divert 3.5 of their income tax to NGOs or faith groups. This year we have had two new law proposal which would include among the entities eligible to receive this 3.5% also public libraries (as explained in this article from June 16, 2022 <https://www.juridice.ro/787934/propunere-legislativa-procentul-de-3-5-din-impozitul-pe-venit-poate-fi-directionat-si-catre-biblioteci.html>) and schools (as explained by the authors of this proposal on October 14, 2022 <https://www.usr.ro/2022/10/14/mai-multi-bani-pentru-scoli-usr-a-depus-o-initiativa-legislativa-pentru-redirectionarea-a-35-din-impozitul-venit-pentru-scoli/>). Both proposals would go against the spirit of the 3.5% mechanism that is meant to encourage the citizens to increase their public participation through choosing the NGO they consider the most appropriate to represent their interests and would create a parallel mechanism of funding for public entities thus legalizing the incompetence and incapacity of state in ensuring the functioning of public schools and public libraries. Following the reactions of several NGOs and discussions with civil society representatives, the initiators of the second proposal withdrew it from the official track in Parliament on December 12, 2022.

Rules and practices on the participation of civil society organisations and human rights defenders to the decision-making process (e.g. measures related to dialogue between authorities and civil society, participation of civil society in policy development and decision-making, consultation, dialogues, etc.)

3000 character(s) maximum

Law 544/2001 is the main legal instrument that ensures access to public information. In theory this law allows citizens and NGOs to ask for and obtain access to public information but in practice there are many instances where authorities are reluctant to share this information, invoking either GDPR rules or other excuses to hinder access to public information. For example, feminist NGOs have been asking for a national strategy for equality between men and women for 2021-2027 which was put in public debate on March 9, 2022 and adopted only recently in December 2022 because of opposition from the Ministry of European Projects. NGOs have been asking what exactly did the Ministry of European projects oppose, what was the position they expressed, but the Ministry has consistently refused to share its opinion with the public, albeit it was shared internally in a written document which it refused to share with the public (according to the article from 22 July 2022: <https://ongen.ro/2022/07/22/cum-blocheaza-ministerul-investitiilor-si-proiectelor-europene-avizarea-strategiei-nationale-privind-egalitatea-de-sanse-intre-femei-si-barbati/?fbclid=IwAR0CMaTfQsXNWNONMMTqeE7zNgshlq7ddXqxYn7z4UVvgrQ--U4v-lmuE3Y>).

In terms of consultations with citizens and civil society in policy making, the main legal instrument is Law 52 /2003 on transparency in public administration. This law prescribes the obligations to public administration to consult with citizens and civil society when developing public policies and law. It also establishes how public consultations are to be organized. One of the obligations enshrined by this law is that proposed laws be published 30 days in advanced, before being subjected to formal approving procedures, so as to give an opportunity to citizens and interested parties to send feedback and suggestions on the proposed law. In 2022 an exception was introduced to this rule and now, in exceptional and urgent cases, laws can be adopted even before this 30 days' time limit in which citizens can send their feedback on the proposed law. This modification was criticized by NGOs which criticized also the untransparent manner in which these modifications were made and showed that Romanian authorities have developed a practice of avoiding public consultations by citing urgent needs to pass specific legislation (according to a press-release signed by 31 NGOs on March 4: <https://expertforum.ro/avp-oug-transparenta-decizionala/>).

Transparency is ever a bigger issue when dealing with local governance. For example, NGOs have shown that from October 2021 to October 2022, the City of Bucharest local governance put up for public debate only 3,23% of the acts it adopted (according to a press-release from Centrul de Resurse pentru Participare Publica (CeRe), December 20, 2022: <https://cere.org/2022/12/20/bucuresti-al-cui-esti-selectie-2-2/>).

E. Initiatives to foster a rule of law culture

Measures to foster a rule of law culture (e.g. debates in national parliaments on the rule of law, public information campaigns on rule of law issues, contributions from civil society etc.)

3000 character(s) maximum

The freedom of assembly is regulated by law 60/1991, adopted soon after Romania became a democracy. The description below illustrates the lack of measures of the authorities in fostering the rule of law when it comes to react to civil society alerts on the inadequacy of a piece of legislation which impedes on effective implementation of a fundamental right.

Many civil society groups have argued that the law on public assemblies is outdated and it needs to be amended to reflect current needs and to effectively ensure the right to freedom of assembly (press-release of a group of NGOs working on rule of law, on 12 October 2022: <https://www.stareademocratiei.ro/2022/10/12/de-ce-vrem-schimarea-legii-adunarilor-publice/>). The full list of modifications requested is available at: <https://www.stareademocratiei.ro/wp-content/uploads/2020/06/Propunere-de-modificare-a-legii-adunarilor->

publice_11iunie.pdf. The main modifications requested by NGOs are:

- Removing excessive restrictions and prohibitions – the law includes a lot of limitation on when and where you can protest and it imposes heavy burdens on organizers who bear a lot of responsibilities for the protests and participants, which are difficult to observe;
- The law requires organizers to notify authorities of the protest before it happens however this notification in practice is more of an authorization procedure and authorities routinely deny that protests occur at certain times, certain places or deny them altogether. NGOs are asking for these notifications to be more of an exception than a rule;
- The current law does not allow for spontaneous protests, for example for when people react to a current event and express their concern through a protest;
- the sanctions prescribed should be proportional to the acts committed – for example, it should not be punishable simply to participate in an undeclared assembly, as long as the participant was not obliged to declare it.

Some of the requested modifications were also subject to criticism from the ECHR which in 2022 condemned Romania in the case of *Busmes v. Romania* in a case in which the applicant was fined for organizing a spontaneous protest with 3 other people in front of the Government, in response to a law adopted that day. He was fined because he did not declare the protest 3 days in advance. This was found by the ECtHR to be in breach of the applicant's rights to freedom of assembly and expression.

Other - please specify

3000 character(s) maximum

Please find below two other situations rather impacting negatively upon the rule of law and protection of individual rights in 2022:

- A new Emergency Ordinance that was adopted by the Romanian Government on the cloud services (Emergency Government Ordinance 89/ 2022). The law has been criticized by the Romanian civil society which argue that there is a lack of clear safeguard protecting private data of citizens and raising concerns about the involvement of the Romanian Secret Services (NGOs for Citizens Platform: 'We request the Ombudsman to evaluate the constitutionality of the GEO regarding the Government Cloud' June 30, 2022: <https://www.stareademocratiei.ro/2022/06/30/solicitam-avocatului-poporului-sa-evalueze-constitutionalitatea-oug-ului-privind-cloud-ul-guvernamental/>).
- Women rights groups have shown that there is widespread violence against women, domestic violence. In the first half of 2022, there were over 40,000 cases of domestic violence in which the police intervened, of which over 9,400 were situations of imminent risk, whilst women who have been sexually assaulted have nowhere to go to seek help and receive the much-needed support after such violence (press release from Feminism Romania, October 7, 2022: <https://www.feminism-romania.ro/activism/1349-marsul-impreuna-pentru-siguranta-femeilor-editia-2022>). NGOs have also shown that women's access to reproductive services is also severely restricted in practice, with more and more public hospitals refusing to perform pregnancy termination procedures, whilst sexual education is non-existent in Romanian schools and teen pregnancies continue to be a huge problem (press-release from Filia Center, November 16, 2022: <https://centrulfilia.ro/peste-250-de-organizatii-ale-societatii-civile-din-romania-si-internationale-cer-ministrului-sanatatii-si-cnas-decontarea-procedurii-de-avort-la-cerere-asigurati-accesul-gratuit-la-servicii-medicale/>).

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