

European Rule of Law Mechanism: written contribution of Romania

INTRODUCTION

The present written input is aimed to contribute to the preparation of the fifth Rule of Law Report.

It provides a synthetic overview of the policy developments and practical application thereof in the four pillars proposed by the European Commission in its document, namely: justice system, anti-corruption framework, media pluralism, other institutional aspects related to checks and balances.

This contribution consolidates the previous national contributions provided for the first four exercises on the Rule of Law Mechanism and also includes the most significant up-dates regarding the follow-up on the recommendations received in the 2023 Report. The objective is to feed the assessment of the Commission with factual information on evolutions and developments on the ground in Romania during 2023.

The following institutions contributed as usually with their technical expertise to the consolidated contribution presented below: Superior Council of Magistracy, High Court of Cassation and Justice, Prosecutors Office attached to the High Court of Cassation and Justice, National Anticorruption Directorate, National Integrity Agency, National Audio-Visual Council, Constitutional Court, National Parliament, National Council for Combating Discrimination, the Ministry of Culture, General Secretariat of the Government, Legislative Council, Government Agent at the European Court of Human Rights, Ministry of Justice, the latter being responsible for the overall coordination of the process.

The national authorities remain fully committed to provide any further information deemed necessary for the Rule of Law Report to be issued by the European Commission in 2024, and are also available for the country visit.

On 15 September 2023, the European Commission formally closed the Cooperation and Verification Mechanism (CVM) for Romania, following the positive conclusions of its last report on Romania, published on 22 November 2022, which noted that all the objectives (benchmarks) have been met and that further cooperation with the European Commission in the area of judicial reform can be carried out within the framework of the Rule of Law Mechanism, applicable to all EU Member States.

Romania reaffirms its political will to continue the close cooperation with the European Commission and the other Member States within the field of Rule of Law, as shared and continuous responsibility for all Member States and EU institutions, in line with the principle of sincere cooperation provided for in art. 4(3) of the Treaty of the EU.

I. JUSTICE SYSTEM

I. Justice System

1. Please provide information on measures taken to follow-up on the recommendations received in the 2023 Report regarding the justice system (if applicable)

Complete the process initiated in view of taking into account the recommendations contained in the opinion of the Venice Commission on the Justice Laws, in particular by finalising the assessment being carried out by the panel of high-level experts.

Take measures, in particular at an operational level, to address remaining concerns about the investigation and prosecution of criminal offences in the judiciary, including as regards corruption offences, taking into account European standards.

Continue efforts to ensure adequate human resources for the justice system, including for the prosecution services, taking into account European standards on resources for the justice system.

Ministry of Justice

Appointment procedures of high-level prosecutors

The appointment procedures of the General Prosecutor, the DNA chief-prosecutor and the DIICOT chief-prosecutor have been successfully finalised. The new appointed high-level prosecutors have high level expertise and an important track record.

The procedure for the appointment of the middle management prosecutors, namely First Deputy Prosecutor General of the Prosecutor's Office of the High Court of Cassation and Justice, Deputy Prosecutor General of the Prosecutor's Office of the High Court of Cassation and Justice, Deputy Chief Prosecutor of the National Anticorruption Directorate (2 positions) and Deputy Chief Prosecutor of the Directorate for the Investigation of Organised Crime and Terrorism (2 positions), has also been finalised the end of June. A number of 5 positions were occupied out of 6 positions (a vacancy for DIICOT deputy chief prosecutor still remained).

Another procedure for the appointment of the middle management, namely Chief Prosecutor in the Prosecutor's Office of the High Court of Cassation and Justice (4 positions), Chief Prosecutor in the National Anticorruption Directorate (3 positions), Deputy Chief Prosecutor (one position) and Chief Prosecutor in the Directorate for the Investigation of Organised Crime and Terrorism (3 positions) is also finalised.

Justice Panel for Venice Commission Opinion 1105/2022

The initiative to set up the "Justice Panel" to analyse and evaluate the Venice Commission Opinion 1105/2022 was taken by the Minister of Justice and was announced in advance both to the European Commission and to the President of the Venice Commission, Ms Claire Bazy Malaurie, and is very much welcomed. This initiative aims to support the independence of justice, dialogue and cooperation between the Ministry of Justice and the Venice Commission. The Justice Panel was composed of three independent experts with an established professional reputation.

The main objective of the Panel was to carry out an in-depth analysis and assessment of the recommendations made by the Venice Commission on the three justice laws: Law 303/2022 on the status of judges and prosecutors, Law 304/2022 on the judicial organisation and Law 305/2022 on the Superior Council of Magistracy. The independent report resulting from the analysis has been transmitted to the European Commission in order to continue the dialogue on the above-mentioned issues. The Minister of Justice thus reaffirmed his commitment to a transparent and constructive process based on dialogue and consultation in the field of justice.

Dismantling of Special Section for the Investigation of Crimes in Justice

The statistics received for the General Prosecutor show that 6338 out of 10035 cases are already solved. Currently, there are 40 designated prosecutors at the national level, out of 59 - the maximum number provided by the law.

The process of selection of designated prosecutors still indicated that some improvements could be further proposed. There is an intention to amend the Law 49/2022, in order to facilitate the vacancies filling-in. The amendments to Law no. 49/2022 have been discussed during a meeting of the Committee for the Management of the Judicial System held in December 2023. These discussions laid down the pre-requisites for a more comprehensive inter-institutional consultation.

Adequate resources for the prosecution services

The Government Decision no. 961/2023, initiated by the Ministry of Justice, provides for the increase of the maximum number of posts for the Directorate for the Investigation of Organized Crime and Terrorism (DIICOT) by 50 posts, including 25 prosecutors, 20 clerks and 5 economic and administrative staff. This was made in order to support and streamline the work of the DIICOT, a prosecutorial structure responsible for offences relating to drug trafficking, trafficking in human beings, trafficking in minors, child pornography, terrorism, money laundering, etc.

Intensive work was carried out to address the operational challenges of the National Anti-Corruption Directorate. Currently, out of a total of 195 prosecutor positions foreseen 169 positions are filled in. Thus, the occupancy rate is 86,66%. To achieve this goal, new legislative provisions facilitating the occupation of the vacant positions in the National Anti-Corruption Directorate were adopted and entered into force.

Government Decision no 885/2023, initiated by the Ministry of Justice, increased the maximum number of posts for the National Anticorruption Directorate, for the Support Structure for European Prosecutors delegated to Romania (5 posts of judicial police officers and 1 post of clerk). The sixth selection procedures of the European delegated prosecutors to the EPPO has been recently finalised and all the 20 European delegated prosecutors' positions are now occupied. An adequate headquarter for the EPPO national structure was also provided.

Superior Council of the Magistracy

During the referred period, in order to bring the secondary legislation in line with the new statute of judges and prosecutors (Law no. 303/2022), regulations on the appointment in leading positions of judges and prosecutors were adopted¹.

Regarding the recommendation to ***continuing efforts to ensure adequate human resources for the justice system, including for the prosecution services, taking into account European standards on resources for the justice system***, there

¹ Thus, the Regulation on the appointment of judges in leading positions, approved by Decision no. 266/16.02.2023 of the Section for Judges, published in the Official Gazette Part I, no. 144/21.02.2023 and the Regulation on the appointment of prosecutors in leading positions, approved by Decision no. 506/11.04.2023 of the Section for Prosecutors, published in the Official Gazette of Romania, Part I, no. 356/27.04.2023 were adopted.

should be mentioned that, in order to adapt the secondary legislation to the new legal framework, the following regulations and methodologies were adopted by the Superior Council of Magistracy:

— The Regulation on the competition for admission in magistracy, approved by Decision of the Plenum of the Superior Council of Magistracy no. 115/28.06.2023, published in the Official Gazette of Romania, Part I, no. 605 bis/03.07.2023;

— The Regulation on admission to the National Institute of Magistracy, approved by Decision no. 114/28.06.2023 of the Plenum of the Superior Council of Magistracy, published in the Official Gazette of Romania, Part I, no. 605/03.07.2023

— The Regulation on the appointment of prosecutors in non-leading positions at the National Anticorruption Directorate and the revocation from these functions, approved by Decision no. 1107/31.08.2023 of the Section for Prosecutors, published in the Official Gazette of Romania, Part I, no. 795/4.09.2023;

— The Regulation on the appointment of prosecutors in non-leading positions at the Directorate for the Investigation of Organised Crime and Terrorism and the revocation from these positions, approved by Decision no. 843/13.06.2023 of the Section for Prosecutors, published in the Official Gazette of Romania, Part I, no. 578/27.06.2023;

- Methodology on re-appointment as a judge/in the judge position, approved by Decision of the Section for Judges no. 423/23.03.2023;

— Methodology on re-appointment as a prosecutor/in the prosecutor position, approved by Decision no. 240/04.04.2023 of Section for Prosecutors.

In order to avoid, among other aspects, the situation of massive exiting the system/the magistracy and to ensure the stability of human resources, the Superior Council of Magistracy was involved, in the legislative steps/proceedings to amend the regulations on the service pensions of judges and prosecutors, by issuing opinions/endorsements and points of view, convening the general assemblies of judges and prosecutors, participating in parliamentary debates, etc.

High Court of Cassation and Justice

As a result of the entry into force on December 16, 2022 of Law No 304/2022 on the judicial organisation, the High Court of Cassation and Justice has taken over, starting from December 22, 2022, the responsibility of managing the budget for all judicial instances in the national legal system (courts of appeal, tribunals, specialised tribunals and courts of first instance), for personnel expenses and related cost. The President of the High Court of Cassation and Justice serves as the principal authorising officer for these categories of expenditure categories (Article 142 of Law No 304/2022 on the judicial organisation), a measure aimed at strengthening the independence of the judicial system, which includes, as emphasized by the Court of Justice of the European Union, a financial component.

Law no. 303/2022 regarding the status of judges and prosecutors has also includes amendments regarding the promotion exam at the High Court of Cassation and Justice, a positive aspect being that the President of the High Court of Cassation and Justice, upon the recommendation of the department presidents, appoints the two judge members within the committee evaluating drafted judicial decision to enhance the objectivity of the procedure by separating the role of the Superior Council of Magistracy, before which the interview test takes place, from the primary role of the High Court of Cassation and Justice in the evaluation of judicial decisions. Another positive aspect brought by the new law regarding this procedure is the better definition of the criteria for the evaluation of court decisions, which is currently conducted based on 10 criteria.

Furthermore, under the conditions stipulated in art. 237 - art. 251 of Law no. 303/2022, regarding the status of judges and prosecutors, the High Court of Cassation and Justice has become exclusively competent to organize and conduct the selection contest filling vacant positions of assistant-magistrate at the High Court of Cassation and Justice, contest held according to the Regulation on the organization and conduct of the competition for filling vacant positions of assistant magistrate at the High Court of Cassation and Justice.

In order to strengthen the institutional capacity of the High Court of Cassation and Justice in the context of the new responsibilities arising from the take-over of the budget of the courts for personnel expenses and for other categories of expenses intrinsically related to them, as well as from the take-over of the careers of the assistant magistrates of the High Court of Cassation and Justice and their recruitment procedure through, by Government Decision no. 419/2023, in force from May 11, 2023, the request of the High Court of Cassation and Justice to supplement the personnel scheme with 60 positions was approved, the decision noting that the High Court of Cassation and Justice operates with a maximum number of 654 of posts.

Law no. 282/2023 for the amendment and completion of some normative acts in the field of service pensions and Law no. 227/2015 on the Fiscal Code will have a real impact on the quality and efficiency of the judicial system, which reconfigures the legal regime applicable to the service pensions of magistrates, taking into account the place and role of justice in the rule of law as well as the European legislation on professional social security regimes. The new law establishes concrete criteria and conditions of the right to service pension, namely a minimum experience of at least 25 years only in positions of judges, prosecutors, judges at the Constitutional Court and assistant magistrates from the High Court of Cassation and Justice and from the Constitutional Court, as well as specialized legal personnel (the gradual assimilation of experience in other legal professions being eliminated), a retirement age, introducing also a percentage limitation regarding the amount. Despite these changes, the mentioned law has concretely signalled a stabilization of the legislative framework concerning service pensions, leading to a reduction in retirement applications at the highest court.

In the context of the measures adopted by the Government, through several regulatory acts to ensure fiscal-budgetary prudence, it is worth noting that, either together with the other courts, or individually, the High Court of Cassation and Justice was exempted from the measures restriction of budget expenditures, related in particular to the chapter of human resources, thus ensuring the consolidation of its institutional capacity.

A. Independence

2. Appointment and selection of judges², prosecutors and court presidents (incl. judicial review)

Superior Council of Magistracy

Admission in magistracy by means of competition: during 2023, two admission competitions were completed, initiated in 2022, with **127** positions of judge in first instance courts being occupied, as follows: 76 positions following the competition which took place from 12 July 2022 to 2 March 2023, as well as 51 positions following the competition which took place from 14 October 2022 to 15 June 2023. Also, as a result of these competitions, **40** positions of prosecutor were occupied, and they were appointed to office starting with 23.03.2023 and 16.06.2023 respectively.

At the current moment, a competition for admission in magistracy is ongoing, in accordance with Article 63 of Law No 303/2022, in order to fill **250** positions of judges in first instance courts and **147** positions of prosecutors in the prosecutors' offices attached to the first instance courts. The competition is due to be finalised in March 2024.

In accordance with the provisions of Law no. 303/2022, the Superior Council of Magistracy decided the initiation of a session for appointment of prosecutors in judge positions, the announcement on the initiation of the procedure being published on the Council's website on 11 May 2023.

The interview under this procedure took place during the sessions of the Section for Judges which were held on 27 and 28 June 2023, being issued **35** proposals for the appointment to the position of judge. As a result of the fact that some proposals have been challenged by the prosecutors' offices, out of which so far 9 have been resolved in final instance by rejection, until presently, only 29 appointment decrees from the position of prosecutor have been issued. The concrete

² The reference to judges concerns judges at all level and types of courts as well as judges at constitutional courts.

situation of the other 6 nominations made by the Section for Judges will be finalised in relation to the final solutions to be rendered by the court.

At the same time, it is worth mentioning that a new appointment procedure from the position of prosecutor in/to the position of judge was initiated on 7 December for 145 first instance courts. Within the 15-day legal deadline, 30 prosecutors have submitted requests to be appointed in judge positions.

During 2023, the Section for Prosecutors of the Superior Council of Magistracy admitted the requests submitted by 9 judges for dismissal from this position and appointment in/to the position of prosecutor. In the context where one of the judges requested the revocation of the measure, 8 decrees were issued in this regard, in August 2023, by the President of Romania.

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Between November 2022 and April 2023, the capacity examination of trainee judges and prosecutors was carried out and, during 2023, proposals were issued for the appointment by decree of the President of Romania, of **140** judges.

By the Decision No 673/04.05.2023 of the Section for Prosecutors the proposals for the appointment as prosecutor of **68** trainee prosecutors, who were appointed in May 2023, were submitted to the President of Romania.

By Decision No 1627/30.05.2023, the Section for Judges of the Superior Council of Magistracy decided to approve the initiation of the re-appointment procedure in judge positions for former judges, in accordance with the provisions of Article 216(2)-(3) of Law No 303/2022 on the status of judges and prosecutors. Thus, in accordance with Article 2 of the Methodology on re-appointment to the position of judge, approved by Decision No 423/2023 of Section for Judges, judges who previously retired, were able to submit applications starting with 31.5.2020. During the session of the Section for Judges of 14 September 2023, 13 proposals for re-appointment were made, of which 11 at first instance courts and 2 at tribunals, **13** former judges having been re-appointed, starting with 03 October 2023. In 2023, by Decision of the Section for Prosecutors of the Superior Council of Magistracy no. 1108/31.08.2023, the re-appointment session of former prosecutors who previously retired was initiated, in accordance with Article 216 of Law No 303/2022 on the status of judges and prosecutors. In the session of the Section for Prosecutors of 28 November 2023, it was decided to submit to the President of Romania 5 proposals for re-appointment in function of former prosecutors.

At present, the provisions of Article 150 of Law No 303/2022 on the statute of judges and prosecutors are in force, which regulate, in paragraphs (1) to (3), that the appointment to the positions of President of first instance courts, tribunals, specialised courts and courts of appeal shall be made only by competition or examination organised, whenever necessary, by the Superior Council of Magistracy, with the support of the National Institute of Magistracy, and the appointment to other leading positions within the first instance courts, tribunals, specialised courts and courts of appeal shall be made without competition or examination, on the proposal of the president of the court, in accordance with the procedure provided for by law. The appointment in leading positions of first instance courts, tribunals, specialised tribunals and courts of appeal shall be made by decision of the Section for Judges, for a period of 3 years, with the possibility of re-investment, only once, under the same conditions. In accordance with the new legal provisions applicable to the procedure for appointment in leading positions, which entered into force in December 2022, the Section for Judges approved the organisation of the competition/examination for the filling of 137 vacant president positions at courts of appeal, tribunals, specialised courts and first instance courts. 55 applications were submitted for this procedure, for 42 president positions, whilst no applications for the remaining 95 leading positions were registered. The Section for Judges validated the results of the competition/examination and stated that only 34 leading positions could be occupied, representing 24.81 % of the total leading positions for which the competition was organised, namely 80.95 % of the 42 positions of president for which

applications were submitted. Thus, the Section for Judges decided on the appointed of 34 persons in leading positions, starting with 22 August 2023, for a 3-year term of office.

It is noted that although the legal framework has changed significantly in terms of filling leading /management positions, in the sense that only the positions of president are occupied by competition, the degree of participation/occupation still remains at around 25 % in relation to the vacancies.

Also, between September and December 2023, a new competition/examination is ongoing to fill 134 vacant positions of president or which will be vacant until 6 January 2024 at courts of appeal, tribunals, specialised courts and first instance courts. The results of this procedure have been validated in the session of the Section for Judges of December 19th, 2023, but the 32 filled in leading positions shall have an impact in the data for 2024 (with the mention that for only one leading position the appointment has been ordered starting with December 20th 2023, while the other positions shall be filled in beginning with January 6th, 2024).

During the reference period, the Section for Judges appointed 79 judges to vacant positions of Vice-President (22 appointments) and president of section (57 appointments) whereas in 2022, 57 judges were appointed to the positions of Section President to first instance courts, tribunals and courts of appeal, respectively in 2021, 71 judges were appointed, and in 2020, when 50 Section Presidents were appointed.

The Section for Prosecutors of the Superior Council of Magistracy approved the organisation, through the National Institute of Magistracy, in Bucharest, between 1 August and 22 November 2023, of the competition for the appointment in leading positions at the Prosecutors' Offices attached to the courts of appeal, tribunals and first instance courts. 177 vacant positions of Prosecutor General and First Prosecutor of the Prosecutors' Offices attached to the courts of appeal, tribunals and first instance courts were open for this competition. This procedure was finalised on 22.11.2023, the results of this competition were validated by the Decision of the Section for Prosecutors. Following the completion of this procedure, 64 leading positions will be filled in as of 1.1.2024 (8 positions of Prosecutor General, 56 positions of First Prosecutor).

Between January and 31.12.2023, pursuant to the provisions of Articles 149 and 150(2), (3) of Law No 303/2022, the Section for Prosecutors of the Superior Council of Magistracy appointed 59 prosecutors in leading positions.

3. 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)

As regards secondary legislation, the following methodologies and procedures have been adopted by the Superior Council of Magistracy: Methodology on secondment and delegation of judges, Methodology for carrying out specialised medical expertise in case of suspension from office of judges for a condition other than mental illness, Methodology for carrying out specialised medical expertise in case of suspension from office of judges for mental illness, Methodology for carrying out specialised medical expertise in case of suspension from office of prosecutors for a condition other than mental illness, Methodology for carrying out specialised medical expertise in case of suspension from office of prosecutors for mental illness.

Situation of transfer

Regarding the transfer session organised at the end of January 2023, there were 594 transfer applications submitted for the first stage and 362 transfer applications submitted for the second stage. At the same time, the transfer procedure from civil courts to military courts was initiated, for 8 positions, namely: Bucharest Military Court of Appeal – 2 positions, Bucharest Military Tribunal – 1 position, Cluj Military Tribunal – 1 position, Iași Military Tribunal – 2 positions and Timișoara Military Tribunal – 2 positions, but only 5 of these positions were occupied (at the Bucharest Military Court of Appeal, Iași Military Tribunal, Timis Military Tribunal – 2 posts and the Cluj Military Court).

The second transfer session, completed in November 2023, involved the analyses of 425 transfer requests submitted for the first stage and of 266 transfer requests submitted for the second stage of transfers requests for judges.

During 2023, a transfer procedure for prosecutors was initiated, between February and April 2023. 207 transfer requests were registered in this procedure.

