

QUESTIONS ADDRESSED BY THE EUROPEAN COMMISSION FOR WRITTEN ANSWER

Q 5 (in writing only) In light of recommendation 2 of the 2024 Rule of Law Report, do you have any updates with regard to recruitments and vacancies of judges and prosecutors as compared to the figures contained in your national contribution?

According to the Superior Council of Magistracy, two recruitment procedures in the judiciary are ongoing, namely the admission exam to the National Institute of Magistracy, which takes place between July 2024 and April 2025, and the admission exam to the judiciary, which takes place between July 2024 and March 2025.

At this moment, both exams are in the second stage of the evaluation process, which consists of a psychological test and an interview, with the psychological testing already completed by all candidates in both exams.

Regarding the admission exam to the judiciary, the 133 candidates who passed the psychological test have participated in the interview stage between February 26 and March 9, 2025. The final results of the exam will be published on March 27, 2025.

The interview stage of the admission exam to the National Institute of Magistracy will take place between March 15 and March 30, 2025. This stage will include 325 candidates who passed the psychological test (324 candidates who chose to apply for a justice auditor position and 1 candidate who opted for a legal specialist position). The final results of this exam will be published on April 16, 2025.

Additionally, in 2024, a procedure for reappointment to the position of judge was conducted for former judges, according to the provisions of Article 216, paragraphs (2) and (3) of Law no. 303/2004 regarding the status of judges and prosecutors.

Under this procedure, during the meeting of the Section for Judges on September 19, 2024, the reappointment requests were analyzed, and 7 reappointment proposals were made, 4 at the level of courts of first instance and 3 at the level of tribunals. On October 14, 2024, the appointment decrees were published.

Also, in December 2024, the Section for Prosecutors initiated the procedure for reappointment to the position of prosecutor, but as of now, it has not been completed.

Q 6 (in writing only) In your national contribution, it is mentioned that in order to implement the conclusions of the inter-institutional group set up at the level of the Ministry of Justice, a Memorandum was formulated on the subject: "Approval of 600 new positions of clerks with higher law degree in the courts of law as of July 1, 2024". Could you let us know what steps have been taken in this regard?

In the *Development Strategy of the Judicial System for 2022-2025 and its associated action plan*, approved by Government Decision no. 436/2022, under strategic objective 3 - *Developing the human resources policy at the level of the judicial system, in accordance with the (new) regulatory framework to ensure the necessary resources for the judicial system with efficiency and effectiveness*, specific objective 3.6. was included -

Supplementing the positions of auxiliary staff: clerks and IT specialists, in courts and prosecutors' offices.

The strategic objectives regarding the development of human resources policy within the judicial system, outlined in the future Development Strategy of the Judicial System for 2022-2025 and its associated action plan, are also included in the draft of the Development Strategy of the Judicial System and Justice as a Public Service for 2025-2029 and its corresponding action plan (Strategic Dimension 1: Quality and Efficiency of Justice Services, Strategic Objective 3 - Increasing the efficiency and quality of services provided by the judicial system by improving the human resources policy, Specific Objective 3.1. Balancing the staffing schemes of courts and prosecutor's offices and filling vacant positions, Actions: 3.1.8. Completion of the analysis of staffing needs: clerks and other categories of personnel in courts, 3.1.9. Development of a phased plan for increasing the number of clerk positions in courts, 3.1.10. Supplementing and ensuring the financing of positions based on the phased plan), with the Ministry of Justice being designated as responsible for implementing these objectives together with the Superior Council of Magistracy and the High Court of Cassation and Justice.

To achieve these strategic objectives, an interinstitutional working group was established, coordinated by the Ministry of Justice, consisting of representatives from the Ministry, the Superior Council of Magistracy, and the High Court of Cassation and Justice. Following the analysis conducted within the working group, the need to supplement the staffing of judicial courts with 600 clerk positions with higher education was agreed upon, in order to ensure the optimal functioning of the courts and an adequate clerk/judge ratio at the national level.

Thus, based on the provisions of Article XVII, paragraph (7) of Law no. 296/2023 regarding certain fiscal-budgetary measures to ensure the long-term financial sustainability of Romania, as further amended and supplemented, the Ministry of Justice submitted for approval the Memorandum entitled: *"Approval of the establishment of 600 new clerk positions with higher education within the courts."*

The Ministry of Finance returned the aforementioned memorandum without approval, requesting a reanalysis of the financial impact associated with the addition of 600 clerks with higher education degrees for the year 2024.

The High Court of Cassation and Justice provided clarifications regarding the financial impact of adding 600 clerks with higher education degrees within the courts and, at the same time, requested the resubmission of the memorandum to the Ministry of Finance.

On 04.12.2024, the Ministry of Justice sent to the Ministry of Labour and Social Solidarity the Memorandum entitled *"Approval of the establishment of 600 new clerk positions with higher education within the courts"*, revised with regard to the financial impact. It was approved and returned on 06.12.2024.

