

Annual Rule of Law  
Report - Council of  
Europe input

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

2021

**Directorate General Human Rights and Rule of Law (DG I)**

Romania

# I Justice System

## A. Independence

### CEPEJ

CEPEJ – Country profile Romania - Scoreboard (2019 data) *(content of the link will be available after acceptance of the CEPEJ Study for the Scoreboard by DG-Just)*

[CEPEJ Country Profiles Romania Scoreboard](#)

CEPEJ European Judicial Systems Evaluation Report – Evaluation cycle 2018-2020 (2018 data) – Part 2 Country profile Romania

[CEPEJ Evaluation Report - Country Profiles – Romania](#)

CEPEJ website – General Country profile Romania (including answers to the Evaluation Scheme)

[General CEPEJ Country profile](#)

European Judicial Systems CEPEJ Evaluation Report – Evaluation cycle 2018-2020 (2018 data) – Part 1 Tables, graphs and analysis

[CEPEJ Evaluation Report 2020 Part 1](#)

CEPEJ Dynamic database of European judicial systems

[CEPEJ-STAT](#)

## 1. Appointment and selection of judges and prosecutors

### GRECO

<https://www.coe.int/en/web/greco/evaluations/romania>

4<sup>th</sup> round: corruption prevention in respect of MPs, judges and prosecutors

3<sup>rd</sup> round: incrimination and transparency of Party Funding

Ad hoc evaluation report: <https://www.coe.int/en/web/greco/ad-hoc-procedure-rule-34->

The European Commission for Democracy through Law – Venice Commission

CDL-AD(2018)017 English 22/10/2018 - Public

[Romania - Opinion on draft amendments to Law No. 303/2004 on the Statute of Judges and Prosecutors, Law No. 304/2004 on Judicial Organisation, and Law No. 317/2004 on the Superior Council for Magistracy, adopted by the Commission at its 116th Plenary Session \(Venice, 19-20 October 2018\)](#)

CDL-AD(2006)006 English 20/03/2006 - Public

[Opinion on the Two Draft Laws amending Law NO. 47/1992 on the organisation and functioning of the Constitutional Court of Romania adopted by the Commission at its 66th plenary session \(Venice, 17-18 March 2006\)](#)

## 2. Irremovability of judges, including transfers of judges and dismissal

### GRECO

<https://www.coe.int/en/web/greco/evaluations/romania>

4<sup>th</sup> round: corruption prevention in respect of MPs, judges and prosecutors

3<sup>rd</sup> round: incrimination and transparency of Party Funding

Ad hoc evaluation report: <https://www.coe.int/en/web/greco/ad-hoc-procedure-rule-34->

## 3. Promotion of judges and prosecutors

### GRECO

<https://www.coe.int/en/web/greco/evaluations/romania>

4<sup>th</sup> round: corruption prevention in respect of MPs, judges and prosecutors

3<sup>rd</sup> round: incrimination and transparency of Party Funding

Ad hoc evaluation report: <https://www.coe.int/en/web/greco/ad-hoc-procedure-rule-34->

#### 4. Allocation of cases in courts

GRECO

<https://www.coe.int/en/web/greco/evaluations/romania>

4<sup>th</sup> round: corruption prevention in respect of MPs, judges and prosecutors

3<sup>rd</sup> round: incrimination and transparency of Party Funding

Ad hoc evaluation report: <https://www.coe.int/en/web/greco/ad-hoc-procedure-rule-34->

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

GRECO

<https://www.coe.int/en/web/greco/evaluations/romania>

4<sup>th</sup> round: corruption prevention in respect of MPs, judges and prosecutors

3<sup>rd</sup> round: incrimination and transparency of Party Funding

Ad hoc evaluation report: <https://www.coe.int/en/web/greco/ad-hoc-procedure-rule-34->

#### 6. Accountability of judges and prosecutors, including disciplinary regime and ethical rules.

GRECO

<https://www.coe.int/en/web/greco/evaluations/romania>

4<sup>th</sup> round: corruption prevention in respect of MPs, judges and prosecutors

3<sup>rd</sup> round: incrimination and transparency of Party Funding

Ad hoc evaluation report: <https://www.coe.int/en/web/greco/ad-hoc-procedure-rule-34->

#### 7. Remuneration/bonuses for judges and prosecutors

#### 8. Independence/autonomy of the prosecution service

Department for the Execution of Judgments of the European Court of Human Rights

*Kovesi v. Romania* (No. 3594/19) (ENHA): *Absence of an effective remedy under the domestic law, as interpreted by the Constitutional Court, against the premature termination of the applicant's mandate as Chief Prosecutor of the National Anticorruption Directorate, prompted by her expression of legitimate public criticism of legislative reforms affecting the judiciary and exerting a "chilling effect" on other prosecutors and on judges.*

Action plan submitted on 4 February 2021 (DH-DD(2021)132).