On 15.12.2023, the second transfer procedure for prosecutors was launched, that shall be completed in February 2024, for which 354 vacant prosecutor positions have been allocated.

Also, on 8.11.2023, the announcement of the organisation of a transfer session from the civil prosecutors' offices to the military prosecutors' offices was published on the website of the institution. The procedure is ongoing. In the session on 12.12.2023, the Section for Prosecutors admitted 5 requests submitted by prosecutors for transfer from civil to military prosecution offices.

Situation of exiting from the profession:

By decrees of the President of Romania published in the referred period, up to and including 31.12.2023, **306** judges and **197** prosecutors were released.

4. Promotion of judges and prosecutors (incl. judicial review)

From the perspective of putting in accordance the secondary legislation with the new primary legislation, the following regulations have been adopted at the level of the Superior Council of Magistracy: Regulation on the organisation and carrying out the promotion of judges at the High Court of Cassation and Justice, Regulation on the competition for the promotion of judges, Regulation on the competition for the promotion of prosecutors.

Promotion of judges

A single competition for effective promotion in non-leading positions was organised during May - October 2023. For this competition, 68 posts were allocated/opened for competition at the courts of appeal and 432 positions in tribunals; 332 judges submitted applications to participate in the competition, out of which one judge dropped off. A number of 292 candidates meet the conditions laid down by law. Starting with 1 November 2023, 201 judges were promoted, of which 53 to the courts of appeal and 148 judges to the tribunals.

Distinctly, the Section for Judges decided to promote to the higher courts 7 judges (4 judges at the Court of Appeal and 3 Judges at the Tribunal), starting from 1 June 2023, following the vacation of the positions afterwards, by taking into account the results obtained in the competition for promotion to execution positions of judges held between May - October 2022. In addition, during this year, the Section for Judges validated the results of the competition for effective promotion in non-leading positions held between April and August 2021 and the promotion of the candidates, starting with 1 June 2023.

Also, in the session of the Section for Judges of 7 December 2023, it was decided on the promotion of 36 judges to higher courts (18 judges at the Court of Appeal and 18 Judges at the Tribunal) starting with 01.01.2024 (with two exceptions, namely starting with 01.03.2024 and with 01.04.2024), following the valorisation of the result obtained in the competition for promotion in non-leading positions of judges finalised in October 2023. Subsequently, in the session of the Section for Judges on 19.12.2023, in 4 cases, the promotion date was modified from January 1st 2024 to February 1st 2024 (in 2 of the cases), to April 1st 2024 and respectively, to July 1st 2024.

Promotion to the position of judge at the High Court of Cassation and Justice

At the level of the Supreme Court, following the completion of the competitions held between November 2022 and March 2023, in the session held on 23.03.2023, the Section for Judges decided on the promotion of 6 judges to the Supreme

Court, of which 2 judges in the 1st Civil Section, 1 judge in the Administrative and Fiscal Litigation Section, 1 judge in the Criminal Section and 2 judges in Second Civil Section.

Also, Decision No 1338/11.04.2023 of the Section for Judges decided on the organisation of the promotion competition for the position of judge at the High Court of Cassation and Justice, from April to September 2023, for 17 judge positions, of which 3 positions in the 1st Civil Section, 1 position in Second Civil Section, 7 positions in the Criminal Section and 6 positions in the Administrative and Tax Litigation Section. In the session of the Section for Judges which took place on 27 September 2023 the results obtained in this competition were validated, being promoted to the Supreme Court, starting on 1 October 2023, 8 judges: 3 judges in the 1st Civil Section, one judge in the Second Civil Section, one judge in the Criminal Section and 3 judges in the Administrative and Tax Litigation Section.

Promotion of prosecutors

Between May and October 2023, a competition was held for effective promotion in non-leading positions for prosecutors. Thus, by Decision of the Section for Prosecutors no. 744/23.05.2023, the organisation of the competition for effective promotion in non-leading positions for prosecutors for 154 positions was approved. Following the completion of this competition, 88 prosecutors were effectively promoted to the higher prosecutors' offices. Also, in the session of the Section for Prosecutors of 21 November and 12 December 2023, the effective promotion to higher prosecutions' offices was decided for other 29 prosecutors, as an effect of the admission of their requests for valorisation the results obtained in the exam.

5. Allocation of cases in courts

There were no changes in the regulation of the random distribution of cases in court during the reference period.

6. 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)

From the perspective of harmonising secondary legislation with the new primary legislation, the Regulation on the organisation and functioning of the Superior Council of Magistracy was adopted.

The Superior Council of Magistracy organised, beginning with 6.10.2023, the elections for the positions of President and Vice-President of the Superior Council of Magistracy, on 29.11.2023 being the deadline for submitting nominations, accompanied by a draft on the objectives pursued. On 05.12.2023 the examination and debate of the applications submitted and the appointment of candidates for the positions of President and Vice-President by the corresponding Sections of the Superior Council of Magistracy took place, as well as the election of the President and Vice-President by the Plenum of the Superior Council of Magistracy.

7. 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)

Superior Council of the Magistracy

In the context of the implementation of the new legislative provisions in the field of disciplinary liability of magistrates, it should be noted that, during the reference period, the Sections of the Superior Council of Magistracy have found that the disciplinary sanctions applied to certain magistrates were de jure removed³ (four such requests were resolved). It should

³ According to the provisions of Article 273(3) of Law No 303/2022 on the statute of judges and prosecutors, disciplinary sanctions shall be deleted de jure in 3 years from the date of enforcement, unless a new disciplinary sanction is applied to the judge or prosecutor within this period.

be noted that the procedure for the application of the provisions newly introduced in this matter by the new justice laws was detailed in the Regulation on the organisation and functioning of the SCM.

High Court of Cassation and Justice: In 2023, 45 cases were registered on recourse against decisions of the Superior Council of Magistracy related to the disciplinary actions against judges and prosecutors. The law applicable to most of the cases referred to the High Court of Cassation and Justice in 2023 was Law No 303/2004 (the previous regulation), with only a small proportion being solved under Law No 303/2022. The panels of five-judges in civil matters of the High Court of Cassation and Justice solved 37 disciplinary cases in 2023. In 12 of these cases the disciplinary sanctions were upheld as originally imposed or a lesser form of accountability was applied.

The annual *Bulletin of Jurisprudence in the Matter of Disciplinary Liability of judges and prosecutors* is published on the website www.iccj.ro. This publication contains a selection of anonymised decisions pronounced by the panels of five judges on disciplinary liability matters, and in 2023 the edition featuring decisions pronounced in 2022 was published. The publication is accessible to the public and contributes to increased transparency in the area of disciplinary liability of magistrates.

8. 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

Superior Council of Magistracy

The members of the Council continued to regularly pay visit to the courts and to the prosecutors' offices and have organised meetings with judges and prosecutors. Similarly, the members of the Superior Council of Magistracy have participated in the general assemblies of the courts and prosecutors' offices where the annual activity reports were debated and approved. At the same time, according to the full transparency coordinates that characterises the activity of the Superior Council of Magistracy, it should be mentioned, as previously pointed out, the consultation of the courts and of the prosecutors' offices attached to them, for example, on the secondary legislation elaborated in the application of the new justice laws.

It is also worth mentioning the constant nature of communicating to the courts and prosecutors' offices the relevant solutions adopted at Council level, in the Plenum, in its Sections or in the specialised Committees, these being disseminated widely and in a timely manner to judges and prosecutors. Moreover, as an expression of the institutional collaboration promoted by the Council, representatives of the courts and prosecutors' offices were invited to participate in working groups or other activities carried out at Council level.

The main directions of action and objectives of the Superior Council of Magistracy, for the mandate 2023-2029, have been elaborated and made available by publication on the Council's website, being adopted by Decision No 55 of 30 March 2023, of the SCM Plenum.

At the same time, on the basis of the provisions of Article 56(8)(b) of Law No 305/2022 on the SCM, the members representatives of civil society have prepared the quarterly reports on the consultation of civil society organisations and the proposals and suggestions on the necessary steps at Council level to improve the activity of judicial institutions as a public service for the society. The reports were presented in the Council's Plenum meetings on 27 April, 11 October and 16 November respectively.

Also, in view of the digitalisation component for the judiciary, including as an attribute of transparency, a number of applications (detailed in question 15) have been developed at the level of the SCM, integrated in the www.Rejust.ro portal, in order to benefit from the high level of visibility and accessibility already achieved by this website, which currently has more than 25000 users.

Moreover, given the interest for transparency, but also for the proper functioning of the judicial system and for ensuring a quality judicial act, the perception and satisfaction of the participants in the process are important indicators that will be valued in a new uniform evaluation mechanism from this perspective. Thus, as detailed in Question 16, the Decision of the Section for Judges no. 2646 of 16.11.2023 approved this unitary mechanism for assessing the satisfaction of the stakeholders (court users, parties, lawyers, etc.) as a satisfaction questionnaire to be applied periodically countrywide, at the level of the courts.

The Superior Council of Magistracy has completed the implementation of a project with European funding (Project “TAEJ-Transparency, Accessibility and Legal Education by improving public communication within the judiciary”) whose general objective was to improve and uniformly address public communication at the level of the judiciary in order to strengthen its image, ensure greater transparency within and outside the system, as well as improve access to justice by increasing information, raising awareness of citizens’ rights and developing legal culture. During the referred period, several actions have been carried out within the project, consisting, among other activities, in: increasing transparency and clarifying the relationship with the executive and legislative powers, through the bilateral ownership of best practice guidelines in this regard, but also in carrying out an integrated public information campaign, under the slogan “People for Justice. Justice for People’, which took place during a six-month period, from 12 August 2022 to 8 February 2023,⁴ or the distribution of four information leaflets in the areas of Enforcement in civil matters, Citizens’ Rights, Criminal Procedure for All and Civil Law, printed in a circulation of 80.000 copies, and made available at the premises of all courts and prosecutors’ offices countrywide.

High Court of Cassation and Justice

Exercising the prerogative of the High Court of Cassation and Justice according to Article 27 b) of Law 304/2022 on the judicial organization, in referring the Constitutional Court for the purpose of exercising constitutional reviews of the laws, before promulgation.

In the joint meeting of the United Chambers on June 26, 2023, the High Court of Cassation and Justice decided to refer the matter to the Constitutional Court for ruling on the unconstitutionality of the Law amending and supplementing certain normative acts in the field of service pensions and Law no. 227/2015 regarding the Fiscal Code, normative acts that posed serious threat to the status of the judge and the prosecutor. By Decision no. 467 of August 2, 2023 regarding the objection of unconstitutionality raised against the provisions of art. I-IV, of art. XIII para. (5) and (6), art. XV of the Law amending and supplementing certain normative acts in the field of service pensions and of Law no.227/2015 on the Fiscal Code, including its annexes no. 1-3, as well as the law as a whole, the Constitutional Court of Romania admitted the objection of unconstitutionality and ruled that the provisions of art. I-IV, art. XIII para.(5) and (6) and art. XV of the Law amending and supplementing certain normative acts in the field of service pensions and of Law no.227/2015 on the Fiscal Code, along with its annexes no. 1-3, are unconstitutional.

The High Court of Cassation and Justice has been a faithful defender of the status of the judge and the prosecutor during the debates that followed this decision, aiming to reconcile these normative acts with those established by the Constitutional Court.

Issuing mandatory decisions by the High Court of Cassation and Justice aimed at unifying the jurisprudence of national courts regarding the salary rights of magistrates.

The salary rights of magistrates have remained the subject of numerous lawsuits pending in the judicial courts, and the non-uniform application of the legislative framework on salary matters, coupled with its deficiencies, has continued to give rise to inequalities in the remuneration of judges and prosecutors.

In this context, the High Court of Cassation and Justice has efficiently exercised its constitutional role in unifying jurisprudence, recognized by the European Court of Human Rights in the case of Beian v. Romania as an important element of the principle of legal certainty, an essential component of the rule of law, through the issuance of mandatory decisions within the procedural mechanisms provided by the Code of Civil Procedure for the unifying jurisprudence (appeals in the

⁴ The campaign was broadcast nationwide, both in the off-line environment, through TV, radio and street panels, as well as in the online environment, through Facebook, Instagram, Twitter, LinkedIn, TikTok, YouTube channel and www.justitiepentruoameni.ro.

interest of the law and prior rulings) to harmonize the jurisprudence of national courts concerning the salary rights of magistrates.

We mention, for example, Decision no. 13/2023 for issuing a prior ruling on the interpretation of the provisions of art. 88² para. (5) from Law no. 304/2004 regarding judicial organization, republished, with subsequent amendments and additions, correlated with the provisions of art. 13 para. (1) letter a) from Government Emergency Ordinance no. 27/2006 on the remuneration and other rights of judges, prosecutors and other categories of personnel in the justice system, approved with amendments and completions by Law no. 45/2007, with subsequent amendments and additions; Decision no. 79/2023, regarding the issuance of a prior ruling on the interpretation and application of the provisions of art. 79 para. (1) and (3) from Law no. 303/2004 regarding the status of judges and prosecutors, republished, with subsequent amendments and completions, related to the provisions of art. 1 para. (2) and art. 278 para. (2) from Law no. 53/2003 – Labour Code, republished, with subsequent amendments and additions; Decision no. 80/2023, regarding the issuance of a prior ruling on the interpretation and application of the provisions of art. 6 letter b) and c) from Law no. 153/2017 regarding the salary of staff paid from public funds, with subsequent amendments and additions.

Orders for updating salary incomes in accordance with final court decisions.

In the conditions of taking over the administration of a part of the budget of the courts by the supreme court, the existence of salary inequities at the level of the court system, within each professional category, was found, especially as a result of the effect of some court decisions or the different interpretation by the courts of some legal provisions with incidence in this matter.

In order to eliminate those inequalities, as well as to prevent the initiation of new litigations on this matter (in the context of the transfer of powers from the Ministry of Justice, thousands of cases of this nature were identified, either pending or in the enforcement phase), in order to fulfil some court final decisions, in reference to the Decision of the Constitutional Court no. 794/2016 and the jurisprudence of the European Court of Human Rights (which concerns the final execution of a court decision as an integral part of the guarantees provided by art. 6 of the ECHR and as an essential element of the rule of law), also considering the provisions of art. 6 from Law no. 153/2017 which states the principle of equal compensation for similar salary conditions, starting from April 2023, the President of the High Court of Cassation and Justice issued a series of administrative acts in the execution of some final court decisions concerning the determination of salary rights in judicial courts.

As a result of these administrative acts, the uniformity of salary scales was ensured within the court system (the general prosecutor proceeding in a similar manner within the prosecutor's offices), which in real terms represented an effective and significant increase in salary income for all professional categories in their framework.

Given that these salary changes occurred during the budget year and could not be foreseen at the time of the establishment of the budget of the courts for the current year, but also due to the fact that there were no budget rectifications in 2023, there were some difficulties with the payment of the resulting salary differences for most courts. In November-December 2023, the Government adopted a number of normative acts concerning the granting of additional funds for this purpose.

Transparency of the system and access to information

Issuing a prior ruling is a mechanism through which the supreme court fulfils its constitutional role of ensuring a unified practice. Recognizing that a significant number of the requests addressed to the High Court of Cassation and Justice over the past three years were rejected as inadmissible, in the year 2023, two guidelines outlining admissibility conditions in civil and criminal matters were published on the website of the supreme court - www.iccj.ro. These guidelines are for guidance purposes and contain extracts from the case law of the Supreme Court in order to provide a clearer outline and

contextualised explanation of the conditions for the admissibility of this mechanism. At the same time, an updated model for the conclusion of the referral has been made available to assist the courts which may initiate this mechanism.

The National Network for the case law unification

By Order of the President of the High Court of Cassation and Justice no. 253 dated August 18, 2023, the National Network for Case Law Unification was established, a mechanism that aims to prevent the emergence of divergent case law. Through the Network, all the decisions of principle adopted by the High Court of Cassation and Justice in the last 5 years within the informal mechanisms for the unification of jurisprudence developed by the supreme court were communicated to the contact points at the level of the appeal courts, a measure intended to contribute to the transparency of the supreme court's activities and strengthen its role in unifying case law.

9. Independence/autonomy of the prosecution service

There are no up-dates on this topic.

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

There are no up-dates on this topic.

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

With regard to the legislative mechanism that the Superior Council of Magistracy exercises in accordance with the law for defending the independence of the judiciary in general, as well as of judges and prosecutors, it is worth summarizing the statistics regarding the breach of independence, sanctioned by the Council, during the reference period:

01.01.2023 – 28.11.2023 (Plenum, SJ, SP)			
TOTAL decisions:	Defending the independence of the judicial authority as a whole: (Plenum)	Defending the independence of the judiciary/independence impartiality, professional reputation, (Section for Judges)	Defending the independence of prosecutors of the Public Ministry/professional reputation, independence, impartiality: (Section for Prosecutors)
13 of which	0	9, of which:	4, of which:
ACCEPTED: 7 REJECTED: 6	0	ACCEPTED: 4 REJECTED: 5	ACCEPTED: 3 REJECTED: 1

During the referred period, unjustified criticisms have been brought to the judiciary by some representatives of the media, aimed at discrediting the judiciary, in violation of the deontological norms of the journalist profession and the Council has reacted publicly, whenever the independence of judges or prosecutors, or of the judiciary was violated, in various ways, or even when any cases/situations that had the potential to affect/breach the independence of judges and prosecutors were reported. The public stands expressed during 2023 are published on the official website of the Council.

B. Quality of justice⁵

⁵ Under this topic, Member States are not required to give statistical information but should provide input on the type of information outlined under section 2.

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

There are no up-dates on this topic.

13. Resources of the judiciary (human/financial/material⁶)

Superior Council of the Magistracy

- out of a total of 5066 positions (taking into account the positions allocated from the reserve fund under the conditions Article 147 of Law No 304/2022) 3902 judge positions are filled in while 1164 positions are vacant. According to the above data, there was noted a decrease in the occupancy rate (77,00 %) compared to the employment rate recorded at the beginning of 2023 (80 %), especially at the level of first instance courts.

Of the total number of judges in office, including judges who occupy indefinitely temporary vacant positions under Article 147 of the Law, as of December 31st 2023, 2986 are women and 1180 are men.

The apparent differences between the situation of the occupied positions and the actual number of judges in office resides in the occupation of positions under the conditions of Article 147 mentioned above, but also in the actual date of removal from office.

- out of a total of 3039 prosecutor positions, 2064 positions were filled in (by approximately 50 % women and 50 % men) and 980 are vacant positions.

14. Training of justice professionals (including judges, prosecutors, lawyers, court staff, clerks/trainees)

The National Institute of Magistracy is organised and operates, as of 16 December 2022, in accordance with the provisions of Law No 304/2022 on judicial organisation, Law No 303/2022 on the statute of judges and prosecutors and Law No 305/2022 on the Superior Council of Magistracy, and, as a novelty, in accordance with the provisions of the Regulation on the National Institute of Magistracy. The change aimed to increase the duration of initial training from 2 to 3 years will not take immediate effect, the justice auditors admitted in the period 2022-2024 will follow a 2-year study period, as before, this being a transitional period. However, the content of the training will undergo changes, meaning that in the first year of the initial training there will be 3 months of internship, and in the second year, at least 6 months.

During the reporting year, the National Institute of Magistracy was trained a total of 548 justice auditors, of which 269 auditors in the first year of training and 279 auditors in the second year of training.

The continuous training for 2023 was carried out from both budgetary funds and mixed and extra-budgetary funds, a majority share in the continuing vocational training programme being represented by training activities organised in the framework of projects with European funding. Other novelties were the measures for the implementation the specific training objectives set out in the Strategy for the Development of the Judiciary 2022-2025. Therefore, the Continuous Training Programme for 2023 included training sessions in the fight against environmental and forestry crime and also in the area of anti-discrimination, with a focus on combating hate crime.

During the reference period, the Institute planned 255 continuous training activities, 70 of which are organised in collaboration with continuous training at decentralised level, within the project "Justice 2020: professionalism and integrity", code SIPOCA 453, code MySMIS2014+ 118978, co-financed by the European Social Fund (ESF) through the Operational Programme Administrative Capacity (POCA).

⁶ Material resources refer e.g. to court buildings and other facilities. Financial resources include salaries of staff in courts and prosecution offices.

The initial professional training organized by the National School of Clerks continues to take into account exclusively the training of clerks with higher legal education, the initial training activity of the School responding to the need to fill vacancies for qualified clerks with higher legal education.

In 2023, as in the previous year, the initial training courses are conducted exclusively in face-to-face format, for a number of 82 students (of which 52 for courts and 30 for prosecutors' offices). The graduates of National School of Clerks are to be assigned to vacant positions in the judicial system at the end of the 2023-2024 school year, respectively on 11 March 2024.

