

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

Funky Citizens

Main Areas of Work

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

If "Other", please specify

open spending

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

500 character(s) maximum

www.funky.org

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

Elena

Surname

Calistru

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

The Russian aggression against Ukraine started a new stage of decision-making process in Romania. Under the pretext of the war at the borders and then under the argument of tackling the consequences of the war (i. e. inflation, energy crisis), several major measures were taken with little respect for transparency and rule of law:

- in general the decisions were taken by Emergency ordinance, including for fundamental areas (in 2022, no less than 192 emergency ordinances were passed by the Government)
- even when the legislative procedure was the "normal" one, going through the Parliament, almost a third of the draft laws were debated and/ or adopted under emergency procedure
- the hasty process made little room for transparency, participation or consistent debate, including for laws on the judiciary, whistleblowers' protection or other major pieces of law

A very weak opposition and the few options for civil society to be engaged in the decision-making process leave little room for checks and balance, making the oversight of the grand coalition of the two major parties almost inexistent.

The decision of the EC to lift the Cooperation and Verification Mechanism for Romania without Romania fulfilling some of the benchmarks puts a lot of expectations for the Rule of law Report to continue to monitor the remaining unfulfilled criteria and the other ones that appear in other areas.

Shrinking access to information and the weaponization of GDPR against journalists and activists, as well as the huge amounts of money spent by political parties for traditional media (sometimes with no transparency) are additional challenges for uncovering what is happening with public decisions and public money. The significant amount of money available under the MFF and also under the RRF are also under little public scrutiny, given the little public information available about the contracts allocations.

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

Some changes were operated through the Parliamentary adoption of two major pieces of legislation:

- the Special Section for Investigating Magistrates was re-branded and moved under the General Prosecutor, but without following all the recommendations from the Venice Commission or the European Commission
- the package of justice laws was adopted on a fast-track procedure; though many of the outrageous provisions were corrected in the Parliament, problems still appear when it comes to guaranteeing the independence of the justice system

Both pieces of legislation were adopted while the Opinion of the Venice Commission was requested and drafted, the majority in power ignoring completely their own promise to wait for those opinions.

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

There are new issues appearing from the new justice laws, especially for top-management positions. Analysis on the matter: <https://its.funky.org/RoCVM22>.

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

There are new issues appearing from the new justice laws, especially when it comes to the pressure for magistrates to retire sooner rather than latter. Analysis on the matter: <https://its.funky.org/RoCVM22>. Moreover, a reform of the special pensions, including for magistrates, is promised and expected under the National Recovery and Resilience Plan. As of December 2022, the Government submitted a draft law on the reform of the special pensions to the Parliament, but there are major concerns with regards to its constitutional validity.

Promotion of judges and prosecutors (incl. judicial review)

3000 character(s) maximum

There are new issues appearing from the new justice laws. In this area, the issues are generated mainly by the significant differences

between the effective promotion and on-the-spot promotion:

The effective promotion competition (art. 139) consists of taking a test with the objective of evaluating the activity and conduct of the candidates in the last 3 years of actual activity; the assessment is subjective and lead by the members of a committee appointed to the proposals of the presidents of the courts of appeal

The on-the-spot promotion procedure (art. 132-138) is more meritocratic, through a written exam and through a practical exam; the evaluation includes outside actors like those from INM, but this procedure seems to favor those preferred by the presidents of the courts of appeal etc

In the context of extended powers for the presidents of courts and first prosecutors, the promotion procedures become increasingly subject to the influence of a small circle of makers and breakers.

Analysis on the matter: <https://its.funky.org/RoCVM22>.

Allocation of cases in courts

3000 character(s) maximum

Even though the allocation of cases is supposed to be random, sometimes this is impossible (due to the small number of magistrates available) or avoided through various techniques. A media investigation showed how the allocation system was rigged for the plagiarism scandal related to the Prime Minister: <https://www.g4media.ro/exclusiv-cum-a-fost-directionat-dosarul-premierului-nicolae-ciucu-prin-metoda-coperta-catre-judecatorul-marius-iosif-care-s-a-pensionat-imediat-dupa-ce-a-anulat-sesizarile-de-plagia.html>.

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

The Superior Council of Magistracy was finally renewed. There are serious doubts with regards to the appointment by the Senate of the two representatives of civil society (regarding their independence from political parties influence).