Presentation on Hudoc.exec: *Kovesi v. Romania*

GRECO

<https://www.coe.int/en/web/greco/evaluations/romania>

4<sup>th</sup> round: corruption prevention in respect of MPs, judges and prosecutors

3<sup>rd</sup> round: incrimination and transparency of Party Funding

Ad hoc evaluation report: <https://www.coe.int/en/web/greco/ad-hoc-procedure-rule-34->

#### 9. Independence of the Bar (chamber/association of lawyers)

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

GRECO

<https://www.coe.int/en/web/greco/evaluations/romania>

4<sup>th</sup> round: corruption prevention in respect of MPs, judges and prosecutors

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Ad hoc evaluation report: <https://www.coe.int/en/web/greco/ad-hoc-procedure-rule-34->

## 11. Other - please specify

### PACE

Democracies facing the Covid-19 pandemic

Rapporteur : Mr Ian LIDDELL-GRAINGER, United Kingdom, EC/DA

Doc. 15157

Consultative Council of European Judges (CCJE)

Statement by the President of the CCJE on the role of judges during and in the aftermath of the COVID-19 pandemic: lessons and challenges (24 June 2020)

<https://rm.coe.int/ccje-2020-2-statement-of-the-ccje-president-3-lessons-and-challenges-c/16809ed060>

Opinion No. 23 (2020) of the CCJE on the role of associations of judges in supporting judicial independence (6 November 2020)

<https://rm.coe.int/opinion-23-en-ccje-2020/1680a03d4b>

Consultative Council of European Prosecutors (CCPE)

Opinion No. 15 (2020) of the CCPE on the role of prosecutors in emergency situations, in particular when facing a pandemic (19 November 2020)

<https://rm.coe.int/opinion-no-15-ccpe-en/1680a05a1b>

### GRECO

9 December 2020 – International Anti-Corruption Day - Newsroom (coe.int)

GRECO President: “No quarter to corruption in healthcare, governments must lead by example”

### CPT

Report on the CPT’s 2018 periodic visit, [CPT/Inf \(2019\) 7](#), paras. 12, 14, 27 and 28

Section 209 of the CCP regulates the right of an arrested person to request that a lawyer of their choice be summoned to a police station immediately upon deprivation of liberty. If the lawyer named by the person does not attend within two hours, an ex officio lawyer will be appointed. Further, the Romanian authorities consider that the provision of Article 108 para 3 of the CCP (concerning the obligation to inform a person deprived of liberty of his/her right to a lawyer in writing before the start of the interview) as an effective safeguard and there is no need to amend the legislation.

In practice, during the 2018 visit several persons interviewed by the delegation alleged that they had been interrogated by the police without the presence of a legal counsel and that police officers had in several cases refused to let them contact a lawyer.

Some allegations of physical ill-treatment and/or verbal abuse during police questioning.

To the CPT Secretariat’s knowledge, EU Directive 2013/48 has been integrated into the national legislation though the adoption of a Law on International Legal Co-operation in Criminal Matters of December 2017 which regulates the access to a lawyer in cases strictly related to the European Arrest Warrant.

## B. Quality of justice

### CEPEJ

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[CEPEJ Evaluation Report 2020 Part 1](#)

CEPEJ Dynamic database of European judicial systems

[CEPEJ-STAT](#)

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

Department for the Execution of Judgments of the European Court of Human Rights

*Balsan v. Romania* (No. 49645/09) (ENHA)

*This case concerns the failure of the investigating, prosecuting and judicial authorities to properly investigate and punish repeated acts of domestic violence denounced by the applicant, against the background of insufficient action by Romania to tackle effectively the widespread phenomenon of domestic violence. The ECtHR inter alia criticised the fact that the domestic courts had denied the applicant the services of a court-appointed lawyer because they considered that legal representation for the victim was not necessary in such cases.*

Presentation on Hudoc.exec : [Balsan](#)

Latest decisions of the Committee of Ministers: [CM/Del/Dec\(2020\)1383/H46-14](#)

Latest information: [Action plan](#) of 25 June 2020 ; [Action](#) of 26 August 2020

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

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

## 15. Other - please specify

European Commission for the Efficiency of Justice (CEPEJ)

<https://www.coe.int/en/web/cepej/country-profiles/romania>

## C. Efficiency of the justice system

CEPEJ

CEPEJ – Country profile Romania - Scoreboard (2019 data) (*content of the link will be available after acceptance of the CEPEJ Study for the Scoreboard by DG-Just*)

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European Judicial Systems CEPEJ Evaluation Report – Evaluation cycle 2018-2020 (2018 data) – Part 1 Tables, graphs and analysis

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GRECO

<https://www.coe.int/en/web/greco/evaluations/romania>

4<sup>th</sup> round: corruption prevention in respect of MPs, judges and prosecutors

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Ad hoc evaluation report: <https://www.coe.int/en/web/greco/ad-hoc-procedure-rule-34->

16. Length of proceedings

17. Enforcement of judgements

18. Other - please specify

European Court of Human Rights - country profile

[https://echr.coe.int/Documents/CP\\_Romania\\_ENG.pdf](https://echr.coe.int/Documents/CP_Romania_ENG.pdf)