In 2023, 97 training sessions were carried out, in face-to-face format (centralized and decentralized sessions), as well as online training sessions (webinars and eLearning sessions), as follows: 29 decentralized sessions in the field of the unification of administrative and judicial practices and related fields which ensure a good administration of justice; 53 centralized sessions (41 in the field of the unification of administrative and judicial practices, of which 7 for junior clerks and 12 sessions in the field of professional ethics and non-legal skills), 15 sessions carried out online (6 webinar sessions in the field of unification of administrative and judicial practices, 3 webinar sessions in the field of professional ethics, 6 eLearning sessions), with a total of 2.404 court and prosecutors' office clerks trained.

The 6 eLearning sessions were carried out on the training platform, attended by a total of 316 clerks (in the field of unified administrative and electronic record practices in civil matters, international judicial cooperation in civil matters, the clerk's activity in ECRIS application, unified administrative and electronic record practices in the criminal investigation phase, Romanian language and legal English, respectively „Jurisprudential aspects and solutions for the unification of administrative and electronic records in civil matters”, „International judicial cooperation in civil matters”, „The Reflection of the clerk's activity in the ECRIS application – in civil matters”, „Jurisprudential aspects and solutions for the unification of administrative and electronic record practices in criminal investigation phase”, „Romanian language” and „Legal English”).

In addition to organizing the training sessions, there have been edited and uploaded to the training platform a number of 15 video presentations and 45 tutorials in fields such as: civil and criminal procedure codes and related legislation, laws implementing the provisions judicial bodies, international judicial cooperation, technical systems used in the judicial system. Furthermore, the „Virtual library” section on the online training platform of the National School of Clerks, as well as newsletters, permit the access of court clerks from the judicial system to a number of 465 didactic materials, developed both in written and audio video formats.

General Prosecutor Office

The situation of the posts provided for in the scheme and vacant in the Public Ministry is shown in Annex 1.

Provisional financial data available at the beginning of December 2023 are presented in Annex 2. Annex 3 shows projects with funding other than from the state budget.

For a total of 246 units (excluding DNA, DIICOT), the Public Ministry has 186 offices, of which: premises in good condition 91, offices in very good condition 56, new investment buildings 26, sites in satisfactory condition 13 (representing 7% of the total number of sites). A number of 3 headquarters have been finalised in 2023 (Moinești, Beiuș, Sighetu Marmăției) and a number of 3 headquarters will be finalised in 2024 (Reghin, Huși, Zimnicea).

High Court of Cassation and Justice

Regarding the appointment of *leadership positions within the High Court of Cassation and Justice*, on July 10, 2023, the delegated tenure of the position of the second vice-president of the High Court of Cassation and Justice ceased, and the position has been filled through a competition starting from the same date. Additionally, during the reference period, the mandates of the presidents of the Administrative and Fiscal Contentious Chamber (appointed as vice-president of the high

court), of the Criminal Chamber (elected within the Superior Council of Magistracy for a 6-year term, during which the held position in the supreme court is suspended) and the 1st Civil Chamber (due to the retirement of the incumbent) have ended. All these positions are temporarily filled, through delegation by the Superior Council of the Magistracy.

In conclusion, all leadership positions at the High Court level are currently filled, either for the duration specified by law, through appointment or on a temporary basis through delegation.

Regarding the appointment of judge positions within the High Court of Cassation and Justice, as of December 19, 2023, there are 15 vacant judge positions (compared to 20 such positions on January 1, 2023), and 5 are temporarily vacant (a situation similar to that observed on January 1, 2023). In the year 2023, two promotion procedures to the position of judge at the High Court of Cassation and Justice were completed, resulting in the recruitment of 14 new judges.

Upon the request of the High Court of Cassation and Justice, the Superior Council of the Magistracy approved, in the meeting on November 3, 2023, the organization of a new promotion competition at the High Court of Cassation and Justice to fill 17 vacant positions.

Throughout the year 2023, 9 judges retired (compared to 21 judges during the previous reference period). The number of retirements, at the High Court of Cassation and Justice initially remained high, due to legislative instability related to the magistrates' status, including regarding their salary component and the maintenance of the service pension, the situation was becoming more stable after the adoption of the new legislation regarding service pensions, after which no retirement requests were submitted.

Since August 2023, the High Court of Cassation and Justice has temporarily relocated to a rented space, where all the Chambers and administrative departments of the supreme court are temporarily operating, an aspect that has generated an increase in the budget necessary to carry out the activity of the supreme court compared to the initial approved budget. Starting in September 2023, the main headquarters of the High Court of Cassation and Justice has undergone a rehabilitation process through consolidation, expansion and reconfiguration, the deadline for completing the works being 18 months (3 months for design and 15 months for execution). The total value of the investment (including VAT) is 94,673,925.61 lei, of which the amount of 94,556,391.61 lei is financed by the Ministry of Development, Public Works and Administration through the National Investment Company CNI S.A., and 117,534 lei is funded by the High Court of Cassation and Justice.

The budget allocated for the year 2023 was 2,674,986 thousand lei, of which 153,036 thousand lei were allocated for the own apparatus of the High Court of Cassation and Justice, and 2,521,950 thousand lei for the other courts. During 2023, the Government made additional allocations to cover the operating expenses of the supreme court, especially given the temporary change of its headquarters, to finance salary changes and cover part of the outstanding amounts. At the end of 2023 the approved budget credits amounted to 3,591,572 thousand lei.

On December 22, 2023, the Romanian Parliament approved a budget for the year 2024, amounting to 2,884,489 thousand lei.

15. Digitalization (e.g. use of digital technology, particularly electronic communication tools, within the justice system and with court users, procedural rules, access to judgements online)⁷

Ministry of Justice

During 2023 the Ministry of Justice developed 8 projects in the evaluation or implementation phase funded through the National Recovery and Resilience Plan: Digitisation of central public authorities in the judicial sector (purchase of

⁷ Factual information presented in Commission Staff Working Document of 2 December 2020, SWD (2020) 540 final, accompanying the Communication on Digitalization of justice in the European Union, COM (2020)710 final and Figures 40 to 48 of the 2023 EU Justice Scoreboard, does not need to be repeated.

workstations, videoconferencing systems and printers), Fitting out of technical rooms to host the Ministry of Justice's critical infrastructure, Development and optimisation of the data infrastructure for the judiciary (establishment of two data centres for the whole judiciary), Cloud for Justice, Technological upgrade of the electronic register of associations, foundations, federations and associated registers according to the law (such as the Register of Real Beneficiaries), transfer of data from the current registers to the new application and establishment of an electronic database, Development of integrated courtroom audio recording systems and automatic transcription components (speech2text), Virtualisation and centralisation of applications specific to the judicial system (virtualisation and centralisation of applications at the level of courts and courts of appeal, and development of a single version of the electronic case file, by acquiring the infrastructure necessary for the technological upgrade), Implementation of a modern communication and collaboration system for the Ministry of Justice, its subordinate institutions and the courts (implementation of modern, secure solutions, with the possibility of further expansion of both the electronic messaging system and that used for telephone communications).

Superior Council of the Magistracy

The application **Electronic File for Judges** became operational for all national courts, as a module within the Rejust application. The Electronic File for Judges is a web application that allows remote access to the cases allocated to judges, through an interface that facilitates the processing of files. The electronic file within www.rejust.ro allows now the judge to search a file in all courts. By way of example, for a case which, following the procedural stages, appeared before the First Instance Court of Sector 1 Bucharest, the Bucharest Tribunal and the Bucharest Court of Appeal, the application will show all the information in this file in a single interface. This function is particularly beneficial to judges from tribunals and courts of appeal as they can easily access documents from the courts that have judged the previous procedural stages of a case, without the need to use the visiting interface available in EMAP. Also, being a module within www.rejust.ro, the electronic file can be accessed on any device, including mobile phone, not just from the internal network.

As regards the use of digital technology to the benefit of the litigant, also in July 2023 the Judicial Informatics and Statistical Service of the SCM finalised the technical process of extending the portal developed by the Galați Court of Appeal for submitting petitions, documents and payment of stamp fees at national level. The application was retrieved on a central server of the Superior Council of Magistracy and it was developed so that it can be operationalised for all the courts. The portal **registratura.rejust.ro** became operational as of 10.7.2023. The following online facilities have been made available to litigants and legal professionals: submission of petitions and documents, payment of stamp duties.

High Court of Cassation and Justice

The National Network for Case Law Unification operates through an application, that serves a dual purpose - on one hand, it allows judges from national courts to consult the database on how the supreme court has resolved issues of non-uniform practice - through direct mechanism or principle-based solutions, and, on the other hand, it allows the courts of appeal to report in real time the issues of non-uniform practice identified within their jurisdiction. In the course of 2023, the software program was developed, under the coordination of the High Court of Cassation and Justice, making the National Network for the Case Law Unification as of December 2023.

The digital library allows consultation on the website www.iccj.ro of the jurisprudence of the supreme court, as well as traditional publications - in digital format, in order to increase the predictability of jurisprudence and prevent the emergence of a divergent practice at the national level. In the jurisprudence section, until December 19, 2023, 6,458 relevant decisions have been published in summary, along with 28,021 indexed decisions and 197,094 judgements (decisions, conclusions and sentences), with full text (anonymised), decisions on preliminary complaints and decisions related to appeals in the interest of the law. The website also hosts traditional publications such as *The Cassation Bulletin*, *The Jurisprudence Bulletin* and *The Jurisprudence Bulletin on the disciplinary liability of judges and prosecutors*. In order to disseminate case law and public interest information related to the activity of the High Court of Cassation and Justice to

the widest possible audience, the website www.iccj.ro is, starting from December 2023, currently can be consulted in Romanian, English and French.

In 2023, the development of the *Speech to text* application continued, with the support of STS specialists. Currently, the application allows the conversion of audio files into text, as well as real time voice to text transformation.

Also in 2023, with the support of STS, the project to develop a version of the anonymization application for judicial decision was initiated, for their publication on the High Court's jurisprudence platform.

16. 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)

Ministry of Justice: The project on the implementation of the new ECRIS V case management system in courts and prosecutors' offices is being implemented with the project partners and will be fully completed by the end of 2025.

Superior Council of Magistracy: STATIS application, using the existing data from the ECRIS system, continued to be the main judicial statistical tool with national coverage in 2023, which provided information support for a number of indicators for monitoring and evaluating the work of courts and their staff.

It is also worth mentioning the role of complementary judicial statistical tool of the REJUST.RO jurisprudence portal, launched at the end of 2021 and constantly improved during its exploitation, which is able to simultaneously apply multiple filters, including by key words and expressions, and it can provide statistical information on weighting the judgments delivered in a given period and subject matter for various subjects of the files.

A large number of **externally financed projects** have been carried out at the Council level, out of which 6 projects with European funding (POCA), also included in the Strategy for the Development of the Judiciary 2022-2025, the information on their implementation being regularly updated in the reports to the EC and detailed in the Annex 4. It should be noted that by the end of December 2023 all projects with European funding have been completed.

17. 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

Superior Council of Magistracy

The opinion provided for in Article 42(2) of Law No 304/2022 on judicial organisation was issued as regards the draft Government Decision on determining the localities forming part of the constituencies of the courts and prosecutors' offices attached to them.

The Superior Council of Magistracy approved, in accordance with the legal provisions in the field, the establishment or, as the case may be, the dismantling of specialised panels.

The Superior Council of Magistracy established the inter-institutional working group for the elaboration of a human resources strategy, in line with the Specific Objective 3.7. of the Strategy for the Development of the Judicial System (SDSJ) 2022-2025 and its Activity Plan (PASDSJ), as well as with the measures agreed at the Strategic Management Council meeting of 27 April 2023 in order to develop a study/concept on a new map of courts and prosecutors' offices, as well as of a long-term human resources strategy, including from the perspective of demographic dynamics and economic development of regions to address the vulnerability of human resources shortages in the judiciary.

In accordance with the provisions of Article 3(3) of Law No 49/2022 on the abolition of the Section for the Investigation of Offences in the Judiciary, as well as for the amendment of Law No 135/2010 on the Code of Criminal Procedure, the Plenum of the Superior Council of Magistracy makes proposals for the appointment by the Prosecutor General of the Prosecutors' Office attached to the High Court of Cassation and Justice of prosecutors who will carry out criminal

prosecution in the cases expressly provided for in Article 3(1) and (2) of Law No 49/2022. According to Article 10 of the same legislative act, the maximum number of appointed prosecutors of the Section of criminal investigation and forensic is 14, and the maximum number of appointed prosecutors in the prosecutors' offices attached to the courts of appeal is 3 for each of them. In this context, during 2023, by Decisions no. 87 of 18 May 2023 and no.105 of 15.6.2023 of the Plenum of the Superior Council of Magistracy, 2 prosecutors were proposed for appointment by the Prosecutor General of the Prosecutors' Office attached to the High Court of Cassation and Justice, in order to carry out the criminal prosecution in cases provided for by Article 3(1) and (2) of Law No 49/2022.

At the same time, within the project "Optimisation of management in the judicial system. The prosecutors' office component", implemented by the Superior Council of Magistracy, in partnership with the Prosecutors' Office attached to the High Court of Cassation and Justice, aimed at improving the managerial capacity of the Public Ministry, as an essential part of the justice system in criminal matters, proposals were made for the subsequent reorganisation of the judicial map.

C. Efficiency of the justice system⁸

18. Length of proceedings

Superior Council of Magistracy

In terms of the length of the proceedings, a significant contribution to their decrease and with a positive impact on the speed of carrying out the procedural activities was done by the two IT applications presented in question 15, namely the electronic file for judges within the Rejust application and the portal registratura.rejust.ro. The first application helps the judge to organise judiciously the work of hearing and drafting decisions, from any device with access to the Internet, and the second one meets the needs of litigants to formulate and process easier and faster submissions of applications and documents and payments of stamp fees in the pending trials.

An important contribution to shortening the length of judicial proceedings is also made by the Rejust desktop application also developed at Council level (used by more than 4000 judges and clerks) which is an application that automates the flows of activity for judges and clerks, helping to increase the court's productivity by providing more than 20 modules, such as: bulk operations, custom dashboards, fully customizable document generator.

High Court of Cassation and Justice

Between January 1 and December 15, 2023, there were 21,591 cases were pending on the High Court of Cassation and Justice (of which 8,330 cases were unresolved as of January 1, 2023, and 13,261 cases were registered between January 1 and December 15).

During the same time frame 14,852 cases were resolved (including those registered in previous years), resulting in an average duration of case resolution of 163 days in 2023, compared to an average duration of 198 days in the previous year (a decrease of approximately 20%). Additionally, the backlog of cases experienced a downward trend, decreasing from 8,330 cases on January 1, 2023 to 6,739 cases on December 15, 2023.

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

⁸ Under this topic, Member States are not required to give statistical information but should provide input on the type of information outlined under section 2.

Commission's attention in these documents, indicating any relevant updates, changes or measures introduced that have occurred since these documents were published.

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

Introduce, without further delay, rules on lobbying for Members of Parliament.

Although lobbying remains unregulated, the study conducted by the Committee for European Affairs of the Senate indicates a positive political wilfulness for its future regulation.⁹

General Prosecutor Office

In the course of 2023, additional prosecutors were appointed in accordance with the procedure laid down in Law no. 49/2022 and the pace of handling cases taken over from the former Criminal Investigation Department increased. Indictments have been issued in two cases. At the Prosecutor's Office of the High Court of Cassation and Justice (POHCCJ), under the new Rules of Procedure of the Prosecutor's Offices, the Prosecution Section has been reorganised and the prosecutors appointed under Law No 49/2022 operate within a service with clearly defined tasks. The practice of registering and dealing with vexatious complaints, used by the former SIIJ, has been corrected, so that the workload that is being reduced will allow better allocation of resources to important cases.

From May 2022 to date (18.12.2023) a total of 49 prosecutors have been appointed according to the procedure laid down in Act No 49/2022, 47 during 2022 and 2 during 2023. In 2022, 6 of them retired, and in 2023, another 4.

Annex 5 presents data on the activity in the area covered by Law No 49/2022, including the situation of the positions of the appointed prosecutors.

The activity of the National Anticorruption Directorate and prosecutors' offices was carried out under normal conditions in 2023, within the limits of the possibilities of filling vacant posts, without new legislative events or new changes in judicial practice that would hamper the prosecution activity.

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

20. 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 measures taken to effectively and timely cooperate with OLAF and EPPO.

National Integrity Agency

Human resources: by December 2023, 103 positions within the National Integrity Agency (ANI) were occupied, as follows: Management - 3 positions; Integrity Inspectors - 39 positions; Personnel within departments supporting the Integrity Inspection's activity - 46 positions; Administrative personnel - 15 positions.

According to the Government Emergency Ordinance no. 34/15th of May 2023, starting with the entry into force of the normative act, occupying vacant or temporarily vacant positions by competition or exam was suspended throughout 2023. The National Integrity Agency submitted a Memorandum before the Romanian Government, outlining its major staff shortage and organised competitions for the remaining integrity inspector vacant positions.

⁹ Following the answers of the permanent committees in the Romanian Senate, 8 out of 12 committees provided affirmative answers to the question 'In light of the political activity of your committee, do you consider that lobbying should be regulated in the Romanian Senate?'

Throughout 2023, the Agency organized a total of 8 competitions aimed at occupying the remaining vacant positions within the Integrity Inspection General Directorate and the Whistleblower Directorate, as follows: 4 competitions organised for 17 openings within the Integrity Inspection General Directorate. Only three positions were filled in after these competitions; 4 competitions organised for 10 openings within the Whistleblower Directorate. Only two positions were filled in after these competitions. The Agency will resume in early next year the process for filling in the vacant integrity inspector positions that were not occupied.

Financial resources: ANI's budget for the year 2023 following the budgetary rectifications and the distribution of credits to the reserve fund was of 27.745.000 Lei (approx. 5,6 million Euros), to which it was added the total sum of 51.000 Lei, representing commitment credits and budgetary credits for Projects financed from non-refundable external funds (FEN).

Legislative framework: 3 legislative proposals concerning integrity have been promulgated by the President of Romania and became laws¹⁰. Currently, 12 legislative proposals aiming to amend the integrity framework are pending before the Parliament procedures¹¹. Please see Annex 6 for a full list of the state of play regarding the legislative framework.

National Anticorruption Directorate

Based on the new legislative framework, in 2023, the DNA organised three interview procedures:

- from December 16th, 2022 to February 7th, 2023, a competition to fill 41 prosecutor positions. Out of the 32 prosecutors who applied, 26 prosecutors were appointed.
- from April 4th – May 26th 2023, a competition to fill 25 prosecutor positions. Out of the eight prosecutors who applied, three prosecutors were appointed.
- from November 27th, 2023 to January 23rd, 2024, a competition (ongoing at the time of drawing up this document) to fill 25 prosecutor positions, for which 25 candidates applied.

Regarding the evolution of the staffing scheme, during 2023, a total number of 31 prosecutors were appointed to the Directorate. Although the number of prosecutors who retired remained high (18), there has been an increase of the occupancy rate of the prosecutor positions compared to 2022 (83% compared to 74.87%). Thus, on December 31st, 2023, the number of vacant prosecutor posts was 47 (compared to 59 in 2022), and it is expected to decrease once the above-mentioned interview procedure is completed (on January 23rd 2024). In order to increase the occupancy rate of the staffing plan, the secondment of 45 forensic officers had a positive impact in the work of the Directorate during 2023, so that the number of the filled police officer positions increased to 308 out of 367 positions provided for by the law (compared to 272 in 2022).

On October 5th, 2023, the Decision of the Section for Prosecutors of the Superior Council of Magistracy no. 1.169/2023, approving the new Internal Regulation Policy of the National Anticorruption Directorate, was published in the Romanian Official Gazette. The amendments made by this Regulation represent the managerial vision of the new management of the Directorate to "*recalibrate the use of available resources*" in order to achieve its performance potential, and aimed at, among others:

Given DNA's special competence, the staff of the Directorate needs specific and continuous learning, and thus the annual implementation of its own ongoing training programmes by means of this newly created structure is considered necessary.

¹⁰ Promulgated by the President of Romania: Law 410/2023 (PI-x 378/2023); Law 265/2023 (PI-x nr. 522/2022); Law no. 2/2023 (PI-x nr. 249/2022)

¹¹ Pending before Parliament: PI-x nr. 364/2022; PL-x nr. 27/2022; PI-x nr. 398/2021; PI-x 135/2020; PI-x 415/2019; PI-x nr. 179/2018; PL-x 64/2023; PL-x 65/2023; PL-x nr. 109/2023; PI-x 543/2023; PL-x 106/2023; Bp. 464/2023

At the same time, the Project Implementation Unit will also function within the above-mentioned service, in charge mainly with the management of projects with non-reimbursable external financing, in order to strengthen the operational capacity of DNA.