The Ministry of Justice continued the approval process of the aforementioned memorandum, forwarding it to the Ministry of Finance. The Ministry of Finance returned once again the

memorandum without approval, stating that a "*decision regarding the approval of the memorandum draft can only be made after the establishment of the new Government*". The positions will be allocated to the courts through an order of the President of the High Court of Cassation and Justice, with the endorsement of the Section for Judges of the Superior Council of Magistracy, to be subsequently funded through the budget approved for the main credit holder/budgetary adjustment, and then the competition procedure for their actual occupation will be initiated.

Therefore, in March 2025, Ministry of Justice sent a new request to the High Court of Cassation and Justice for a new impact assessment of the supplementation with 600 new clerk positions with higher education within the courts.

On 17.03.2025, the High Court of Cassation and Justice has communicated the financial impact of the measure to supplement the 600 clerk positions for the period 2025-2029. In view of this, the Ministry of Justice will revise the Memorandum on this aspect, which will be sent through the approval circuit for submission to the Government for approval.

Q8 (In writing only) What measures have you taken in the reporting period to reduce corruption in public procurement? Can you be more specific on the status and results of the TSI Project 23R006 - Support in Implementing Integrity and Anti-Corruption in the Legal Framework in Romania, including the Reduction of Corruption Risks in Public Procurement?

With regard to ***the Project 23R006*** - Support in Implementing Integrity and Anti-Corruption in the Legal Framework in Romania, including the Reduction of Corruption Risks in Public Procurement, funded through the Technical Support Instrument (TSI) of the European Commission, ***three project outputs are nearing completion, adhering to the scheduled project timeline:***

Analytical Note on the Dimensions of the Public Procurement System (Result 3)

The Analytical Note is in its final stages of approval at both the OECD and MoJ, after feedback from relevant stakeholders had been incorporated.

The document provides an analysis of Romania's public procurement system from a risk management perspective, with a particular focus on corruption and fraud risks. The key aspects covered include:

- Risk Analysis and Mapping: Assessment of corruption and fraud risks across the entire public procurement cycle, including pre-tendering, tendering, and contract management stages;
- Stakeholder Mapping: Identification of key stakeholders involved in the public procurement system (ministries, agencies, contracting authorities, economic operators, and civil society organizations), with a focus on their roles in corruption and fraud risks;
- Evaluation of Risk Management Strategies and Tools: Review of existing strategies, tools, and databases for risk management, particularly those aimed at reducing corruption and fraud;

- **Assessment of Institutional Capacities:** Analysis of the essential competencies and tools needed by Romanian authorities (ministries, agencies, and contracting authorities) to mitigate corruption and fraud risks in public procurement.

National Corruption Risk Map in Public Procurement (Result 4)

This risk mapping tool systematically identifies fraud and corruption risks within Romania's public procurement processes.

Current status: The final version of risk map has been finalized by the OECD after integrating feedback from both the public sector and civil society.

The document was developed through close technical collaboration between the Ministry of Justice (MJ) and the National Agency for Public Procurement (ANAP), involving multiple rounds of technical consultations with the OECD.

Structured in a step-by-step manner along the public procurement procedures, the document aims to deliver a clear and comprehensive analysis of identified risks. Its organization includes a detailed methodological description, an overview of relevant risk categories, and tailored solutions and recommendations aligned with Romania's regulatory framework.

The risk map encompasses both general risks applicable to all stages of the procurement process and specific risks identified based on contract typologies or the actors involved. The document provides concrete examples of risk-prone situations, practical solutions for mitigation, and monitoring indicators to support effective risk management.

An example of a risk identified in the Monitoring Contract Performance stage, categorized under Integrity, is the potential conflict of interest or undue influence exerted by individuals responsible for contract monitoring.

This risk may arise due to the need to further strengthen integrity awareness and ethical responsibilities among personnel involved in contract monitoring. If not properly addressed, this could impact the consistency and effectiveness of contract execution.

To mitigate this risk, capacity-building initiatives on integrity can be further developed for contract monitoring personnel. Additionally, reinforcing internal control mechanisms, ensuring clear accountability measures, and enhancing transparency in monitoring activities contribute to strengthening integrity in public procurement.

According to the map conclusions, the responsibility for addressing this risk lies with the Contracting Authority (Procurement Function), internal audit units, and oversight bodies, which must ensure that contract monitoring processes are impartial, well-documented, and aligned with integrity standards. By reinforcing ethical guidelines and oversight mechanisms, the risk of conflicts of interest in contract monitoring can be effectively mitigated, thereby enhancing the credibility and accountability of public procurement.

Similar approaches are applied across all stages of the procurement process, as outlined in the Risk Map, including Needs Analysis, Market Engagement, Market Analysis, Procurement

Planning, Preparation of Technical Specifications, Preparation of Tender Documents, Publication of Call for Tenders, Clarification of Tender Documents, Tender Opening, Evaluation of Tender, Contract Award, Contract Signing, Contract Monitoring Performance, Contract Modification, Ordering, and Invoicing-Payment.

Capacity Building and Training on the Risk Map (Result 5)

This component focuses on the practical application of the risk map, ensuring that procurement officials and integrity bodies are equipped to identify, prevent, and mitigate corruption risks.

It includes:

A training needs assessment to tailor educational programs for public procurement professionals.