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

The new justice laws failed to offer sufficient guarantees against the misuse of disciplinary regime against some judges and prosecutors. This continues to be an issue, in particular when it comes to magistrates that chose to use their freedom of expression and criticize some legal provisions.

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

n/a

Independence/autonomy of the prosecution service

3000 character(s) maximum

There are new issues appearing from the new justice laws, especially for top-management positions. For example, the chief This point was always a contentious one that was signaled as such by many Progress reports under the CVM. Unfortunately, the proposed solution (in the Law on the statute of judges and prosecutors) does not fully take into account the need for a procedure that goes beyond doubt of political interference, nor

the realities on the ground.

Art 144-149 set up the procedure for the appointment of top prosecutors, a procedure that is de facto dominated by the Minister of Justice. These conditions apply for the positions of Chief General Prosecutor, First-Deputy General Prosecutor, Deputy General Prosecutor, Chief and Deputy Chief Prosecutors for the National Anticorruption Directorate (DNA) and Directorate for investigation of organised crime and terrorism (DIICOT), as well as for all section presidents in these Prosecutor's Offices.

Even though the Section for prosecutors at the SCM is involved in the process of the MoJ (it has two members participating in the interview commission) and by interviewing and giving an opinion with regards to the proposed candidates, its decisions can be overturned by the Minister of Justice. Art. 148 clearly gives the possibility for the Minister to interview again the candidate that receives a negative opinion from the Section for prosecutors of the SCM and continue the appointment procedure no matter what.

The proposal of the Minister is further sent to the President, who can refuse only once a proposal (at difference from the pre-2018 regulation that put no such limit)

The proposed appointment system must be read together with the dismissal procedure associated to the same positions (Art. 172) that reinforces the dominance of the Minister of Justice. The dismissal procedure can be initiated by the Minister from his own initiative or as a result of a notification from the General assemblies of the prosecutors of the respective institution or from the Chief general prosecutor or Chief prosecutors of DNA/ DIICOT.

No matter the opinion of the SCM, the Minister of Justice can proceed with the dismissal procedure and send it to the President, that can only refuse it for legality reasons. The decision can be attacked by the dismissed prosecutor under an emergency procedure at the HCCJ.

Thus, the Minister of Justice explicitly has the power to ignore a negative opinion from the Section for prosecutors of the SCM in both the appointment and the dismissal of high-ranking prosecutors

Analysis on the matter: <https://its.funky.org/RoCVM22>.

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

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

No major changes

Resources of the judiciary (human/financial/material)

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

3000 character(s) maximum

The new justice laws provide for the budgets of the courts to be managed by the High Court of Cassation and Justice (with an initial support from the Ministry of Justice). Though this is an important step towards ensuring the independence of the justice system, it remains to be seen whether:

- enough resources will be allocated or if this will become a leverage for the governing parties to put additional pressure on the courts if they want sufficient budgets
- the HCCJ will have the administrative capacity to manage this new role for the courts system given the fact that the human resources in the system are scarce

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

No changes in this field, but the results of the census should be used to recalibrate on the basis of the evolving demographics the judicial map of Romania. So far, there are decades since major changes were applied to the geographical distribution, while the country lost more than 25% of its population and several urban centers became development poles that have a large concentration that requires similar judicial services.

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

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

While some measures were taken, no significant follow up is yet in place in this regard.

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

The years of political pressure on the anticorruption framework are still felt with many issues remaining unsolved, including at the level of resources available:

- lack of sufficient human resources (because of early retirements but also due to the loss of attractiveness of the job for young professionals)
- even though resources are allocated (including for positions within these institutions), they are not necessarily used due to the above mentioned issues
- there are concerns with regards to the capacity of the National Integrity Agency to manage its new role in the context of the whistleblowers protection legislation

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

3000 character(s) maximum

Several changes introduced through the laws on the judiciary maintain a certain degree of functional independence of the authorities tasked with fighting corruption (such as the National Anticorruption Directorate chief prosecutor appointment).