This Financial Investigation structure has developed from 5 judicial police officers in July 2023 to 12 judicial police officers at the end of 2023 (8 officers with professional experience in the field of investigating economic crime and organized crime perpetrated in the economic-financial area, as well as 4 officers specialized in information analysis). The purpose of this change was to increase the degree of recovery of the amounts for which extended confiscation, special confiscation and the compensation for damage are ordered.

The results of the consolidation of this office in 2023 are reflected in a significant increase in the number of ordinances delegating the judicial police officers within this office (109 in 2023 compared to 44 in 2022).

A legislative amendment aimed at strengthening the financial independence of the National Anticorruption Directorate was the adoption of the Government Emergency Order 81 of October 5th, 2023 regarding *the strengthening of the institutional capacity of the Ministry of Finance, the exercising of the specialized financial control of the State, for some specific regulations, as well as for the amendment and completion of some normative acts*. The normative act introduced a legal provision according to which the limits of commitment appropriation and budgeting credits for the two specialized structures of the Public Ministry - DNA and DIICOT - are directly approved by the Government.

During 2023, DNA obtained non-reimbursable external financing for the following projects: The project "Supporting the DNA digitalisation process in order to consolidate and develop the data communications infrastructure" financed under the National Recovery and Resilience Plan. The objective of the project is to update the hardware and software infrastructure for DNA's data communications services.

The 2023-RO-RAVEN project "Improving and updating the technical endowment of the DNA in the field of investigations and surveillance" financed within the Anti-Fraud Program of the European Union managed by OLAF. The objective of the project is to strengthen and improve the investigative and operational capacity of the DNA by enhancing the technical endowment used for investigation and surveillance.

The Project 2023-RO-DATA "The operational assistance for the investigative activity of the support structure of the delegated European prosecutors in Romania" financed under the European Union's Anti-Fraud Program managed by OLAF. The objective of the project is to support Romania's efforts in fighting fraud and corruption detrimental to the financial interests of the EU by strengthening the operational and technical capacity of the Support Structure of delegated European prosecutors in Romania within the DNA.

By the G.D. no. 885/20.09.2023, *the number of posts allocated to the Support Structure of the European Public Prosecutor's Office in Romania (operating within the National Anticorruption Directorate)*¹² *was increased* by 6 posts, of which 5 posts of judicial police officers and 1 post of clerk. The additional number of forensic police posts will help to ensure the smooth operation of this structure, ensuring the speed of response needed to carry out complex investigations.

In terms of *operational cooperation*, D.N.A. prosecutors continued in 2023 to fulfil their obligations to draw up case reports for the exercise of the European Public Prosecutor's right of evocation. Thus, in 2023 the prosecutors of the National Anticorruption Directorate drew up 187 reports submitted to the E.P.P.O. for the exercise of the right of evocation, an increase compared to 2022 (when 178 reports were made). In the reported cases, 66 cases were evoked by the E.P.P.O. and transferred by the D.N.A. (additionally one case was evoked for which a request for evocation was submitted in 2022),

¹² The support structure was established by Law No 6/2021 on the establishment of measures to implement Council Regulation (EU) 2017/1.939 of 12 October 2017 implementing a form of enhanced cooperation in relation to the establishment of the European Public Prosecutor's Office (EPPO).

Law No 6/2021 provided for an initial number of 20 posts for judicial police officers, 8 posts for specialists, 5 posts for clerks.

reporting an increase in number compared to 2022 when 54 cases were evoked. In addition to the 121 cases which were not evoked, 29 cases (compared with 13 cases in 2022) were accepted by the D.N.A. for the purpose of assuming jurisdiction under Article 34(5) and (6) of the E.P.P.O. Regulation and one case was registered under Article 24(8) of the Regulation.

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

The National Integrity Council

Throughout 2023, the main activities of the Council were represented by the approval of the External Audit Report of the Management of National Integrity Agency and the National Integrity Agency's Activity Report for the year 2022, as well as monitoring the overall activity of the National Integrity Agency. The annual external independent audit report serves as an objective mirror of the performance of ANI's management, as well as the Agency's activity in general, as it covers investigation activities, administrative operations of ANI, PREVENT System and also performs a follow-up on the National Anticorruption Strategy's Integrity Plan, and of ANI Strategy's action plan implementation. Following the evaluation of the activity carried out for the year 2022, the auditors noted *that* "ANI continued to implement specific measures in order to ensure efficient and effective management of the institution's activity. Such measures were aimed at consolidating and further developing the Agency's organizational capacity. ANI managing to fulfil its role established by the law on organization and functioning, respecting independence, transparency, and professionalism".

22. Information on the implementation of measures foreseen in the strategic anti-corruption framework (if applicable). If available, please provide relevant objectives and indicators. The National Anticorruption Strategy (NAS) 2021-2025 provides for 5 general objectives and 18 specific objectives (please see: <https://sna.just.ro/en/a/seturile-de-indicatori-de-performanta/seturile-de-indicatori-de-performanta,-riscurile-asociate-obiectivelor-si-masurile-din-strategie>).

The first monitoring report of NAS 2021-2025 regarding the implementation of the strategy during 2022 was approved within the meetings of the cooperation platforms organised between 19th – 20th of June 2023. After the approval, the report was published on NAS's PORTAL (please see: <https://sna.just.ro/ro/a/rapoarte-de-monitorizare/raport-privind-stadiul-implementarii-strategiei-nationale-anticoruptie-2021-2025-in-anul-2022>). The monitoring report details the implementation of 93 measures with deadline in 2022 or annually/permanently deadline. According to the monitoring report, out of 93 measure, 39 have been implemented, 22 are partially implemented, 17 are ongoing and 15 are not implemented.

B. Prevention

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

National Anticorruption Strategy: In 2023 MoJ organised 9 training sessions in order to present NAS standards, with a special focus on the new whistleblower protection legislation. In 2023 efforts by MoJ also focused on raising awareness of and compliance to the corruption risk assessment methodology. A nation-wide series of internal audits assessed the functioning of the mechanism in 4108 central and local institutions. In regards to corruption risk management, implementing the project "Developing the Administrative Capacity in the Field of Public Governance – a Coordinated Approach of the Center of the Government of Romania-PNP003" was relevant in 2022 and 2023. The project was implemented in partnership with OECD and the Ministry of Justice (MoJ), the General Secretariat of the Government (SGG), and the Authority for the Digitalization of Romania. It was financed through the Grants of the European Economic Area (EEA) and Norwegian Grants for the period 2014-2021. The project implementation was successfully concluded in October 2023.

In April and September 2023 were carried out the peer-review missions within the monitoring mechanism for the implementation of the National Anticorruption Strategy 2021- 2025. Therefore, in April 2023, 6 institutions from central

public administration were evaluated: the Ministry of Culture, the Ministry of National Defence, the Ministry of Economy, the Ministry of Transport, the Ministry of Environment, Water and Forests and the Ministry of European Investments and Projects (including structures subordinated/coordinated/under authority and state-owned companies from all these ministries). In September 2023, 3 institutions from the cooperation platform of independent and anticorruption authorities were evaluated (the Ombudsman, the National Council for the Resolution of Appeals and the Court of Accounts). The evaluation themes for 2023 were: assessment of corruption risk within central and local institutions, assessment of integrity risks within central and local institutions and management of the mechanism of the NAS' implementation in public institutions (including state-owned companies). The evaluation reports elaborated by the experts with regard to the missions developed in the institutions from central public administration were approved within the meeting of the cooperation platform of central public administration organised in December 2023. The reports regarding the institutions evaluated in September will be subject for the approval of the cooperation platform of independent authorities and of the anti-corruption institutions which will be organised in the 1st Semester of 2024. All the reports will be published on <https://sna.just.ro/ro/c/rapoarte-de-evaluare>.

The General Secretariat of the Government carried out a monitoring exercise regarding the level of compliance of public authorities and institutions with the standards for ex officio display of information of public interest. The monitoring process targeted 582 websites of public institutions at national level, as follows: 21 ministries, 126 authorities, agencies and institutions of the central public administration subordinated or under the coordination of ministries, 27 authorities and autonomous central institutions, 42 prefect's institutions, 41 county councils, 325 city and town halls. The compliance by category of monitored institutions is the following: at the level of ministries: 70%; at the level of the institutions under the subordination/coordination/under the authority of the ministries: 65%; at the level of autonomous institutions: 73%; at the level of the prefect's institutions: 83%; at the level of county councils: 74%; at the level of town halls and municipalities: 54%.

National Integrity Agency

Follow-up on ANI cases

From January 1st to December 19th 2023, the National Integrity Agency **finalized 1.058 cases, both with findings and closed files. With regard to ANI's findings, the integrity inspectors ascertained 115 integrity incidents, as well as other 38 cases regarding 29 persons on possible criminal offences which were sent before the competent bodies.**

On December 19th 2023, ANI had **3.429 ongoing investigations and the average case load was of 132 files/integrity inspector.**

➤ **Cases ascertained by ANI**

Since January 2023, ANI ascertained **115 integrity incidents**, as follows: 51 cases of incompatibilities, 53 cases of administrative conflicts of interest and 11 cases of unjustified wealth amounting to over 38,3 million RON (over 9,2 million Euros), as follows:

- **51 Incompatibilities:** 6 County Councillors; 6 Mayors; 3 Deputy Mayors; 16 Local councillors; 9 Persons with management and/or control positions; 5 Public servants with special statute; 6 Public servants.
- **53 Administrative conflicts of interest:** 1 Vice-President of County Council; 12 Mayors; 2 Deputy Mayors; 27 Local councillors; 9 Persons with management and/or control positions; 2 Public servants.
- **11 Unjustified wealth amounting to over 38,3 million RON (over 9,2 million Euros):** 1 Secretary of State; 1 Judge; 2 Mayors; 1 Deputy Mayor; 1 Local councillor; 2 Persons with management and/or control positions; 2 Public servants with special statute; 1 Public servant.

At the same time, the integrity inspectors have identified **38 cases regarding possible criminal offences** (use of the office to favour people, false statement etc.) **in the case of 29 persons**, which were sent to the prosecution bodies, for further investigation, as follows: **1 Minister; 1 President of public institution; 1 County Council President; 14 Mayors; 1 Deputy Mayor; 6 Local councillors; 3 Persons with management and/or control positions; 2 Public servants.**

Moreover, in **4 cases**, the integrity inspectors have notified the prefect's institution, the National Agency for Fiscal Administration, the Chamber of Auditors and the disciplinary committee for further investigation, for other potential breaches of the law within the competence of the aforementioned institutions.

➤ **Administrative fines**

Since January 2023, **652 administrative fines** were applied (for failure to submit assets and interest disclosures in legal terms, for non-disciplinary sanctions applied after the evaluation report remained final, for failure to comply with the legal provisions by the head of institution and for the persons responsible of ensuring the implementation of legal provisions regarding assets and interest disclosure within public entities).

From the **2.215 complaints against the administrative fines applied by ANI** starting with 2008, **Courts issued definitive and irrevocable decisions in 1.730 cases**, as follows: **1.387 (80%) decisions were in favour of ANI**, while **343 (20%) were unfavourable.**

➤ **Definitive and irrevocable cases**

Since January 2023, **115 cases have remained definitive and irrevocable** - in favour of ANI (either through Courts' decisions that confirmed ANI's ascertainment or through not challenging of the evaluation report by the evaluated person), as follows: **58 cases of incompatibilities; 56 cases of administrative conflicts of interests; 1 case of unjustified wealth, in which the Courts ordered the confiscation of approx. 140.000 RON (28.338 EUR).**

Clarifications issued by ANI

The National Integrity Agency issues clarifications regarding legislative measures, ways of filling in and submission of asset disclosures, legal regime of incompatibilities and conflicts of interest, at any natural or legal persons' request.

In this regard, since January to early December 2023, ANI issued 2.356 clarifications on the legal provisions referring to possible incompatibilities and/or conflicts of interest situations or regarding ways of filling in and submission of disclosures (***Conflicts of interest – 589, Incompatibilities – 1.189, Filling-in and submission of disclosures – 431, Other cases – 147***). Of these, **ANI issued 367 clarifications regarding situations that are prone to generate a conflict of interest and 586 clarifications regarding situations that are prone to generate an incompatibility situation.**

24. 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

National Integrity Agency

All of the asset and interest disclosures sent before ANI are published on the *Public portal of asset and interest disclosures* (<http://declaratii.integritate.eu/>). By December 2023, over **11,9 million asset and interest disclosures** were published.

The National Integrity Agency launched, in 2021, the online platform *e-DAI*, through which hundreds of thousands of public officials and dignitaries fill-in and submit their assets and interest disclosures in digital format.

Please find below statistical data of the e-DAI platform - data extracted covers the period since the launch of electronic submission (since January 1st 2022, electronic submission became mandatory): No. of users registered as deponents: 443.406; No. of institutions with at least one account created: 12.765; No. of filled-in asset disclosures and sent to ANI:

851.491; No. of filled-in interest disclosures and sent to ANI: 839.158; No. of support requests sent through the e-DAI platform: approx. 20.419.

25. Rules and measures to prevent and address conflicts of interest in the public sector. Please specify the features and scope of their application (e.g. categories of officials concerned, types of checks and corrective measures depending on the category of officials concerned)

Ministry of Justice

Law no. 176/2010 regulates the conflicts of interest, establishing the obligation to declare asset and interest for 38 categories of public officials or dignitaries, among which are the prime minister, members of the Government, state secretaries and undersecretaries and persons in similar positions, as well as staff assigned to the dignitary's office or state councillor, members of the Parliament, magistrates, judges of the Constitutional Court, local elected officials, etc. However, the legal regime on conflicts of interest and incompatibilities is regulated in various special laws, based on the category of public office or dignity.

Annually, approximately 400.000 persons have the obligation to submit asset and interest disclosures, namely annual disclosures, as well as appointment and end of office disclosures.

A public official is in conflict of interest when, by virtue of the office or the public position they hold, they take a decision or participate in taking a decision on a matter in which they have a personal interest.

The Criminal code regulates in art. 301 – the offence of Using the function to favour some people.

The administrative conflict of interest is defined by art. 70 of Law no. 161/2003, as follows: “Conflict of interest shall be when the person exercising a public dignity or a public position has a personal interest related to financial aspects, which might influence the objective performance of his duties under the Constitution and under other laws.”

However, the conflict of interest is defined separately in various special laws, based on categories of positions the different persons may occupy (articles 72 and 73 of Law no. 161/2003).

In evaluating the conflicts of interest (the procedure is the same with regard to incompatibilities and unjustified wealth), ANI's integrity inspectors may find indications on committing other deeds, such as criminal offences (use of office to favour other people, false statements, abuse of office), disciplinary deed, fiscal deed etc. In these cases, the Agency notifies the competent bodies to verify the indications of the deeds being committed.

Following the finalization of the evaluation procedure carried out by the integrity inspectors, an evaluation report is issued. According to art. 22 of Law no. 176/2010, conflicts of interest evaluation reports may be challenged by the evaluated person, within 15 days from receipt, by filing proceedings with the administrative Court.

Each time an evaluation report of conflict of interests is final (through final decisions issued by the Courts or by not challenging the evaluation report before the Courts), ANI sends it to the institution where the public official is employed with the request to apply disciplinary sanctions (article 25 of Law no 176/2010).

Moreover, according to art. 26 of Law no. 176/2010, ANI shall send the evaluation report before: (1) The Parliament – in case of an evaluation report regarding the Prime Minister; (2) The Prime Minister, who proposes to the President of Romania the removal from office - for the other members of Government; (3) The Prime Minister, who may order dismissal – for secretaries of state, undersecretaries of state and for their assimilated; (4) The President of Romania – for the state councillors within the Presidential Administration.

The above-mentioned stakeholders are in charge of applying the disciplinary sanctions in cases of integrity incidents. The sanction must be enforced in a maximum timeframe of 6 months.

ANI can apply the following sanctions to all categories of persons provided by Law no. 176/2010:

- Fine between 10 and 400 Euros for the failure to file, or delay in filing, the asset and interest disclosures (in such a case the evaluation procedure may be initiated);
- Fine between 10 and 400 Euros for non-compliance with their obligations by the persons in public institutions assigned to implement the legal provisions on the asset and interest disclosures;
- Fine between 10 and 400 Euros for the failure to apply the disciplinary action or for the failure to ascertain the end of the public position when the evaluation report remained definitive;
- Fine of approx. 40 Euros per each day of delay when the obligation to answer ANI requests is not observed (e.g.: requests related to sending relevant documents for an evaluation file). In such a case, the Agency's integrity inspector prepares the information notice.

According to article 30 of Law no. 176/2010, finding and sanctioning the breaches of the law shall be made by persons empowered by ANI, in accordance with the Government Ordinance no. 2/2001 regarding the legal regime of contraventions, approved with amendments by Law no. 180/2002, with subsequent amendments.

According to the provisions of art. 31, para. (1) of the Government's Decision no. 2/2001 on the legal regime of contraventions, as subsequently amended and supplemented, "Against the report on the finding of the contravention and the application of the sanction a complaint may be filed within 15 days from the date of its delivery or communication."

According to NAS 2021 – 2022, published on <https://sna.just.ro/Rapoarte+de+monitorizare>, in 2022 were 106 decisions issued by ANI, by which the conflict of interest was ascertained. The monitoring report of NAS for 2023 shall be published in the first semester of 2024.

National Integrity Agency

Throughout 2023, up until December 19th, the PREVENT system **analysed 18.802 procurement procedures**, of which **12.901 were public stand-alone procurement procedures** (without batches) and **5.901 were public procurement procedures with batches (containing 75.804 batches)**.

At the same time, the integrity inspectors **issued 21 integrity warnings, amounting to 7.2 billion RON (approx. 1.4 billion EUR)**. **In all of the cases notified by the system, the leaders of the contracting authorities removed the causes that generated potential conflict of interests.**

In this regard, we recall that, according to art. 9 of Law no. 184/2016, "*Failure to take steps following reception of an integrity warning or to fill in an Integrity Form (...), triggers an ex officio procedure to assess the conflict of interest*".

During the reported period, PREVENT system analysed **2.681 contracting authorities, 16.513 companies, as well as 370.451 persons and representatives of the public institutions and the tenders.**

Moreover, the integrity inspectors **notified the National Agency for Public Procurement (ANAP)**, with regard to **6 irregularities** on possible relations between members of the contracting authority and persons within the tenders, exclusively for the persons who are not required to submit assets and interest disclosures.

Categories of contracting authorities: The potential conflicts of interest signalled by the system refer to public procurement procedures carried out by contracting authorities representing ministries, public institutions at central and local level, administrative-territorial units, autonomous administration, as well as companies at which the state is a majority shareholder.

For questions 23-25, please provide figures on their application, such as number of detected breaches/irregularities of the various rules in place and the follow-up given (investigations, sanctions, etc.)

Relevant figures reported by public institutions to NAS Technical Secretariat for 2022:

- number of complaints concerning breaches of the codes of conduct: 5.994
- number of persons who have the obligation to submit the declaration of assets: 185.168
- number of persons who have the obligation to submit the declaration of interest: 185.168
- number of consultation sessions given by the ethics advisors: 1.889
- number of ethics advisors trained through professional training activities: 69.001
- number of complaints received by the institution from third parties concerning the existence of a conflict of interest: 19
- number of decisions issued by ANI, by which the conflict of interest was ascertained: 106
- number of persons in incompatibility: 17
- number of complaints to ANI submitted by the institution: 54 complaints
- number of ANI decisions concerning the identification of incompatibilities regardless of the way of notification: 19
- number of decisions confirmed by the court: 10
- number of court complaints in court concerning non-compliance with the legal provisions by the institution with regard to transparency of the decision-making process: 674
- number of administrative complaints regarding the access to information of public interest: 1354
- number of administrative complaints favourably solved: 1158
- number of court complaints regarding the access to information of public interest: 455
- number of final court decisions given in favor of the applicant following the complaints about communication of information of public interest: 86
- number of sanctions ordered for non-compliance with the legal obligations: 22
- number of complaints on whistleblower protection: 356
- number of investigations and procedures initiated as a result of these complaints and their solutions: 336
- number of cases of retaliation at the work place: 0
- number of complaints in court on whistleblower protection: 2
- number of breaches of the legal framework with regard to revolving doors: 0
- number of integrity incidents: 128
- number of persons in management positions who have committed integrity incidents: 33
- number of persons in executive positions who have committed integrity incidents: 151

The monitoring report of NAS for 2023 shall be published in the first semester of 2024.