Workshops and training sessions on how to use the risk map effectively.

Technical assistance in developing a data-driven risk assessment framework, enhancing the ability to detect irregularities in public procurement processes.

Upcoming action: In April 2025, MoJ will organize dedicated training sessions on the risk map, with a training of trainers' component to ensure sustainable knowledge transfer. Experts attending these sessions will be expected to further train procurement professionals across institutions.

Q 9 (In writing only) The National Integrity Council's mandate ended in March 2024. In February 2024, the Romanian Senate launched proceedings for appointing new full and substitute members, but the procedure was postponed. Can you update us on the state of play and if relevant explain the reasons for this postponement?

Submission of Candidacies for the National Integrity Council¹

On February 10th, 2025, the Permanent Bureau of the Senate decided to initiate the procedure for appointing the titular and substitute members of the National Integrity Council, in accordance with the provisions of Law No. 144/2007 on the establishment, organization, and functioning of the National Integrity Agency, republished, with subsequent amendments and completions.

Based on the provisions of Article 35 paragraph (1) letters h) and i) and paragraph (2) of Law No. 144/2007, the Permanent Bureau of the Senate requests that legally established associations of magistrates, as well as legally established civil society organizations active in the fields of human rights, legal affairs, or economic and financial matters, submit nominations for the positions of titular member and substitute member.

¹ <https://www.senat.ro/StiriSenatDetaliu.aspx?ID=68C19565-DFB2-4157-A1CD-24F6A93F9138>

Candidacies can be submitted to the Permanent Bureau of the Senate by **March 7, 2025**.

Question for MEDET

Q1. MEDET approved in 2024, by Ministerial Order, the Methodology for the development and application of the SME Test. How is this methodology being applied in practice? How does it fit in the legislative process, including when legislation is adopted through government emergency ordinances?

The SME Test is a way of assessing the impact that legislative proposals have on SMEs and consists of conducting consultations by the initiator of the normative act, before starting the approval process, regarding the potential effects generated in the activity of SMEs by the introduction of new regulations. Specifically, the SME Test supports the business environment with the aim of reducing the administrative and fiscal burden.

The application of the SME Test involves:

- firstly, actions by the initiator of the normative act in the form of consultations with SMEs on draft normative acts.
- secondly, after the completion of the SME Test by the initiator, it involves actions by GEIEAN (Groupe for the evaluation of the economic impact of normative acts), an external body with representativeness among SMEs, whose secretariat is provided at the level of MEDET, which, based on the freely expressed vote, grants a favorable opinion, a favorable opinion with observations or a negative one.

National legislation related to the SME test:

- Order of the Ministry of Economy, Entrepreneurship and Tourism no. 2761/ 22 august 2024 amending the Annex to Order no. 546/2023, published in the Official Journal of Romania no. 932 of 17 September 2024
- Order no. 546/12 October 2023 of the Ministry of Economy, Entrepreneurship and Tourism for the approval of the Methodology for designing and application of the SME Test, published in the Official Journal of Romania no. 1006 of 6 November 2023 (it replaces the Order of the Ministry of Economy - Department for Small and Medium Enterprises, Business Environment and Tourism no. 698/2014);
- Order no. 545/12 October 2023 of the Ministry of Economy, Entrepreneurship and Tourism regarding the approval of the Regulation on the organization and functioning of the Group for the evaluation of the economic impact of normative acts on small and medium-sized enterprises (GEIEAN), published in the Official Journal of Romania no. 990 of 31 October 2023 (it replaces the Order of the Ministry of Economy - Department for Small and Medium Enterprises, Business Environment and Tourism no. 699/2014);
- Law no. 53 of 3 March 2023 on the approval of Government Emergency Ordinance no.10/2022 for the amendment and completion of Law no. 346/2004 on stimulating the establishment and development of small and medium-sized enterprises, published in the Official Journal of Romania no. 186 of 6 March 2023;
- Government Emergency Ordinance no.10/2022 for the amendment and completion of Law no. 346/2004 on stimulating the establishment and development of small and medium-sized enterprises, published in the Official Journal of Romania no. 162/17 February 2022.

The participation of SMEs in consultations related to the SME Test requires the allocation of resources, which can be burdensome for them. At the same time, it is necessary for the allocated resources to have some legal training or understanding so that they can interpret draft normative acts and formulate observations. These human resources also need to be supported by the allocation of corresponding financial resources. Additionally, there is some reluctance to participate in consultations and communicate observations, as these might reveal vulnerabilities to competition;

We consider that the initiators of draft normative acts need time to engage SMEs voluntarily and as broadly as possible, in terms of gathering the opinions of SMEs on the final version of the normative acts, a process that will foster trust and encourage participatory determination.

Furthermore, we note that the initiators of draft normative acts need time to create mechanisms in the process of applying the SME test that, through repetition, will lead to a smoother application of the SME test for all parties involved.

As a result, the current limitations will be overcome over time through practice, which will contribute to the easier adoption and implementation of the SME test by the initiators of draft normative acts, as well as reduce the reluctance of SMEs to participate in consultations conducted through the SME test.