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

The National Anticorruption Strategy was adopted and is being implemented, but with mixed results:

- some of the areas under monitoring are very "light" without consequential impact on major corruption issues (i.e. while there is a working group at the level of the Ministry of Health dealing with integrity issues, the Ministry of Health was ignoring major issues such as a huge corruption scandal involving Unifarm, the Ministry's company dealing with major procurement contracts subject now to anticorruption investigations related to bribes)
- other priority areas, such as the environment, still have to register progress, even though there are major issues related by the media in this regard (appointments in some of the Agencies, clearcutting issues, corruption scandals and violence against activists and journalists etc)
- public procurement is still one of the most vulnerable sectors to corruption, the legislation has continued to be lightened (under the pretext of a better absorption of EU funds), while the opacity of the procedures and the issues related to corruption practices in the allocation or execution of contracts are still as high as ever (the openness of the system is not improving, as shown by studies looking at how open the spending is> <https://funky.org/romania-inregistreaza-scaderi-la-transparenta-si-supervizarea-bugetara-fata-de-anii-trecuti/>)

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

Such measure were sometimes taken, especially within projects financed through EU programs such as the Operational Program for Administrative Capacity. However, the impact of these projects still remains to be seen.

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

The transparency of public decision-making decreased first with the pandemic and in the last year under the pretext of the war in Ukraine. Three different examples depict structural issues with transparency:

1. Most of the legislation is passed through Emergency Ordinances by the Government, or through fast-track procedures in the Parliament.

- A simple count of the Emergency Ordinances shows that, on average, one is passed at less than once every two days.

- Our organisation monitors the activity of the parliament every semester and the numbers show that a third of the legislation follows an emergency procedure (<https://funky.org/analiza-cu-ochii-pe-parlament-februarie-iunie-2022/>)

2. The same issues appear at local level, including on major topics such as the budgets. Our analyses show that not even municipalities deploy simple transparency decision-making processes: <https://funky.org/analiza-transparenta-bugetelor-de-municipii-2022/>

3. Not even when it comes to major programs such as the National Recovery and Resilience Plan there is no transparency. As an example, in order to "fulfill" some reform-based milestones in the NRRP, the Government passed, in the last meeting of December, a package of 70 pieces of legislation or secondary acts. A significant part of them were not debated, did not follow transparency procedures nor offered enough space for social or civic dialogue. This happens while the calendar with the NRRP milestones is available and would permit enough predictability.

Unfortunately, at least when it comes to the Emergency Ordinances, the only institution that can notify the Constitutional Court to check whether the emergency criteria are met is the Ombudsman. And the Ombudsman decides in a very arbitrary fashion what is notified or not. We can provide several examples of petitions to the Ombudsman that sometimes admits that the emergency is not justified but nevertheless, does not send the respective Emergency Ordinances to the Constitutional Court.

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

The whistleblower protection was weakened in Romania. Under the pretext of transposing the EU Directive, the legislation now offers less protection for those whistleblowers that are reporting on outside channels and to those that report anonymously. Unfortunately, despite the positions of civil society, even though some issues were solved during the legislative process (<https://funky.org/scrisoare-deschisa-catre-deputati-redati->

protectia-avertizorului-de-integritate/), those major issues still remain.

We can provide numerous examples of faulty protection for whistleblowers, as seen in the work we are doing with the journalists that chose to tell the stories of these people: <https://recorder.ro/voci-libere/>.

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

Public spending and public procurement - as mentioned above, this area remains highly vulnerable to corruption and no major changes were operated in order to close the loopholes. Initiatives like open contracting are highly necessary, at least for major infrastructure projects or EU-funded projects.

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

No major changes, the new draft Criminal code and criminal procedure codes were just sent to the Parliament at the end of December 2022. However, the proposed changes do not solve all the issues related to the sanctions.

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

No major changes, the new draft Criminal code and criminal procedure codes were just sent to the Parliament at the end of December 2022. However, the proposed changes do not solve all the issues related to the statute of limitations or procedural aspects that are obstacles to investigations (<https://www.libertatea.ro/stiri/curtea-suprema-va-pronunta-azi-o-decizie-ce-poate-schimba-soarta-mulor-dosare-penale-nume-grele-dar-si-infractori-de-rand-pot-scapa-de-acuzatii-4324312>).

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

No improvements, on the contrary.