26. Measures in place to ensure whistleblower protection and encourage reporting of corruption, including the number of reports received and the follow-up given

National Anticorruption Strategy

The impact of the recent whistleblower protection legislation was a priority for the training in 2023. The effectiveness of the implementation will be assessed by the peer-review missions that will be carried out during 2024, as decided by the cooperation platforms during their December 2023 meeting. As per the usual practice, the evaluation reports will be published on the NAS PORTAL sna.just.ro.

National Integrity Agency

According to **Law no. 361/2022 regarding the protection of public interest whistleblowers**, which transposes into the national legislation the EU Directive 2019/1937 *on the protection of persons who report breaches of Union law*, ANI became an external reporting channel - competent authority to receive reports on violations of the law.

In this regard, on the 6th of February 2023, the new Whistleblower Directorate was established, the external reporting channel was operationalized and the dedicated section on its website was launched. The new section contains a designated segment for nominal and anonymous reporting, general information and FAQ. The Agency popularized these novelties by issuing a press release, which also encompassed information on the additional dedicated e-mail address, phone line and postal address for both reporting and counselling. Furthermore, ANI developed a video that was promoted on social networks (Facebook, YouTube) and mass media, and that featured information on who qualifies as a whistleblower, the new external reporting channel and the possibility to request counselling. Moreover, as the law also provides the obligation of private entities, with few exceptions, to establish internal reporting channels, ANI drafted internal reporting procedures and carried out counselling and training sessions for public and private entities. Furthermore, ANI developed two guidelines, dedicated to the public interest whistleblowers and to the person(s) designated within entities to receive reports and carry out subsequent actions, and also conducted a sociological study on the knowledge of whistleblowers in the public interest and on the applicable framework.

Moreover, ANI made a diligent effort to verify the fulfilment of the obligation to designate a person, department or third party to receive, examine and handle reports in the public interest and undertook measures in order to supervise the process of establishing internal/external reporting channels by the authorities, public institutions, other legal entities governed by public law, regardless of the number of employees. Moreover, ANI, as Beneficiary, is in the course of signing the agreement for the project „*Legitimacy and Accountability for better protection of Whistleblowers*”, which is financed through the Citizens, Equality, Rights and Values Programme (CERV) and under the coordination of Transparency International Romania.

Statistical data of the Whistleblower Directorate within ANI – data extracted covers the period since the operationalization of the structure in February 2023 up until December 18th:

- I. ANI received a **total of 561 reports**, as follows:
 - a) **283 made anonymously**, out of which:
 - **158 were closed** – in the context of lack of whistleblower identity and contact details, further information was not possible to be requested, as the breaches of law reported exceeded the provisions of Law no. 361/2022;
 - **103 were closed and redirected to competent entities** (Integrity Inspection within ANI, Prosecutor’s Office, National Anticorruption Directorate, National Council for Combating Discrimination, Prefectures, Ministry of Labour and Social Protection, Romanian Police, etc.);

- **22 are in the evaluation procedure.**
- b) 278 in which the whistleblowers gave their identity and contact details, out of which:**
 - **160 were closed and redirected to competent entities** (Integrity Inspection within ANI, Prosecutor’s Office, National Anticorruption Directorate, National Council for Combating Discrimination, Prefectures, Ministry of Labour and Social Protection, Romanian Police, Ministry of Family, Youth and Equal Opportunities, etc.);
 - **29 were closed** – did not contain the elements referred to in Article 6, other than the identification data of the whistleblower in the public interest, and the designated person has requested its completion within 15 days, without this obligation being fulfilled;
 - **89 are in the evaluation procedure.**
- II.** ANI provided **counselling in a total of 236 cases**, as follows:
 - a) 234 non-confidential counselling**, out of which:
 - **40 counselling sessions that targeted private entities and persons;**
 - **194 counselling sessions that targeted public entities and persons.**
 - b) 2 confidential counselling;**

General Secretariat of the Government

According to the Regulation on the organization and operation of the General Secretariat of the Government, the Control Service and Opportunity Analysis is appointed, together with the Human Resources Directorate, to ensure the receipt and registration of internal reports, as well as to examine, carry out subsequent actions and resolve the internal reports received based on Law no. 361/2022 regarding the protection of the whistleblower in the public interest.

27. Sectors with high-risks of corruption in your Member State:

- *measures taken/envisaged for monitoring and preventing corruption and conflict of interest in public procurement*
- *list other sectors with high risks of corruption and the relevant measures taken/envisaged for monitoring and preventing corruption and conflict of interest in these sectors (e.g. healthcare, citizen/residence investor schemes, urban planning, 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)*

In regards to corruption risk management, implementing the project "*Developing the Administrative Capacity in the Field of Public Governance – a Coordinated Approach of the Center of the Government of Romania-PNP003*" was relevant in 2022 and 2023. The project was implemented in partnership with OECD and the Ministry of Justice (MoJ), the General Secretariat of the Government (SGG), and the Authority for the Digitalization of Romania. It was financed through the Grants of the European Economic Area (EEA) and Norwegian Grants for the period 2014-2021. According to the partnership agreement, the MoJ led the implementation of the integrity component of the project, focusing on three main objectives in regards to three relevant sectors from Romania (healthcare, education and SOEs): Evaluation of the public integrity system; Behavioural interventions (BI) aimed at enhancing corruption risk management, in accordance with National Anticorruption Strategy (NAS); Development of the knowledge level of public officials nationwide regarding the integrity legislation and standards.

The BI component developed tools aimed at improving the level of maturity in Romania in regards to corruption risk management such as: a behavioural flowchart, instructions for a framed field experiment and the concept of an awareness raising campaign. The project implementation was successfully concluded in October 2023.

As an important step in improving the corporate governance in Romania, we mention the improvements established in 2023 by Law no. 187/2023 amending and supplementing Government Emergency Ordinance no. 109/2011 on corporate governance of public undertakings.

The improvements of the existing legal framework were the following:

- Including integrity within the domain of the non-financial performance indicators for SOEs;
- Establishing the Agency for monitoring and evaluating the performance of SOEs (AMEPIP), which will have a coordinating role for promoting integrity within the SOEs. AMEPIP will monitor compliance with the legal framework on integrity, the implementation of integrity plans developed by public enterprises, and the implementation of the National Anti-Corruption Strategy 2021-2025.;
- Establishing clear and transparent rules in regards to the appointment of the President and Vice-presidents of the AMEPIP (art. 4²);
- Separation of the regulatory function from the ownership function, the strategic direction provided by the supervisory public authority, the executive management of the public enterprise, ensured through the organization and functioning of their own corporate governance departments, with a role of monitoring and exercising the attributes of the right of ownership over the public enterprises under their subordination, including the elimination of any direct or indirect advantages that may arise from the right of public ownership, especially with regard to regulating a specific market, financing or taxing a specific activity, or applying public procurement rules;
- Keeping the rules establishing the obligation for SOEs to draft their integrity plans in accordance with the OECD guide on internal control, ethics and compliance;
- Public enterprises appoint a compliance officer for the implementation of integrity plans as managerial tools to promote organizational integrity within the public enterprise. The compliance officer serves as the point of contact between AMEPIP and the public enterprise.

Project 23RO06 – Support in Implementing Integrity and Anti-Corruption in the Legal Framework in Romania, including the Reduction of Corruption Risks in Public Procurement

The project is funded through the Technical Support Instrument (TSI) of the European Commission and has been developed by the Ministry of Justice, the National Integrity Agency (ANI), in partnership with the National Agency for Public Procurement (ANAP), the Prosecutor's Office attached to the High Court of Cassation and Justice (PÎCCJ), and the National Anticorruption Directorate (DNA).

The implementation of certain outputs will be coordinated by the Ministry of Justice, while a portion will be handled by ANI. The following outcomes are of interest to the Ministry of Justice: Result 3: Analytical note on the dimensions of the public procurement system; Result 4: National map of risks in public procurement related to fraud and corruption, along with recommendations for reducing these risks and an associated action plan; Result 5: Development of capacity, including (i) needs assessment for training, (ii) training on the national risk map, and (iii) assistance in developing a data-based framework for risk assessment, focusing on irregularities in public procurement processes in accordance with the national risk map.

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

Ministry of Justice

Becoming a member of the OECD is a top priority of Romania's foreign policy. On 25 January 2022, Romania received the official invitation from the OECD to open accession negotiations (together with the other five aspiring countries). At the OECD Ministerial Council Meeting, held on 9 and 10 June 2022, the Accession Roadmap for Romania's accession to the OECD was adopted. At the national level, the accession process is coordinated by the Ministry of Foreign Affairs and the General Secretariat of the Romanian Government. Romania successfully submitted the Initial Memorandum, which assessed how close Romanian legislation is to the OECD judicial instrument. The Romanian Ministry of Justice was actively involved in this process, including through a coordination of the national self-assessment process for anti-corruption instruments that are in the OECD Working Group on Bribery ("**WGB**") portfolio.

On 18 April 2023, Romania received a formal invitation to accede to the Anti-Bribery Convention and to join the WGB. This invitation came in recognition of Romania's efforts in recent years to improve the fight against corruption and strengthen its judicial system. Furthermore, the OECD Council's invitation is a signal that Romania has the potential to support efforts to combat the bribery of foreign public officials in international economic operations. Romania officially became the WGB's 45th member as of 3 May 2023. In October 2023, Romania concluded the Phase 1 evaluation by the WGB in regards to the standards of the Anti-Bribery Convention.

By Law No. 202/July 5, 2023, Romania joined the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, adopted in Paris on November 21, 1997. Romania deposited the instrument of ratification of the Convention on July 24, 2023, becoming the 45th member state of the WGB.

National Integrity Agency

NIAct Project

*On December 22nd 2023, ANI shall finalize the implementation of the NIAct project on updating the integrity legislation and providing support to authorities and deponents in the transition to the digitization disclosure of assets and interests. The project is EU-funded and has the ultimate goal of addressing the issue noted by the European Commission on the "continued challenges to the legal framework for integrity and the need for stability, clarity and a robust framework", by **updating the legal integrity framework** (incompatibilities, conflicts of interest and unjustified assets, as well as the system of disclosing assets and interests).*

The project's main output is a legislative proposal draft, that should enter into force by the end of 2024 (Q4), according to the CID operational arrangements (Milestone no. 431 – PNRR). The main amendments provided through the legislative intervention are:

- Establishing a unitary deadline of 30 days to avoid a situation of incompatibility. The current provisioned deadline varies for different categories of offices – 15 days or 45 days;*
- Clear distinction of incompatibility or conflict of interest situations from other interdiction or conditions of access to an office;*
- Generalizing the second degree of kinship for ascertaining a conflict of interest or incompatibility;*
- Establishing a unitary sanction for all categories of offices in situations of incompatibility or conflict of interest;*
- Provisioning incompatibilities and conflicts of interest for categories of officials who, even if under the obligation to disclose their assets and interests, do not currently have these situations provisioned;*
- Clarification of ANI's competence to verify, retain and request sanctions after the remaining definitive of the incompatibility and/or conflict of interest evaluation report;*

- Updating the asset and interest disclosure forms by introducing a threshold for the value of gifts from relatives exempt from disclosing, by introducing the obligation to disclose newly financial instruments (i.e. cryptocurrency), the obligation to disclose the status of authorized natural person or member of a sole proprietorship, the obligation to disclose the positions held in companies based abroad etc.

The main results achieved through the NIACT project are: (i) a prior evaluation and analysis of the integrity laws, together with an initial clustering of the normative acts finalized; (ii) 18 training sessions targeting 345 public officials on filling in and submitting asset and interest disclosures in the e-DAI platform; (iii) a helpdesk established within ANI tasked with solving uncertainties on filling-in and submitting disclosures through e-DAI; (iv) an online awareness and prevention campaign through which 4 video spots on ANI's activity and 10 video tutorials answering FAQ about incompatibilities, conflicts of interests and disclosures were developed and popularized on social networks and mass media; (v) procedure that standardizes the way of filling-in and submitting the disclosures through e-DAI, currently adopted by 56 authorities; and (vi) two sociological researches addressing the topic of integrity in public office, aimed at further substantiating the legislative intervention.

The main output of the project, the legislative intervention was elaborated and consultations have taken place with the relevant actors (ministries and other authorities). Ultimately, the intervention shall be sent before the Ministry of Justice.

PNRR financed projects:

(i) PREVENT

Starting with January 2023, ANI is implementing the project entitled „The development of the PREVENT IT system in order to increase the interoperability of the electronic systems of public institutions for the ex-ante verification of conflicts of interest in the process of awarding public procurement contracts”, financed through Romania's Recovery and Resilience Plan.

This project aims to achieve a technological upgrade and the modernization of the PREVENT IT system, through the transition to an intelligent IT platform (BIG DATA type) for the prevention of conflicts of interest in public procurement procedures. This upgrade is needed because the initial PREVENT system (launched in 2017) is technologically outdated in terms of software and hardware.

Currently, all the provisions regarding the public procurement for the consulting services necessary for the development of the PREVENT system are finalized and the specifications for this particular acquisition were launched in public debate.

(ii) Clarification Platform:

Starting with January 2023, ANI is implementing the project entitled „Designing a digital platform for awareness and prevention through which relevant stakeholders will be able to clarify, on their own, certain obligations related to the integrity framework that they must comply with”, financed through Romania's Recovery and Resilience Plan.

The project has the general objective of reducing the number of integrity incidents by designing and developing a digital awareness and prevention IT platform through which relevant stakeholders will be able to clarify, in real-time, situations of conflicts of interest, incompatibilities and regarding the submitting of disclosures.

Currently, the public procurement contract for the platform development is expected to be signed by the end of February 2024.

(iii) e-Signature:

ANI requested the Ministry of Justice the termination of the financing contract for the project entitled „The development of the technical capabilities of ANI to retrieve and process the assets and interests disclosures exclusively in digital format

on qualified electronic signatures (cf. European Regulation eIDAS 910/2014)”, financed through the Romania’s Recovery and Resilience Plan.

Nonetheless, taking into account the opportunity analysis carried out with a focus on the new competences of ANI, after the entry into force of Law 361/2022, and the newly established structure within the Agency, the Whistleblowers Directorate, a greater need has been revealed for the implementation of a platform dedicated to this field. Therefore, a new funding request will be sent to the Ministry of Justice.

iMonitor

Starting with the May 1st 2023, ANI, as Beneficiary, under the coordination of GTI GOVERNMENT TRANSPARENCY INSTITUTE LTD, is implementing the project “iMonitor - Enhancing law enforcement efficiency by bringing together public procurement data analytics and civil monitors”, financed through the Internal Security Fund (ISF).

To remove obstacles to corruption detection and investigation, the project is set out to combine Big Data analytics with extensive civil monitoring of ongoing contracts in Catalonia (Spain), Italy, Lithuania, and Romania.

More specifically, the project has the specific objectives of (i) building on prior EU-funded projects making public procurement data and corruption risk indicators available (opentender.eu) and a citizen reporting tool dedicated to monitoring public spending (monithon.eu); (ii) creating networks of civil monitors and law enforcement agencies to draw on civil society’s extensive reach and on-the-ground monitoring capacity; (iii) creating a dedicated reporting standard bringing together quantitative corruption risk indicators and detailed civil monitoring results to produce high-quality, targeted and operationally relevant reports for law enforcement and other public authorities; (iv) generating new investigations and other administrative responses to irregularities in contract implementation; (v) building replicable and low-cost skills development components in the project, supporting further monitoring; (vi) maintaining the 2 fundamental technological components of the project: opentender.eu and monithon.eu.

Up to present time, ANI participated in online meetings and provided feedback for the deliverables elaborated by the experts of GTI involved in the project.

Legitimacy and Accountability for better protection of Whistleblowers

The National Integrity Agency, as Beneficiary, under the coordination of Transparency International Romania, is in the course of signing the agreement for the project entitled „Legitimacy and Accountability for better protection of Whistleblowers”, financed through the Citizens, Equality, Rights and Values Programme (CERV).

The main goal of the project is to contribute to national and EU efforts to support and protect whistleblowers and build the capacity of national authorities and legal practitioners to ensure adequate legal remedies for their protection. The estimated results the project will strengthen the application of the national framework and EU Directive 2019/1937, in line with respect for transparency, good governance, accountability and freedom of expression.

Training, workshops, and seminars will help at least 400 persons to improve their knowledge and increase their capacity to ensure adequate counselling and protection for potential whistleblowers. To improve general public awareness, at least 3 million people will benefit from better information about their legal rights, and reliable channels to report wrongdoing.

The project will contribute to improving whistleblowers’ protection, as an additional guarantee of respect for freedom of expression and the right to information.

Support in Implementation of the Integrity and Anti-Corruption Framework in Romania, Including Reducing the Risk of Corruption in Public Procurement

The project entitled „Support in Implementation of the Integrity and Anti-Corruption Framework in Romania, Including Reducing the Risk of Corruption in Public Procurement” is financed under the EU TSI programme and is carried out in partnership with the Ministry of Justice.

Technical support will be provided in the area of public integrity, to support Romania in implementing the integrity and anti-corruption framework, including reducing the risk of corruption in public procurement. Implementation of the project contributes to the ongoing reform of the legal and institutional framework on integrity in Romania. The expected long-term effects of this project are that of contributing to the ongoing reform of the Romanian integrity framework and increasing the level of integrity in public procurement, including reducing vulnerabilities and the risk of corruption.

C. Repressive measures

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

Ministry of Justice

The Criminal Code and Criminal Procedure draft laws, which aimed to align certain provisions with Constitutional Court decisions were adopted in 2023 and published in the Official Journal¹³. The Constitutional Court has validated the legislative solution on the offence of abuse in office. The regulation of abuse of service is also in line with the Anti-Corruption Directive.

30. Data on the number investigations, prosecutions, final judgements and application of sanctions for corruption offence (differentiated by corruption offence if possible)¹⁴, including for legal persons and high level and complex corruption cases and their transparency, including as regards to the implementation of EU funds¹⁵

Data from the National Anticorruption Directorate are presented in Annex 7 and data from the Prosecutor's Office of the High Court of Cassation and Justice are presented in Annex 8.

High Court of Cassation and Justice

A. Criminal Chamber:

On January 1, 2023, the Criminal Chamber of the High Court of Cassation and Justice had 14 cases regarding corruption crimes, the substantive procedural stage. During the year 2023, three cases regarding corruption crimes were registered, the substantive procedural stage. In December 2023, there were 12 cases before the Criminal Chamber.

From 1 January to 15 December 2023, the Criminal Chamber:

- dealt, at first instance, with **5 cases** concerning high-level and complex corruption offences, in which the investigation was carried out by the National Anticorruption Directorate, cases concerning offences against the

¹³ Law no. 200/2023 of July 5th, 2023 amending and supplementing Law no. 286/2009 on the Criminal Code, as well as of other normative acts, published in the Official Journal no. 616/06.07.2023.

Law no. 201/2023 of July 5th, 2023 amending and supplementing Law no. 135/2010 on the Criminal Procedure Code, as well as of other normative acts, published in the Official Journal no. 618/06.07.2023.

¹⁴ Please include, if available the number of (data since 2022 or latest available data): 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.

¹⁵ For MS participating in the EPPO, data on cases related to the EU funds does not encompass investigations and prosecutions carried out by the EPPO.

financial interests of the European Union, as well as cases in which magistrates were indicted for corruption offences;

- **20 defendants** were tried in these cases:
 - o **11 defendants** were **acquitted**;
 - o **one defendant** was sentenced to **imprisonment with execution**;
 - o **one defendant** was sentenced to a **suspended prison sentence under supervision**;
 - o **7 defendants** were sentenced to a decision **terminating the criminal proceedings**;
 - o no decisions to postpone the enforcement of the sentence were handed down;
 - o no waiver of the sentence was handed down.

B. Panels of 5 judges in criminal matters:

From 1 January to 15 December 2023, the panels of 5 judges in criminal matters:

- dealt at first instance with **10 cases** concerning high-level and complex corruption offences, where the investigation was carried out by the National Anticorruption Directorate, excluding cases where referral for retrial was ordered (1);
- **73 defendants** were tried in these cases:
 - o for **53 defendants**, the **acquittal** was upheld/approved;
 - o **7 defendants** were sentenced to **imprisonment with execution**;
 - o **two defendants** were sentenced to **suspended prison sentence under supervision**;
 - o **11 defendants** were sentenced to a decision **terminating the criminal proceedings**;
 - o no decisions to postpone the enforcement of the sentence were handed down;
 - o no waiver of the sentence was handed down.

31. 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)

POHCCJ

The decisions on the statute of limitations of criminal liability delivered by the Constitutional Court and the High Court of Cassation and Justice continued to produce effects¹⁶.

The CJEU decision in case C-107/23 of 24.07.2023 is applied by the judiciary after analysis of the particular situation of each individual case.

Thus, in a specific case, on 28 July 2023, the Public Prosecutor's Office of the High Court of Cassation and Justice lodged an appeal in cassation on the ground that the criminal proceedings had been wrongly terminated because the limitation period for criminal liability had expired.

¹⁶ Constitutional Court Decisions no. 297/2018, no. 358/2022, High Court of Cassation and Justice Decision no. 67 /2022

By the same appeal in cassation the High Court of Cassation and Justice was requested to give a preliminary ruling on the following question of law: 'In interpreting and applying the provisions of Article 1(1)(b) and (c) of the EC Treaty, the Court of Justice has applied for a preliminary ruling on the following question of law. (2) of the Code of Criminal Procedure, with reference to the provisions of Art. 19 para. (1), second sentence, of the TEU and Article 267 TFEU, in conjunction with Article 477(1)(b) of the TFEU (3), Art. 477 of the Code of Criminal Procedure, the courts may give priority to those ruled by the preliminary ruling of the CJEU in case C-107/23 of 24 July 2023 and in cases concerning corruption offences in general and related money laundering offences, the effective and dissuasive sanctioning of which is assumed by Romania through the Cooperation and Verification Mechanism established by European Commission Decision 2006/928, the provisions of Art. 155 para. (1) of the Criminal Code, to the effect of considering that the interruption of the limitation period for criminal liability has occurred through procedural acts that took place before 25 June 2018, the date of publication of Decision No 297/2018 of the Constitutional Court.'

The appeal in cassation was admitted in principle and the next deadline in the case is set for January 2024.

National Anticorruption Directorate

A significant difficulty in achieving the objective of combating corruption offences within the DNA's jurisdiction arose from the situation generated after the adoption of Decision no. 358/2022 of the Romanian Constitutional Court, in which Article 155 of the Criminal Code on the conditions for interrupting the statute of limitations period for criminal liability was declared unconstitutional, as well as from Decision no. 67/2022 of the Supreme Court of Cassation and Justice establishing that the rules on interrupting the limitation period are rules of substantive criminal law and therefore the principle of the most favourable criminal law must be applied.

Thus, compared to 2022, the number of defendants whose criminal proceedings have been terminated as a result of these decisions has increased significantly. During 2023, the courts ruled 144 final decisions to terminate criminal proceedings in respect of 383 defendants, of which 364 defendants were found to be statute-barred (by comparison, in 2022, 129 defendants were found to be statute-barred for the same reason).

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

ANABI

ANABI marked in December 2023 its 7th year since becoming operational. The Agency remains actively engaged in recovering assets derived from criminal activities and supporting law enforcement authorities in this endeavor.

- The highlight of 2023 is the Romanian Asset Recovery and Management Integrated System (ROARMIS). The system was developed with EU funds (POCA PROJECT) and it is operational. In preparation, the target group underwent multiple training sessions (ANABI staff, judges, prosecutors, clerks, police officers and fiscal experts). The envisaged number of users that ANABI is actively pursuing to engage in using ROARMIS is 17000.
- The implementation of Law No. 230/2022 provides the first tangible results as ANABI is already organising public auctions for selling immovable assets and also the first value based confiscation orders were issued following post conviction international tracing activities carried out by the Agency. In addition the National Mechanism for Crime Prevention Support is now operational with the Agency ready to launch the first procedure for financing NGOs activities to support crime prevention, education and victim protection.
- Since becoming operational ANABI's support led to positive developments in recovering proceeds of crime: identification of 9,972 assets in 2,361 requests (received from 44 jurisdictions and sent to 77 jurisdictions); tracing international money transfers through MoneyGram providers; cooperation with major exchange platforms (Binance, Crypto.com, Coinbase, KuCoin, Kraken); being one of seven EU authorities conducting early realization of seized movable assets (not confiscated); launching the first online platform for public institution auctions (total

unique users: over 250,000; 11.5% from outside Romania); managing 33,632 bank accounts totalling 953,422,745 lei - frozen amount (equivalent to 191,911,657 Euros); managing seized movable assets totalling approximately 13 million Euros; Successful cases of cryptocurrency realization and an increasing number of such assets under management; strengthened negotiation and conclusion of sharing agreements for confiscated assets in cases with foreign elements; recovery of 6 million lei (1,225,465 USD) via a petition for remission submitted to the US Department of Justice; centralization and analysis of 60,707 court decisions ordering special confiscation/extended confiscation/remediating damages; reuse of the first confiscated property for public interest and another in the process of social reuse is in the process of adoption via Government decision.

- ANABI's involvement in four ongoing externally funded projects includes efforts to enhance asset recovery practices, improve the recognition of freezing and confiscation orders, combat high-level transnational corruption, and develop a tool to assess corruption risks in company leadership structures across the European single market. To this end, ANABI is involved into 3 strong international consortiums (RECOVER, DATACROS 2, KLEPTOTRACE). The total budget for the EU funded projects is approximately 13.8 million lei, with an ANABI-approved budget of approximately 4 million lei).
- ANABI organised in the last years training sessions and workshops involving more than 2300 prosecutors, police officers and financial investigators.
- Continuing the legislative adjustments aimed at introducing regulations for an easily accessible voucher system for crime victims, ANABI drafted and MoJ promoted the adoption of the Government Decision No. 541/2023 - the Methodology for issuing, distributing, and reimbursing vouchers to crime victims received approval, defining criteria for selecting entities within this framework. Additionally, Government Decision No. 9/2023 increased ANABI's staffing to 60 positions.
- As part of an EU POCA Project ANABI implemented a national wide public awareness campaign was strategically in order to enhance the agency's visibility among central public institutions and the general population. Moreover, a mobile application was developed in the same project to streamline the application of various tools used by legal practitioners in criminal proceedings, expediting processes such as asset evaluation and cost estimation for seized assets' management and disposition.
- To achieve a 50% increase in the value of seized assets by December 31, 2025, ANABI implements two PNRR funded projects. In this context, a funding contract was signed with the Ministry of Justice on March 2, 2023, to implement the project "Enhancing ANABI's capacity for storing and managing sequestered assets throughout criminal proceedings." The total budget allocated is 77,350,000 RON, with an eligible amount of 65,000,000 RON sourced from non-repayable European funds through PNRR. Furthermore, on June 19, 2023, another funding contract was signed with the Ministry of Justice for the project titled "Development of the integrated national information system for recording crime-derived claims (ROARMIS 2), modernization of the institution's website, and ANABI's portal for conducting electronic auctions." This project has a total budget of 2,796,500 RON, with 2,350,000 RON eligible from non-repayable European funds through PNRR.

III. MEDIA PLURALISM AND PLURALISM

III. Media freedom and pluralism

33. Please provide information on measures taken to follow-up on the recommendations received in the 2023 Report regarding media freedom and pluralism (if applicable)

Step up efforts to strengthen the rules and mechanisms to enhance the independent governance and editorial independence of public service media taking into account the European standards on public service media.

The National Audiovisual Council

As mentioned in the fourth report, Romania has transposed into national law Directive 2010/13/EU, as amended by Directive (EU) 2018/1808, through the draft initiated by the Ministry of Culture, which became Law no. 190/2022 for the amendment and completion of the Audiovisual Law no. 504/2002, for the amendment and completion of Government Ordinance no. 39/2005 on cinematography, as well as for the amendment of Law no. 41/1994 on the organisation and functioning of the Romanian Broadcasting Company and the Romanian Television Company.

The National Audiovisual Council is currently finalising secondary legislation, which will detail the specific application of the provisions of the Audiovisual Law No 504/2002, as subsequently amended and supplemented.

The legislative proposal on the Audiovisual Law is also being debated in the Romanian Parliament, in the Senate.

A. Media authorities and bodies¹⁷

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

National Audiovisual Council

Relevant provisions of the Law 504/2002.

Art. 10 - (2) The Council shall be the sole regulatory authority for audiovisual media services and shall exercise its powers impartially and transparently, in accordance with this Law and European Union law, without seeking or taking instructions from any other institution or entity in the performance of its tasks. Collaboration with self-regulatory bodies carried out on the basis of agreements or partnerships shall not constitute seeking or taking instructions.

Art. 16 - (1) The activity of the Council shall be financed from the state budget in such a way as to ensure compliance with the provisions of this Law, to carry out its functions effectively, to contribute to the work of ERGA and to fulfil its obligations as a permanent member of the joint international bodies of audiovisual regulatory authorities. The Council's approved budget shall be published on the Council's website.

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

National Audiovisual Council

Relevant provisions of the Law no 504/2002: **Art. 11** - (5) Nominations shall be approved by a majority vote of the Deputies and Senators present, provided that a quorum of both Chambers is present. The appointment of the new members of the Council by the Parliament shall be made at least 90 days before the expiry of their terms of office.

Art 12 - (5) Members of the Council who, at the time of their appointment, are in one of the situations referred to in paragraphs (2) - (4) shall have a period of not more than 60 days in which to relinquish the respective office or shares, during which time they shall not be entitled to vote in the Council.

Art. 13 - (1) Members of the Council may be dismissed, on the proposal of Parliament's specialised committees, in the following situations: a) in the event of incapacity to perform their duties for a period of more than 90 days, except in medical situations justified by sick leave, in which case the period may not exceed 6 months.

¹⁷ Cf. Article 30 of Directive 2018/1808.

Art. 14 - (1) The Council shall be headed by a President, equivalent to a Minister, appointed by a vote of Parliament from among the members of the Council, on their proposal. The term of office shall be six years.

(2) In the absence of the President, the Council shall be chaired by the Vice-President.

Art. 20 - (4) If the Parliament rejects the annual activity report, the President of the Council shall automatically be removed from office.

(4¹) In the case referred to in para. (4), Parliament's decision to reject the annual activity report shall be duly motivated, notified to the person concerned and published in the Official Gazette of Romania, Part I.

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

National Audiovisual Council

Relevant provisions of the law no 504/2002-

Art. 10 - (1) The National Audiovisual Council, hereinafter referred to as the Council, is an autonomous public authority under parliamentary control and the guarantor of the public interest in the field of audiovisual communication.

(2) The Council shall be the sole regulatory authority in the field of audiovisual media services and shall exercise its powers impartially and transparently, pursuant to this Law and the law of the European Union, without seeking or accepting instructions from any other institution or entity in the performance of its tasks. Collaboration with self-regulatory bodies carried out on the basis of agreements or partnerships shall not constitute seeking or taking instructions.

(3) As guarantor of the public interest in the field of audiovisual communication, the Council shall ensure:

a) respect for the pluralistic expression of ideas and opinions in the content of audiovisual media services transmitted by audiovisual media service providers under Romanian jurisdiction;

b) pluralism of sources of information for the public;

c) the encouragement of free competition;

d) a balanced ratio between programme services with national coverage and local, regional or thematic services;

e) protection of human dignity, the right to one's own image and protection of minors;

f) the protection of Romanian culture and language, the culture and languages of national minorities;

g) transparency in the organisation, functioning and financing of the audiovisual media;

h) transparency of its own activity;

i) raising public awareness of the use of audiovisual media services by developing and promoting media literacy among all social groups, including through or in partnership with the Ministry of Education;

j) encouraging co-regulation and self-regulation in the audiovisual sector;

k) encouraging audiovisual media service providers to ensure that the services provided are accessible to people with visual or hearing disabilities;

l) monitoring programme services and audiovisual media services, including on-demand services, with a view to their compliance with the relevant legal provisions;

(m) exchanging information, experience and best practices with the competent authorities of the Member States and the European Commission, within the Contact Committee and ERGA, on the procedure for the restriction of audiovisual media services, as well as maintaining and developing relations with international bodies and fora and with the regulatory authorities of the Member States of the European Union and participating in events organised by them;

n) encouraging audiovisual media service providers to develop accessibility action plans for the continuous and progressive improvement of accessibility of their services for people with disabilities, and to communicate them to the Council;

o) exchanging information, experience and best practices with the European Commission and similar authorities in other countries on the application of the regulatory framework for audiovisual media services, including on accessibility and audiovisual competence.

(3¹) By 19 December 2022, and every three years thereafter, the Council shall report to the European Commission on the implementation of the obligation laid down in paragraph (3)(i).

(4) The Council shall exercise its right of control over the content of programmes offered by audiovisual media service providers only after such programmes have been made public.

(5) Control by the Council of the content of programme services provided by audiovisual media service providers and of the programme services provided by service distributors shall be carried out periodically and whenever the Council deems it necessary or receives a complaint about a provider's failure to comply with legal provisions, regulatory rules in the field or the obligations laid down in the audiovisual licence.

(6) The Council shall be obliged to refer to the competent authorities the occurrence or existence of restrictive competition practices, abuse of dominant position or economic concentrations subject to the control of the Competition Council, as well as any other violations of legal provisions that do not fall within its competence, such as unfair practices of traders in relation to consumers, violations of legal provisions in the field of personal data protection, as well as copyright and related rights. The Council may conclude a cooperation protocol with the competent authorities aimed at ensuring the exchange of information with a view to improving the identification measures and undertaking the necessary actions to comply with the provisions of this Act.

(7) The Council shall inform the European Commission, without undue delay, of conflicts of jurisdiction, which could not be resolved by a valid agreement, between Romania and another Member State of the European Union. Decisions of the European Commission in such cases on the establishment of jurisdiction shall be binding.

(8) The Council is authorised to establish and operate a single, easily accessible online contact point, including for people with disabilities, and available to the public for the provision of information and the receipt of complaints on any issues related to the accessibility of audiovisual media services.

(9) The Council shall report to the European Commission by 19 December 2022, and every two years thereafter, on the fulfilment of the obligation laid down in Article 23 para. (1) and Article 24 para. (1) and (2) and on the financial contributions imposed on suppliers under Article 13 para. (1) let. (h) and (h1) of Government Ordinance No 39/2005 on Cinematography, approved with amendments and additions by Law No 328/2006, as subsequently amended and supplemented.

(10) The Council shall inform the national regulatory authority and/or body of the Member State of the European Union when it receives information from an audiovisual media service provider under the jurisdiction of Romania that it shall provide a service that is wholly or mostly oriented to the public of that Member State.

(11) Requests from the competent authority and/or the national regulatory body of a Member State of the European Union concerning the activities of an audiovisual media service provider under the jurisdiction of Romania providing a service aimed at the territory of that Member State shall be dealt with by the Council within 60 days of receipt. The Council is authorised to ask the authority and/or the national regulatory body of the Member State which made the request for any information it deems useful in order to comply with the request.

(12) By 19 December 2022, and every three years thereafter, the Council shall report to the European Commission on the implementation of Article 411 para (1).

(13) The report referred to in paragraph (12) shall be published on the Council's website.

(14) The Council shall provide the European Commission or the regulatory authority of another State with the information requested by the latter on matters relating to the field managed by it.

Art. 17 - (1) The Council is authorised:

(a) to lay down the conditions, criteria and procedure for the granting of analogue and digital audiovisual licences;

b) to establish the procedure for granting retransmission licences;

(c) to issue analogue and digital audiovisual licences and retransmission authorisations for the operation of radio and television broadcasting programme services and to issue audiovisual authorisation decisions;

d) to issue, in application of the provisions of this law, decisions adopting regulatory rules in order to carry out its duties expressly provided for in this law and, in particular, with regard to:

1. ensuring the correct information of public opinion;

2. ensuring correct expression in Romanian and in the languages of national minorities;

3. ensuring fairness and pluralism of opinions;

4. transmitting information and official communications of the public authorities concerning natural disasters, states of necessity or emergency, states of siege or armed conflict;

5. protection of minors;

6. protection of human dignity and the right to one's own image;

7. non-discriminatory policies with regard to race, gender, nationality, religion, political beliefs and sexual orientation;

8. exercise of the right of reply, rectification and other equivalent measures;

9. audiovisual commercial communications, including advertising, product placement, election advertising and teleshopping;

10. sponsorship;

11. the rules and regulations for the coverage of electoral and referendum campaigns in audiovisual programme services within the framework and for the implementation of electoral legislation;

12. cultural and scientific responsibilities of audiovisual media service providers;

13. the protection of vulnerable social groups, in particular the protection of victims of domestic violence.

e) to draw up guidelines and issue recommendations for the conduct of activities in the field of audiovisual communication.

(2) The Council shall be consulted in the process of defining Romania's position and may participate, through representatives, in international negotiations in the audiovisual field.

(3) The Council shall be consulted on all draft legislation regulating activities in the audiovisual sector or related to it.

(4) The Council shall be authorised to request and receive from audiovisual programme service providers and distributors any data, information and documents relating to the performance of its tasks, and shall be obliged to preserve the confidentiality of non-public data.

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

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

Romanian audio-visual legislation does not include specific provisions on the fair and transparent allocation of state advertising.

38. Safeguards against state / political interference, in particular:

Relevant provisions of the Law no 504/2002

- safeguards to ensure editorial independence of the press (private and public)

Art. 6 - (1) Censorship of any kind on audiovisual communication is prohibited.

(2) The editorial independence of audiovisual media service providers is recognised and guaranteed by this law.

(3) Interference of any kind in the content, form or manner of presentation of elements of audiovisual media services by public authorities or any natural or legal person, Romanian or foreign, is prohibited.

Art. 15 - (1¹) It is forbidden to issue the recommendation on the broadcasting of radio and TV information spots as public service announcements.

Art. 34 - (4) Sponsorship of news and political news programmes is prohibited.

- specific safeguards for the independence of managers and board members of the media (e.g. related to appointment, dismissal), safeguards for their operational independence (e.g. related to reporting obligations and resource allocation) and safeguards on pluralism of information and opinions

The issues related to the appointment/dismissal process, the editorial independence of the public audiovisual media service provider are regulated by Law no. 41/1994 on the organization and functioning of the Romanian Broadcasting Company and the Romanian Television Company.

- information on the legal provisions and specific procedures that apply to media service providers, including on the granting/renewal/termination of licences, operation of the company, capital inflow requirements, concentration and corporate governance

Art. 51 - (1) The procedure and conditions for issuing and amending the audiovisual licence shall be established by decision of the Council. Applicants are required to submit notarized statements, issued at the time of application for the audiovisual licence, by which the commercial company applying for the licence, as well as each partner or shareholder holding more than 20% of the share capital or voting rights of a company holding an audiovisual licence, declare under their own

responsibility whether they are direct or indirect investors or shareholders in other audiovisual communication commercial companies, specifying the percentage held in their share capital, and to submit tax certificates showing that at the date of application for the audiovisual licence the company does not have outstanding obligations to the state budget.

Art. 74 - (5) A person intending to provide audiovisual media services on-demand shall submit to the Council, at least 7 days before the start of the activity, a notification of this intention, which shall contain at least the data referred to in art. 48 letters (a) - (c).

Art. 74^{1*} - (1) For the purpose of keeping an official record of video sharing platform providers under the jurisdiction of Romania, any natural or legal person intending to provide such platforms shall be obliged to notify the Council of such intention, which shall contain at least the data referred to in art. 48.

(2) The Council shall establish by decision the notification procedure and update on its website the standard notification form containing the information that any person intending to provide video-sharing platforms is required to communicate. This information is grouped into the following categories:

(a) necessary data to identify and communicate effectively with the provider;

(b) the name and type of the video-sharing platform;

(c) data identifying the electronic communications networks and services used to provide the platform;

(d) the website address and/or the name of the platform's own Internet portal;

(e) the geographical area of access of users to the platform services;

(f) the estimated date of commencement of business, but not earlier than 10 days from the date of notification.

(3) The natural or legal person who has made the notification under the conditions laid down in paragraphs (1) and (2) may provide the video-sharing platform which it has indicated in the notification.

(4) Any change to the data referred to in paragraph 2 shall be notified to the Council within 10 days.

39. Transparency of media ownership and public availability of information on media ownership, including on direct and indirect owners and beneficiaries and any rules governing this issue

Art. 48 - Audiovisual media service providers shall ensure simple, direct and permanent public access to at least the following categories of information: a) the name, legal status and registered office; b) the name of the legal representative and the shareholding structure up to the level of natural and legal person, partner or shareholder holding more than 20% of the share capital or voting rights of a company holding an audiovisual licence; c) the names of the persons responsible for the management of the company and of those having principal editorial responsibility; d) their contact details, including geographical address, e-mail address or website, enabling them to be contacted rapidly, directly and effectively; e) the list of publications edited by the legal person and the list of other programme services it provides; f) *** Repealed by Law No 333/2009; g) a statement that the audiovisual media service is under the jurisdiction of Romania and the contact details of the Council, as the competent regulatory and supervisory body.

39. 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

No up-dates.