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

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

No improvements. On the contrary, more and more resources, including from the subsidy of the political parties are allocated to media, with no transparency. Several media investigations show a lack of transparency:
- <https://romania.europalibera.org/a/ciolacu-ciuc%C4%83-marii-beneficiari-ai-sistemului-toxic-presa-partide/32145614.html>
- <https://recorder.ro/pretul-tacerii-o-investigatie-in-contabilitatea-presei-de-partid/>

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

No improvements.

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

3000 character(s) maximum

No improvements.

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

Access to information continues to decrease. However, one of the major developments in this area are related to the use of GDPR as an argument not to release data. Several areas stand out, especially when it comes to public officials, civil servants, and other publicly funded positions – CVs, exams to occupy the offices or amounts paid are sometimes over-protected under the pretext of GDPR. However, public spending related to either public contracts awarded to individuals or that involve political parties also dominate the top problems related to GDPR misinterpretation. Several examples we have collected are:

- City halls/ institutions in which the results of competition for public offices mention only the number of the application/ file, but not the name of the candidate
- Institutions that refuse to answer FOIA request for persons that make extra-salary income (for example from sitting on boards on behalf of the institution), even though the same income must be declared in the assets declaration (where it is public)
- Contracts (value for the salaries or for the prizes awarded) for professional sports players from the clubs that are subsidized by public authorities, not even anonymized
- Public contracts for artists being paid public for statues or other forms of art, even though the legislation provides access to information related to public procurement
- Universities refusing to communicate the situation of studies of public officials due to GDPR, even though the law states that such information can be requested if it can affect the capacity of that person to perform its duties (this leads absurd situations, because, for example, PhD holders get extra-money when employed or there were cases for which BA or MA are requested but those persons had no such diploma)
- Ministry of European Investments and Projects sending information on projects funded with EU funds that is totally blackened: <https://www.documentcloud.org/documents/6539803-Cere-de-finantare-Biblioteca-Bunelor-Practici#document/p5/a534034>
- A significant number of FOIA requests addressed to political parties are denied based on GDPR. In Romania, the political parties are subject to Law 544/2001 as they receive subsidies on a monthly basis from the state budget. There are dozens of cases though in which political parties refused access to information related to their public spending, in particular for political advertising and for media appearances, invoking GDPR
- During the previous mandate of a mayor of the Capital city, the request from LGBTQ+ organisations to notify Bucharest pride were denied because “other events were already approved on the same route”, but it was claimed that due to GDPR, the name of the organisations that had such approvals couldn’t be revealed

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

Increasing number of SLAPPs and no improvements in the protection or early administrative dismissal of such lawsuits and harassments.

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

No improvements, even though several reforms in this area are expected under the National Recovery and Resilience plan.

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

1. Most of the legislation is passed through Emergency Ordinances by the Government, or through fast-track procedures in the Parliament.

- A simple count of the Emergency Ordinances shows that, on average, one is passed at less than once every two days.
- Our organisation monitors the activity of the parliament every semester and the numbers show that a third of the legislation follows an emergency procedure (<https://funky.org/analiza-cu-ochii-pe-parlament-februarie-iunie-2022/>)

2. The same issues appear at local level, including on major topics such as the budgets. Our analyses show that not even municipalities deploy simple transparency decision-making processes: <https://funky.org/analiza-transparenta-bugetelor-de-municipii-2022/>

3. Not even when it comes to major programs such as the National Recovery and Resilience Plan there is no transparency. As an example, in order to "fulfill" some reform-based milestones in the NRRP, the Government passed, in the last meeting of December, a package of 70 pieces of legislation or secondary acts. A significant part of them were not debated, did not follow transparency procedures nor offered enough space for social or civic dialogue. This happens while the calendar with the NRRP milestones is available and would permit enough predictability.

Unfortunately, at least when it comes to the Emergency Ordinances, the only institution that can notify the Constitutional Court to check whether the emergency criteria are met is the Ombudsman. And the Ombudsman decides in a very arbitrary fashion what is notified or not. We can provide several examples of petitions to the Ombudsman that sometimes admits that the emergency is not justified but nevertheless, does not send the respective Emergency Ordinances to the Constitutional Court.

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

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

Several concerning initiatives are currently discussed in the Parliament, including the dissolution rules:
<https://funky.org/cerem-decidentilor-sa-puna-capat-legislatiei-anti-ong/>

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

No such measures.

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

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

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

Other - please specify

3000 character(s) maximum

Contact

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