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

40. Rules and practices guaranteeing journalist's independence and safety, including as regards protection of journalistic sources and communications, referring also, if applicable, to follow-up given to alerts lodged with the Council of Europe's Platform to promote the protection of journalism and safety of journalists

The National Audiovisual Council

In order to protect journalists, the Council, as the guarantor of the public interest in the audiovisual sector and as an institution with an obligation to ensure respect for freedom of expression, issued two press releases.

The first on 04.10.2023, in which it expressed its concern about the situation reported by journalists at Gazeta Sporturilor and Libertatea, on which the employers have been pressing for the removal of the separation between commercial and editorial. And the second, on 18.10.2023, in which it asked the police to investigate promptly the incident reported by the journalist of a TV channel, who was threatened with death on a social network.

Relevant provisions of the Law no 504/2002

Art. 7 - (1) The confidentiality of information sources used in the preparation of news, broadcasts or other elements of programme services is guaranteed by this Law.

(2) Any journalist or programme maker shall be free not to disclose data that could identify the source of information obtained in direct connection with his/her professional activity.

(3) The following shall be considered as data of such a nature as to identify a source: a) the name and personal data, as well as the voice or image of a source; b) the concrete circumstances of obtaining the information by the journalist; c) the unpublished part of the information provided by the source to the journalist; d) the personal data of the journalist or broadcaster, related to the activity for obtaining the broadcast information.

(4) Confidentiality of information sources, on the other hand, obliges to take responsibility for the accuracy of the information provided.

(5) Persons who, through the effect of their professional relationship with journalists, become aware of information which is likely to identify a source through the collection, editorial treatment or publication of such information shall enjoy the same protection as journalists.

(6) Disclosure of a source of information may be ordered by the courts only if it is necessary for the defence of national security or public order and to the extent that such disclosure is necessary for the resolution of the case before the court, where: a) alternative measures to disclosure with similar effect do not exist or have been exhausted; b) the legitimate interest in disclosure outweighs the legitimate interest in non-disclosure.

Art. 8 - (1) The competent public authorities shall ensure, upon request: a) the protection of journalists if they are subjected to pressure or threats likely to prevent or effectively restrict the free exercise of their profession; b) the protection of broadcasters' offices and premises if they are subjected to threats likely to prevent or affect the free conduct of their activity.

(2) The protection of journalists and broadcasters' offices or premises, under the conditions set out in paragraph 1, shall not become a pretext for preventing or restricting the free exercise of their profession or their activities.

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

General Prosecutor Office

In 2023, no new cases were registered against victims who are journalists for crimes committed in connection with their profession. The situation of cases registered in 2022 and pending in 2023 is presented in Annex 9.

42. Access to information and public documents by public at large and journalists (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)

General Secretariat of the Government

The responsibilities of the Public Relations Directorate within the General Secretariat of the Government include compliance with the provisions of Law no. 544/2001 regarding free access to information of public interest and Government Ordinance no. 27/2002 regarding the activity of resolving petitions.

In the year 2023, the Public Relations Department complied with the legal provisions regarding communication and the relationship with the citizens, as well as in the relationship with the press, received, registered and resolved the requests received from them, respecting their right to be informed, according to the Constitution Romania.

Also, through the Public Relations Directorate, a series of information of public interest about the institution's activity, budget executions and copies of procurement contracts were published, ex officio, on the public website of the General Secretariat of the Government, www.sgg.gov.ro, all in open format, as provided by the legislation in force on open data.

At the same time, communication with citizens and the press is carried out transparently, by publishing press releases and information, both on the institution's official website and on the official Facebook page.

In accordance with Art. 3 paragraph (1) point 5 letter e) from Government Decision no. 137/2020 on the organization, functioning and duties of the General Secretariat of the Government, with subsequent amendments and additions, the General Secretariat of the Government "monitors and evaluates the application by the authorities and public institutions of the legal provisions on free access to information of public interest in the public administration".

In this sense, between May and July 2023, the General Secretariat of the Government carried out a new annual monitoring round on a number of 582 websites of public institutions at the national level, as follows: 21 ministries (including the General Secretariat of the Government); 126 institutions, authorities and agencies of the central public administration subordinated or under the coordination of ministries; 27 autonomous central authorities and institutions; 42 institutions of the prefect; 41 county councils; 325 town halls of municipalities and cities at national level (including Bucharest City Hall and the town halls of the 6 sectors).

The analysis of the monitoring process in which the methodology and the results obtained are detailed can be accessed at the following link: <https://sgg.gov.ro/1/wp-content/uploads/2023/07/Analiza-rezultatelor-procesului-de-monitorizare-in-the-period-2022-2023.pdf>. Thus, according to the analysis, there is a slight tendency to increase the degree of compliance with national standards in the matter of free access to information of public interest among all categories of monitored public institutions. Also, the broken-down degrees of compliance can be analyzed at the following link: <https://sgg.gov.ro/1/transparenta-decizionala-monitorizare/>.

The General Secretariat of the Government continued the efforts to develop the annual synthesis regarding the annual reports regarding the implementation by the public administration of the legislation on free access to information of public interest, offering recommendations to improve the legislation and practices in the field. By making the synthesis of the annual reports related to the implementation by the authorities of the central and local public administration of the legislation on free access to information of public interest, the instrument is created through which the public administration self-evaluates its efficiency, pro activity and degree of openness towards citizens. Currently, the summary

for the year 2022 is being developed and will be published on the SGG website, alongside the summaries from previous years, which can be accessed at the following link: <https://sgg.gov.ro/1/transparenta- decision-making-monitoring/> - 2. Synthesis of annual reports - Law no. 544/2001.

43. 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

No cases have been registered.

IV. OTHER INSTITUTIONAL ISSUES RELATED TO CHECKS AND BALANCES

44. Please provide information on measures taken to follow-up on the recommendations received in the 2023 Report regarding the system of checks and balances (if applicable)

Step up efforts to ensure effective public consultations before the adoption of legislation

Step up efforts to obtain the accreditation of a National Human Rights Institution taking into account the UN Paris Principles.

The Romanian Institute for Human Rights (RIHR) is taking the steps to conclude an agreement with the Ombudsman in accordance with art. 6.3 of the Rules of procedure for the GANHRI Sub-Committee on Accreditation. In this sense, RIHR receives assistance from the European Network of National Human Rights Institutions (ENNHRI), as associated member of the network.

A. The process for preparing and enacting laws

45. Framework, policy and use of impact assessments and evidence-based policy-making, stakeholders¹⁸/public consultations (including consultation of judiciary and other relevant stakeholders on judicial reforms), and transparency and quality of the legislative process

General Secretariat of Government

The Advisory Council for the Evaluation of the Impact of Normative Acts (CCEIAN) was operationalized. In the period from January to October 2023, CCEIAN issued points of view for 94 draft normative acts in the decision-making transparency procedure. For 19 of these, favorable points of view were issued, for 45 favorable with proposals and observations and for 30 unfavorable.

The Methodological Guide for completing the presentation and motivation tools was developed and printed, to be disseminated to the ministries in December 2023 and to be posted on the website of the General Secretariat of the Government. The guide was developed by World Bank experts in the context of the project "Impact studies for better regulation", SIPOCA 603, project financed by the Administrative Capacity Operational Program.

In the field of ex-post evaluation, Government Decision no. 443/2022 brought some new elements, such as:

Regarding the ex-post evaluation framework and procedures:

The provision that, at the request of the Government and based on its priorities, ex-post evaluations will be carried out and included in the annual roadmap from art. 5. This is a realistic approach given that this is the first time regulatory assessment requirements are being introduced and there is limited technical capacity of ministries to carry them out.

¹⁸ This include also the consultation of social partners.

The provision according to which ex-post evaluations of the Emergency Ordinances will be carried out within two (2) years from their adoption (including any changes made to the normative act). Article 5 also states that impact studies and evaluation reports will be published on the SGG website.

Establishment of an Advisory Council for the evaluation of the impact of normative acts (CCEIAN), made up of independent experts (chapter 2). In this sense, art. 8 (2) b) specifies that it is the responsibility of the Council to analyze the compliance of impact studies and evaluation reports with the methodological instructions provided by the Government decision.

The provision that the annual impact assessment reports include information on the evaluation activities at the Government level (art. 6).

Regarding the methodological framework, Government Decision no. 443/2022:

Includes a template for evaluation reports. The model includes a section on follow-up measures as a result of ex-post evaluations. The initiators are obliged to provide information on: a. Proposals to improve the normative act in a different way than by formally amending it and b. proposals to revise the existing legislation.

Includes an ex-post evaluation methodology that provides guidance on defining evaluation concepts and types, the data collection process, qualitative and quantitative analyses, the consultation process during the ex-post evaluation, and the results of the implementation process.

Recent developments:

The Methodological Guide for the completion of the Report on the implementation of normative acts was developed by World Bank experts in the context of the project "Based regulations for better public policies in Romania", a project financed by PNRR in the context of the implementation of Target 408 - 25% of the presentation tools and of motivation meet the established quality criteria (i.e. they are evaluated at an excellent or satisfactory level) according to the governmental methodology in the field.

In November 2023, the first training sessions were organized in the field of ex-post evaluation of the implementation of normative acts, in which 20 representatives of line ministries participated.

Senate

The legislative process is entirely digitalised, allowing the public to check the progress of draft legislation, the reports of the relevant institutions and to contribute with their own point of view during the public consultation timeframe. Consequently, the stakeholders' and civil society's legitimate expectations are taken into account by the Parliament during the legislative procedure, both upstream and downstream. In this regard, the Senate's Committee for European Affairs conducted an internal poll with the permanent committees of the Romanian Senate to check the quality and transparency of their activities in fostering public consultations. Thus, in the past year, 12 of the 21 permanent commissions of the Senate have organised several panels and conferences in a 'state-civil society' format, allowing stakeholders to provide

feedback on existing legislation and advance proposals for future amendments, thus providing essential feedback for perfecting the legislation,¹⁹ while fostering a deliberative culture, and implicitly, a rule of law culture.²⁰

Of significant relevance is also the contribution of the Committee for European Affairs of the Senate over human rights and minorities' rights matters. Since 2014, the Committee issued positions and de lege ferenda proposals for perfecting the legal framework ensuring the protection of minorities, with an emphasis on the Roma community.²¹

46. 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)

Legislative Council

Type of normative act	Basic acts	Amending acts	Total
Law	234	138	372
Emergency ordinance	51	57	108
Ordinance	9	33	42
Total	294	228	522

During 2023, some of the emergency ordinances were adopted considering the need to meet, within the deadline, the milestones associated with key investments and major reforms related to the six main pillars established by RRP²².

¹⁹ In this regard, The Committee for Legal Affairs of the Senate organised open debates over the 'Justice Laws' legislative – Draft law concerning the status of the judges and prosecutors L612/2022 which became Law No. 303/2002, Draft law concerning judicial organisation L603/2022 which became Law No. 304/2022, Draft law concerning the Superior Council of the Magistracy L594/2022 which became Law No. 305/2022 – with the representatives of the judiciary, specifically the representatives of the Superior Council of the Magistracy, the delegates of the National Association of Romanian Bars, and the NGOs channelling the voices of the civil society. The Senate's Committee for Human Rights organised debates over the integration mechanisms for Ukrainian refugees on the national labour market, resulting in an amendment initiative of Law No. 76/2002 to include persons benefiting from international and temporary protection among the beneficiaries of several measures of improving access on the labour market (i.e. tax incentives for companies hiring the beneficiaries in order to stimulate employment). The Human Rights Committee also organised the 'Equality of Chances, for real' conference meant to understand the public opinion over improving the gender balance and representation of women in the Romanian society, leading to a proposed amendment to Law No. 202/2002. Likewise, the 'state-civil society' conference format was employed by the Committee for Education to identify the means for improving the national education laws (cf. 'The Children' and Youth's Right to Healthy Life' conference). The Committee for Constitutional Affairs has added on their agenda the citizens' initiative to amend Article 37 of the Romanian Constitution with a paragraph according to which no convicted citizens would be allowed to run for elections in the local administration, as well as in the Parliament's Chambers, and for the country's presidency as long as the effects of their conviction are subsisting. The Committee for Defence organised over 50 actions of public consultations, which led, inter alia, to the submission of a legislative project meant to reinforce the national defence industry in line with rule of law standards.

²⁰ Cf. Rule of Law Report – Romania 2023.

²¹ COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS, Assessing the implementation of the EU Framework for National Roma Integration Strategies and the Council Recommendation on effective Roma integration measures in the Member States – 2016, available at: <https://secure.ipex.eu/IPEXL-WEB/document/COM-2016-0424/rosen>.

²² Regulation (EU) 2021/241 of the Parliament European and Council of 12 February 2021 establishing the Recovery and Resilience Mechanism and the Council's Implementation Decision of 3 November 2021 approving the evaluation of Romania's Recovery and Resilience Plan.

At the same time, some directives of the European Union were transposed through emergency ordinances, considering the initiation or the imminence of the initiation of the infringement procedure against Romania by the European Commission. Also, some fiscal-budgetary measures were adopted through emergency ordinances. In addition, some of the emergency ordinances were adopted taking into account the context of the crisis caused by Russia's aggression against Ukraine.

Considering that through the National Recovery and Resilience Plan, within Component 14 - Good governance, it was assumed to reach milestone no. 412, "*The entry into force of the legislative amendments to ensure the publication of the full text of the laws after the amendments*", with a deadline of the 3rd quarter of 2022, by Law no. 343/2022 were amended both Law no. 73/1993 regarding the establishment, organization and functioning of the Legislative Council, as well as Law no. 24/2000 regarding the rules of legislative technique for the elaboration of normative acts. The legislative interventions were aimed at establishing the mandate of the Legislative Council to draw up consolidated versions of laws, as well as ordinances, emergency ordinances and normative decisions of the Government, as well as regulating the legal definition of the notion of "consolidated version". Therefore, the Legislative Council website (www.clr.ro), starting from November 9, 2023, displays consolidated versions of the normative acts modified after the date of entry into force of Law no. 343/2022, among which there are already important normative acts, such as: Law no. 53/2003 - Labor Code, Law no. 46/2008 Forestry Code, Law no. 286/2009 regarding the Criminal Code, Law no. 134/2010 on the Code of Civil Procedure, Law no. 135/2010 regarding the Criminal Procedure Code, Law no. 207/2015 regarding the Fiscal Procedure Code, Government emergency ordinance no. 57/2019 regarding the Administrative Code. The activity of drawing up and displaying on the Legislative Council's website the consolidated versions of the normative acts on which legislative events have intervened is carried out on a permanent basis.

Regarding the systematization, unification and coordination of the legislation, the Legislative Council exercised, during the year 2023, the other attributions that contribute to its achievement. Thus, pursuant to art. 2 para. (l) lit. g) from Law no. 73/1993 for the establishment, organization and functioning of the Legislative Council, the delays in the issuance by the competent public authorities of the normative acts in execution, ordered by laws, ordinances and decisions of the Government, were reported quarterly to the legal bodies. At the same time, considering the attribution provided for in art. 5 para. (5) from Law no. 73/1993, the Legislative Council annually notified the Parliament or, as the case may be, the Government of the delays in republishing the normative acts for which such a measure was ordered.

In the same context, it should be mentioned the recommendation made by the Legislative Council to insert, in the draft normative acts, the provision for republishing the basic normative act, in case it has undergone significant changes and/or additions.

The Legislative Council intends, in the future, to develop a software application, which facilitate their drafting in compliance with the rules of legislative technique for the elaboration of normative acts provided for by Law no. 24/2000. Thus, some requirements imposed by the rules of legislative technique (such as the correct indication of the title of the normative act on which the legislation intervenes, the nature of the legislative interventions and the structural elements on which it intervenes) would be incorporated into the algorithms, the draft act normative generated by the application following those requirements from the moment of development. This objective was included in the Strategy for debureaucratization and digitization of the activities of the Legislative Council, its achievement being conditional, further, on obtaining the necessary funding.

General Secretariat of the Government

Having regard to Government Decision No. 443/2022 for the approval of the content of the presentation and motivation tool, the structure of the report on the implementation of normative acts, the methodological instructions for carrying out the impact assessment, as well as for the establishment of the Advisory Council for the impact assessment of normative acts, and Government Decision No. 1.173 of 21 September 2022 supplementing the Regulation on the

procedures, at Government level, for the elaboration, endorsement and submission of draft public policy documents, draft normative acts, as well as other documents, for adoption/approval, approved by Government Decision No. 561/2009, which contains the Methodology containing good practices for drafting and substantiation of draft Government Emergency Ordinances as a regulatory instrument, it can be considered that the ministries/institutions that initiate draft emergency ordinances have at their disposal much clearer and more restrictive rules that ensure good practices in the process of drafting and substantiating this type of normative act.

The majority of the emergency ordinances, were motivated as follows: avoiding losing European funds and increasing absorption; maintaining the budget deficit target; meeting the targets and milestones contained in the National Recovery and Resilience Plan (NRRP); in the context of the economic crisis created by the conflict in Ukraine; social protection, etc;

47. Rules and application of states of emergency (or analogous regimes), including judicial review or parliamentary oversight

Senate

The Romanian Constitution and GEO No. 1/1999 regulate the state of emergency and the state of siege as exceptional instruments justified by circumstances which constitute threats to national security and constitutional democracy, or which prevent or cushion the effects of national disasters. Under GEO No. 1/1999, the free access to justice under the state of emergency or siege cannot be limited, while the conviction for crimes unregulated by national and international law is strictly prohibited. The prohibition of torture, inhumane and degrading treatments continues to be guaranteed, while the right to life cannot be limited, except for the situations allowed under international humanitarian law. All the other rights and civil liberties can be limited, as long as the state of emergency lasts (at most 30 days, with an extension to 60 days).

48. Regime for constitutional review of laws

Constitutional Court

Article 146 of the Romanian Constitution, which regulates the powers of the Romanian Constitutional Court, refers to *a priori* and *a posteriori* constitutional review. The *a priori* control is direct and abstract, exercised upon referral of qualified subjects. The constitutional review is triggered only upon request of certain subjects of law strictly determined by the Constitution (the President of Romania, the Presidents of the two Chambers, the Government, the High Court of Cassation and Justice, the Ombudsman, at least 50 Members of Parliament or 25 Senators), the Court being obliged to rule on the exception of unconstitutionality.

The *a posteriori* constitutional review (exception of unconstitutionality) is a procedural remedy before the ordinary courts, which does not call into question the merits of the claim being tried and is a procedural means whereby the party concerned, the public prosecutor or the court *ex officio*, invokes the non-conformity of a law or ordinance or of a provision of a law or ordinance with the Constitution. The exception of unconstitutionality may also be raised by the Ombudsman *ex officio*.

B. Independent authorities

49. 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 institutions²³

National Council for Combating Discrimination

²³ Cf. the website of the European Court of Auditors: <https://www.eca.europa.eu/en/Pages/SupremeAuditInstitutions.aspx#>

For the year 2023, the National Council for Combating Discrimination benefited from a total budget of 10,530,000 lei. At the beginning of the year, NCCD's workforce included 92 approved positions of which 77 were funded and 76 were occupied.

50. 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

National Council for Combating Discrimination

In 2023, until December 18, NCCD was notified with 945 petitions. Also, in 17 cases, members of the Steering Board initiated ex-officio actions. The complaints concerned the following criteria provided by G.O. 137/2000 R: non-contagious chronic disease (18 complaints), disadvantaged category (4 complaints), social category (346 complaints), beliefs (22 complaints), disability (72 complaints), ethnicity (52 complaints), gender (33 complaints), HIV (8 complaints), language (12 complaints), nationality (89 complaints), sexual orientation (15 complaints), race (5 complaints), religion (18 complaints), age (32 complaints), and 219 complaints concerned other criteria outside the discrimination criteria prohibited by the European Union Directives, such as Directive 2000/43/EC, Directive 2000/78/EC, Directive 2004/113/EC or Directive 2006/54/EC.

Regarding the areas provided by G.O. 137/2000 R, the petitions registered during 2023 were distributed as follows: access to employment and profession - 358 complaints, access to education- 91 complaints, access to housing- 20 complaints, access to public places - 20 complaints, access to public services -261 complaints, personal dignity - 182 complaints, other - 13 complaints.

In 2023, the Steering Board adopted 632 decisions, in 100 cases it was found that acts of discrimination had been committed in violation of G.O. no. 137/2000 R, in 287 cases the existence of facts of discrimination was not found. In 147 decisions exceptions were admitted, 92 petitions were classified procedurally, 4 decisions were classifications to previous decisions and in 2 situations it was necessary to correct some material errors.

At the same time, in 2023, the Steering Board was requested to issue 65 specialized points of view, points of view that concerned the granting of the doctorate increase on the basis of the equivalence of the first degree based on the scientific title of doctor, the granting of some salary rights and the analysis of some texts and comments upon the existence of hate speech.

Also, based on the provisions of art 27 of G.O. no. 137/2000 R, the Council was requested by the courts to issue a specialized point of view in approximately 2.800 cases.

C. Accessibility and judicial review of administrative decisions

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

There are no new issues compared to the previous report in this area which could be qualified as significant developments.

52. 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).

There have been no changes that could be classified as significant developments compared to those mentioned in the previous report, so in line with the recommendation, they will not be repeated.

53. Rules and practices related to the application by all courts, including constitutional jurisdictions, of the preliminary ruling procedure (Art. 267 TFEU)

Superior Council of Magistracy

At the level of national law, provisions on referring a request for a preliminary ruling to the Court of Justice of the European Union are contained in the Code of Civil Procedure. Thus, according to Article 412(1), point 7, the proceedings shall be de jure suspended when the court makes a reference for a preliminary ruling to the Court of Justice of the European Union, in accordance with the provisions of the Treaties on which the European Union is founded, and pursuant to Article 413(1)(11) the court may suspend the proceedings where, in a similar case, a request for a preliminary ruling was brought before the Court of Justice of the European Union. Furthermore, in accordance with Article 21(1) of Law No 554/2004 on administrative litigation, as amended, it constitutes grounds for revision, in addition to those laid down in the Code of Civil Procedure, the delivery of judgments which have become final in breach of the principle of priority of European Union law, governed by Article 148(2) in conjunction with Article 20(2) of the Romanian Constitution, republished.

By Decision No 45/2016 of the High Court of Cassation and Justice – The panel for determining certain aspects of law has established that ‘in interpreting and applying the provisions of Article 21(2), sentence 1, of Law No 554/2004 on administrative litigation, as amended, the application for review shall be admissible on the basis of decisions of the Court of Justice of the European Union, irrespective of when they were delivered and whether or not the pre-existing provisions of European law were invoked in the basic dispute of , infringed by the judgment whose revision is sought’.

Constitutional Court

With regard to the preliminary ruling procedure, the Constitutional Court of Romania has held in its case law (Decision no. 668/2011, published in the Official Gazette no. 487 of 8 July 2011) that: the use of a rule of European law in the context of constitutionality review as an interposed rule to the reference rule implies, under Article 148 para. (2) and (4) of the Constitution, a cumulative conditionality: on the one hand, this rule of European law must be sufficiently clear, precise and unequivocal in itself or its meaning must have been clearly, precisely and unequivocally established by the Court of Justice of the European Union and, on the other hand, the rule must be within a certain level of constitutional relevance, so that its normative content supports the possible violation by the national law of the Constitution - the only direct rule of reference in the constitutionality review. In such a hypothesis, the Constitutional Court's approach is distinct from the mere application and interpretation of the law, which is the responsibility of the courts and administrative authorities, or from possible questions relating to legislative policy, promoted by Parliament or the Government, as the case may be.

In the light of the cumulative conditionality mentioned, it remains at the discretion of the Constitutional Court to apply the judgments of the Court of Justice of the EU in the context of the constitutionality review or to ask itself preliminary questions in order to determine the content of the European rule. Such an approach relates to cooperation between the national constitutional court and European Court of Justice and on the judicial dialogue between them, without calling into question issues relating to the establishment of hierarchies between those courts.

In 2016, the Constitutional Court made, for the first time, a request for a preliminary ruling in a case concerning the ruling on the exception of unconstitutionality of the provisions of Article 277 para. (2) and (4) of the Civil Code, which was raised in a case brought by the District 5 Court of Bucharest (Coman case). The European legislative act applicable to the case was Directive 2004/38/EC on the right of EU citizens and their family members to move and reside freely within the territory of the Member States. Following the CJEU judgment of 5 June 2018, the Constitutional Court upheld the exception of unconstitutionality by Decision 534/018, published in the Official Gazette No 673 of 2 August 2018.

High Court of Cassation and Justice

A link to the Romanian version of the Court of Justice of the European Union website is available on www.iccj.ro.

In the course of 2023, the High Court of Cassation and Justice (Administrative and Fiscal Jurisdiction Division) referred three cases to the Court of Justice of the European Union under Article 267 of the Treaty on the Functioning of the European Union and Case C-510/22 Romaqua Group S.A. was decided on referral to the Supreme Court.

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

Government Agent to the European Court of Human Rights

On the issue of judgments of the European Court of Human Rights (ECHR) on non-enforcement or late enforcement of judgments in disputes between private individuals and public authorities (Săcăleanu group of cases), updated information was sent to the Committee of Ministers of the Council of Europe (CM) on the steps taken to set up and operationalise the Office for the Execution and Monitoring of ECHR Judgments - Litigation, Constitutionality and Enforcement of Judgments Service - Legal and Litigation Directorate of the General Secretariat of the Government (SGG). This Office was set up at the end of 2022 on the basis of Government Decision no 1.465/8 December 2022 and, during 2023, competitions were held to fill the post of Head of Office and a post of Legal Adviser. The role of this office is to serve as a mechanism to control the problem of enforcement of judgments against public debtors and to prevent the emergence of situations giving rise to new ECHR cases in which non-execution or late execution of judgments establishing obligations to give or to perform on a public debtor is found. Information on the state of execution of judgments in nine cases was sent to the CM on 17 October this year.

In addition, information was also sent to the CM on a draft law amending the provisions of the OG no. 22/2002 (PL-x 516/2021), which is relevant to the streamlining of the procedure for the enforcement of judgments against public debtors imposing pecuniary obligations on them.

With regard to a specific issue concerning the non-enforcement or late enforcement of judgments in disputes between private parties and public authorities, it has to be underlined that Article 10 of GO No 94/1999 was amended by GEO No 106/2023 with a view to creating the regulatory framework to allow the enforcement of nine cases settled by ECHR judgments, grouped in the SC Polyinvest SRL and others against Romania group (part of the Săcăleanu group), which concern the non-enforcement of judgments/arbitral decisions rendered in disputes between claimants and state-owned companies or autonomous regions that are bankrupt or already liquidated, by creating the legal possibility of calculating the amount of the sums due to the claimants in these nine cases and the payment of the sums by the Ministry of Finance.

During 2023, Romania has managed to close the supervision of the execution of 103 cases (92 repetitive cases and 11 landmark cases), compared to 37 cases in 2022, 45 cases in 2021 and 15 cases in 2020, for example.

Among the most important issues in terms of the number of cases under the Committee's supervision are inadequate conditions of detention, various aspects of the right to a fair trial (including the question of enforcement of judgments handed down by national courts) and the question of restitution of nationalised property.

It should also be noted that in 2023 the closure of the supervision of the enforcement of several ECHR judgments in leading cases was obtained, such as Kövesi v. Romania, Camelia Bogdan v. Romania (issues related to the functioning of the judicial system) and Loiry v. Romania (non-enforcement of a judgment returning a minor child to his or her home abroad).

D. The enabling framework for civil society

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

General Secretariat of the Government

On July 7, 2023, the Open Government Review and Civic Space Country Review reports were launched, developed by the OECD in partnership with the General Secretariat of the Government and with the support of central and local public institutions and non-governmental organizations.

The Open Government Review of Romania (OGR) provides a picture of the current state of affairs in Romania regarding the field of open government, also containing a series of recommendations and best practices in the field. The OGR can be accessed online at the link: <https://www.oecd.org/governance/open-government/open-government-review-of-romania-ff20b2d4-en.htm>.

The Open Government Review should be read together with the Civic Space Country Review of Romania (CSCR), which provides an in-depth assessment of the environment conducive to open government reforms, with an emphasis on the protection of civic liberties, freedom of the press, the role of civil society organizations and citizen participation in the decision-making process. CSCR can be accessed online at the link: <https://www.oecd.org/publications/civic-space-review-of-romania-f11191be-en.htm>.

Also, a summary of both reports is attached hereto, and can be accessed online on the website of the General Secretariat of the Government at the following link: <https://sgg.gov.ro/1/wp-content/uploads/2023/07/RO.pdf>. Thus, the two reports will form the basis of the future government reforms targeted by the General Secretariat of the Government in the medium and long term, which will also support Romania's accession to the OECD.

56. Rules and practices having an impact on the effective operation and safety of civil society organizations 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 organizations, etc. It also includes measures to monitor threats or attacks and dedicated support services.

Regarding the implementation of Recommendation (EU) 2022/758 on the protection of journalists and human rights defenders involved in public mobilisation actions against manifestly unfounded or abusive legal proceedings (SLAPP), the Romanian Bar Association organized the following:

- The National Institute for the Training and Further Training of Lawyers will consider that the subject of SLAPP be included by the trainers of the European Union Law discipline in the specific curriculum of the second year of initial training in the profession.

- As regards the training of Romanian lawyers on SLAPP, a series of trainings have been organised in 2023, some of which will be promoted and disseminated by the UNBR on its website and media channels:

1. Anti-SLAPP training: how to defend journalists in bullying litigation

- organised on 16 February 2023 by the Independent Journalism Centre (IJC) - attended by 25 lawyers. *Link:* <https://www.unbr.ro/centrul-pentru-jurnalism-independent-cji-organizeaza-joi-16-februarie-2023-un-training-anti-slapp-cum-aparam-jurnalistii-in-litigiile-de-intimidare-workshop-ul-este-gratuit-pentru/>

2. Anti-SLAPP training: how we defend journalists in intimidation litigation - organised on 21 March 2023 by the Independent Journalism Centre - with 15 lawyers in attendance. According, to the IJC's information, due to requests from lawyers, an additional training session was organised on 25 March 2023. *Link:* <https://www.unbr.ro/invitatie-de-participare-centrul-pentru-jurnalism-independent-cji-organizeaza-marti-21-martie-2023-evenimentul-training-anti-slapp-cum-aparam-jurnalistii-in-litigiile-de-intimidare/>

<https://cji.ro/patfox-traininguri-organizate-de-cji/>

3. Webinar organised on 25 October 2023 by the European Lawyers Foundation (ELF) and the Council of Bars and Law Societies of Europe (CCBE) - SLAPPS AND LAWYERS - with 500 participants.

Note: On 12 January 2024, the material SLAPPs in Romania - Case Study available for legal professionals was sent to the professional body of lawyers and can be accessed on the UNBR website and the institution's media channels: <https://www.unbr.ro/slapp-urile-in-romania-studiu-de-caz-disponibil-pentru-profesionistii-dreptului/>

57. Organization of financial support for civil society organizations 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)

No developments.

58. Rules and practices on the participation of civil society organizations 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.)

(I) The General Secretariat of the Government implements within the framework of the National Recovery and Resilience Plan, Target no. 406 "800 representatives of civil society organizations attended training courses to increase the administrative capacity and degree of digitization of their structures". The target is included in Component 14 – Good governance, Reform 1.1 "Improving the predictability and efficiency of decision-making processes by strengthening the capacity for policy coordination and impact analysis at the level of the Government and the coordinating ministries, as well as by strengthening the tools in order to increase the quality of public consultations at all levels of administration".

The target objective is represented by the training of representatives of civil society organizations to increase the administrative capacity and the degree of digitization of their structures, participating in the construction of an active citizenship and a relationship of trust between the state and civil society. The training will take place between 2023-2025, in 32 sessions, which will include both theoretical and practical topics.

The subject of the course includes a series of information related to: the concept of administrative capacity, the current state of the involvement mechanisms offered by the legal framework in force, collaboration tools between public administration and civil society, methods of developing the capacity of the non-governmental sector, ways to ensure a safe and conducive environment for the activity of civil society and, last but not least, methods and benefits of the digitization of the activities of civil society organizations.

The targeted target group is formed by representatives of the following categories of structures: associations, foundations, federations established on the basis of the regulations of the O.G. no. 26/2000 regarding associations and foundations, with subsequent amendments and additions; trade unions and patronages established pursuant to the provisions of Law no. 367/2022 on social dialogue, with subsequent amendments and additions. Link: <https://ogp.gov.ro/nou/2023/08/09/invitatie-de-inscriere-la-sesiunile-de-instruire-pentru-dezvoltarea-capacitatii-administrative-a-organizatiilor-societatii-civile-and-of-the-degree-of-digitalization-of-them/>.

(II) The General Secretariat of the Government implements within the framework of the National Recovery and Resilience Plan, Target no. 407 "The process of public consultation and involvement of interested parties has improved by increasing by 20% the number of draft legislative acts that are subject to public consultations and the involvement of interested parties at the central level".

Thus, within Target no. 407, the General Secretariat of the Government will carry out activities to achieve the following:

a) Dashboard for monitoring and evaluating the quality of central and local authorities public consultation procedures and stakeholder engagement processes.

Drafting the Scoreboard is aimed at improving the process of public consultation and of stakeholders' involvement. The scoreboard will identify a set of indicators and afterwards the initial situation (baseline) will be established in order to monitor the process of public consultation and of stakeholders' involvement.

Based on the indicators provided by the scoreboard, the General Secretariat of the Government will draft annual evaluation reports, which will provide information on the number of acts subject to public consultation procedures out of the total number of the adopted acts, challenges and dysfunctions and will be the basis for further capacity building actions.

b) Open Government Strategy. The General Secretariat of the Government is committed to the development of an Open Government Strategy and this document will help to overcome the previously limited impact of government initiatives in the area of open government by clearly setting out, at all levels of government, the framework for objectives, resources, implementation modalities and roadmap. On the basis of the sets of recommendations drawn from the OECD Open Government Review and OECD Civic Space Country Review reports, as well as on the basis of the examples from other countries, proposals for policy documents will be developed, following consultations with the stakeholders (public authorities and civil society).

c) Improving and supplementing the functionalities of the existing IT platform www.e-consultare.gov.ro.

Developing a web portal with extended functionalities www.e-consultare.gov.ro to serve as a government-wide "one-stop shop" for citizens on opportunities for participation and as a tool for monitoring and evaluating annual progress.

The IT platform will have six modules, five of which will be interconnected and will serve in parallel multiple areas of the open government sector, facilitating open dialogue and multiple interactions between institutions and citizens. The platform will be a centralized solution with a single authentication system for its users, which will allow easy management of several interoperable and related modules for each public institution in Romania.

The design and development of the platform will consider the need for an easy administration, the creation of mechanisms to ensure the interactivity of the solution and the structuring of how content is displayed (including the implementation of the necessary components to ensure access for the visually impaired persons).

The platform will provide access to all central and local public authorities, their number being more than 1000 entities. The platform will contain an advanced search engine (various options/criteria and logical operators) and will offer the possibility to generate statistics by different criteria/domains or according to the selection of meta-data.

d) Organisation of training sessions for civil servants from central and local authorities on the implementation of regulations on public consultation and free access to information of public interest.

1080 representatives of central and local authorities will benefit from training sessions to improve their expertise and skills in implementing reform measures. The training programmes are designed to make the implementation of regulations in the field of public consultation and free access to information of public interest more effective for civil servants from central (ministries) and local (county councils and municipalities) authorities.

The course material will cover issues such as: the mechanisms of ex officio and on-demand disclosure of information of public interest, the mechanism of ensuring transparency in decision-making, the digitization of processes and the use of electronic tools aimed at ensuring the access to information of public interest and transparency in decision-making, the obligations of public administration authorities to ensure access to information of public interest and transparency in decision-making, the relationship with civil society, but also the importance of innovation in decision-making processes and ensuring access to information of public interest and transparency in decision-making.

E. Initiatives to foster a rule of law culture

59. 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.)

Senate

The Romanian Senate continues to facilitate free access to information of general interest under Law No. 554/2001, as outlined by the Yearly Report for processing citizens' claims.²⁴ Moreover, public consultation remains a prior requirement of enacting legislation, allowing stakeholder engagement in the political process. As observed by the MPs in their plenary meetings, the rule of law should be seen as a fundamental principle for the legislative process.²⁵ Debates over the rule of law have taken place at the political level throughout parliamentary groups and the MPs.²⁶ Moreover, a 'rule of law' culture continues to be stimulated through legislative amendments, such as the recent amendments to the National Education Law No. 1/2011, which provide that: „the education framework plans and mandatory school curricula (...) necessarily take into account the following themes: education for democratic citizenship, equality of chances, ethics, critical thinking, rhetoric and personal development, as well as education for European citizenship.”²⁷

General Secretariat of the Government

During 2022-2023, the General Secretariat of the Government coordinated and implemented the European Label for Excellence in Governance (ELOGE) with the support of the Council of Europe. ELOGE is an award granted by the Council of Europe to local public administration authorities, based on an analysis made through a European and international evaluation mechanism on the quality of local governance and represents a way of certifying, appreciating and recognising those local public authorities whose work is carried out to European and international standards, by successfully applying in their activity the 12 principles of good democratic governance.

On May 11th, 2023, the closing event of the first edition of the implementation of the European Label of Excellence in Good Local Governance (ELOGE) and the awarding of the prize and diploma to the winning local public authorities of the first edition in Romania took place. Out of the 58 public administration authorities voluntarily registered in this evaluation, 30 were declared eligible for this recognition of the quality of their work, at European and international standards, following the application of the benchmark made up of a series of indicators that were scored both by the authorities and by local elected representatives and, above all, by the citizens. [Link: https://sgg.gov.ro/1/eloge-in-romania/](https://sgg.gov.ro/1/eloge-in-romania/).

Ministry of Justice

On 23.11.2022, a new collaboration protocol was signed between the Ministry of Justice, the Ministry of Education, the Superior Council of Magistracy, the High Court of Cassation and Justice, the Prosecutor's Office of the High Court of Cassation and Justice and the National Union of Romanian Bar Associations, which aims to promote legal education at all levels of education, in a manner adapted to the understanding of each participant.

²⁴ Romanian Senate, Report concerning Public Consultations, available at: https://www.senat.ro/UploadFisiere/c0103416-ed45-479c-ad30-239462ab974b/Raport_info_pub_2022.pdf.

²⁵ References to the 'rule of law' (and its Romanian equivalents) were made in the Transcripts of the Senate's Plenary Meetings from : 20th of February 2023, https://www.senat.ro/PAGINI/Stenograme/Stenograme_2023/Plen/23.02.20.pdf, p. 5; 27th of February 2023, https://www.senat.ro/PAGINI/Stenograme/Stenograme_2023/Plen/23.02.27%20comuna.pdf, p. 18; 3rd of April 2023, https://www.senat.ro/PAGINI/Stenograme/Stenograme_2023/Plen/23.04.03.pdf, p. 18, 11th of April 2023, https://www.senat.ro/PAGINI/Stenograme/Stenograme_2023/Plen/23.04.11.pdf, p. 24; 24th of April 2023, https://www.senat.ro/PAGINI/Stenograme/Stenograme_2023/Plen/23.04.24_1.pdf, p. 41; 30th of May 2023, https://www.senat.ro/PAGINI/Stenograme/Stenograme_2023/Plen/23.05.30.pdf, p. 38.

²⁶ Cf. Committee for Legal Affairs of the Romanian Senate, „Asigurarea juridică” International Conference, Press release available at: <https://www.senat.ro/StiriSenatDetaliu.aspx?ID=2D5796D4-4BD5-4B70-AE09-C6DBF89650BD>.

²⁷ Law of Pre-University Education No. 1/2011, published in the Official Gazette No. 613 of 5th of July 2023, Article 88, para. (10).

The aim is thus to capitalize on the experience gained during the implementation of the previous protocol, concluded in 2017, the novelty being the presentation of legal education topics in the university environment, as well as the inclusion in the scope of the protocol not only of pupils and students, but also of teachers.

Volunteers from different legal professions were registered to carry out legal education activities in educational institutions.

The Protocol Monitoring Committee approves the general lines of action in the field of legal education in pre-university educational establishments and in the university environment and the timetable of activities.

The National Essay Competition "Law in everyday life" has started in June 2023. The competition has been open to secondary and high school students and has been dedicated to promoting a culture of legality and responsibility, promoting the legal professions, trust in justice and the rule of law, and aimed to engage students in a debate on legal issues, as a public interest action.

A number of 94 entries were received and the winning essays were published on the Ministry of Justice website. Winning students were invited to visit, on 12 July, the offices of the Ministry of Justice, the Prosecutor's Office of the High Court of Cassation and Justice, the National Anticorruption Directorate and the National Institute of Magistracy.

A second national essay competition (running from 8 July to 18 September) has been aimed at high school students in order to raise awareness of the effects and risks of internet use among young people, engage students in discussing legal issues, stimulate creativity and original expression of legal notions and concepts.

The competition was attended by 86 students from all over the country. There were five first place prizes, five second place prizes and five third place prizes consisting of various electronic equipment. The winning entries were published on the legal education website. The winning students were also invited to attend a ceremony at the Ministry of Justice where they were congratulated by the Minister of Justice and other members of the judiciary.

<https://www.just.ro/sedinta-de-bilant-referitoare-la-programul-educatiei-juridice-la-nivel-national/>