Execution of Judgments of the European Court of Human Rights - country factsheets

<https://rm.coe.int/168070975f>

## II Anti-corruption framework

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

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

GRECO

Guidelines addressed to GRECO 50 Member States

[Corruption Risks and Useful Legal References in the context of COVID-19](#)

[Published 21/04/2020](#)

Office of the Commissioner for Human Rights

Corruption undermines human rights and the rule of law [Corruption undermines human rights and the rule of law - Human Rights Comments - Commissioner for Human Rights \(coe.int\)](#) – published on 19 January 2021

GRECO

<https://www.coe.int/en/web/greco/evaluations/romania>

4<sup>th</sup> round: corruption prevention in respect of MPs, judges and prosecutors

3<sup>rd</sup> round: incrimination and transparency of Party Funding

Ad hoc evaluation report: <https://www.coe.int/en/web/greco/ad-hoc-procedure-rule-34->

19. List of relevant authorities (e.g. national agencies, bodies) in charge of prevention detection, investigation and prosecution of corruption. Where possible, please indicate the resources allocated to these (the human, financial, legal, and practical resources as relevant).

### B. Prevention

GRECO

Guidelines addressed to GRECO 50 Member States

[Corruption Risks and Useful Legal References in the context of COVID-19](#)

[Published 21/04/2020](#)

GRECO

<https://www.coe.int/en/web/greco/evaluations/romania>

4<sup>th</sup> round: corruption prevention in respect of MPs, judges and prosecutors

3<sup>rd</sup> round: incrimination and transparency of Party Funding

Ad hoc evaluation report: <https://www.coe.int/en/web/greco/ad-hoc-procedure-rule-34->

- 20. Integrity framework: asset disclosure rules, lobbying, revolving doors and general transparency of public decision-making (including public access to information)
- 21. Rules on preventing conflict of interests in the public sector
- 22. Measures in place to ensure Whistle-blower protection and encourage reporting of corruption
- 23. List the sectors with high-risks of corruption in your Member State and list the relevant measures taken/envisaged for preventing corruption in these sectors. (e.g. public procurement, healthcare, other).
- 24. Any other relevant measures to prevent corruption in public and private sector

## C. Repressive measures

### GRECO

<https://www.coe.int/en/web/greco/evaluations/romania>

4<sup>th</sup> round: corruption prevention in respect of MPs, judges and prosecutors

3<sup>rd</sup> round: incrimination and transparency of Party Funding

Ad hoc evaluation report: <https://www.coe.int/en/web/greco/ad-hoc-procedure-rule-34->

### 25. Criminalisation of corruption and related offences

The European Commission for Democracy through Law – Venice Commission

CDL-AD(2018)021 English 22/10/2018 - Public

[Romania - Opinion on draft amendments to the Criminal Code and the Criminal Procedure Code, adopted by the Commission at its 116th Plenary Session \(Venice, 19-20 October 2018\)](#)

### 26. Overview of application of sanctions (criminal and non-criminal) for corruption offences (including for legal persons)

The European Commission for Democracy through Law – Venice Commission

CDL-AD(2018)021 English 22/10/2018 - Public

[Romania - Opinion on draft amendments to the Criminal Code and the Criminal Procedure Code, adopted by the Commission at its 116th Plenary Session \(Venice, 19-20 October 2018\)](#)

### 27. Potential obstacles to investigation and prosecution of high-level and complex corruption cases (e.g. political immunity regulation)



### III Media pluralism

#### A. Media regulatory authorities and bodies

28. Independence, enforcement powers and adequacy of resources of media authorities and bodies

Relevant recommendation of the Committee of Ministers of the Council of Europe to member states:

[Recommendation Rec \(2000\) 23 of the Committee of Ministers to member states on the independence and functions of regulatory authorities for the broadcasting sector](#)

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

#### B. Transparency of media ownership and government interference

30. The transparent allocation of state advertising (including any rules regulating the matter)

31. Public information campaigns on rule of law issues (e.g. on judges and prosecutors, journalists, civil society)

Office of the Commissioner for Human Rights

[Time to take action against SLAPPs - Human Rights Comments - Commissioner for Human Rights \(coe.int\)](#) – published on 27 October 2020

32. Rules governing transparency of media ownership

Relevant recommendation of the Committee of Ministers of the Council of Europe to member states:

[Recommendation CM/Rec\(2018\)1 of the Committee of Ministers to member States on media pluralism and transparency of media ownership](#)

PACE

The impact of the Covid-19 pandemic on human rights and the rule of law

(Rapporteur : Mr Vladimir VARDANYAN, Armenia, EPP/CD)

[Doc. 15139](#) / See also the [Opinion](#) by the Committee on Culture, Science, Education and Media on the aforementioned report.

#### C. Framework for journalists' protection

33. Rules and practices guaranteeing journalist's independence and safety and protecting journalistic and other media activity from interference by state authorities

34. Law enforcement capacity to ensure journalists' safety and to investigate attacks on journalists

Relevant recommendation of the Committee of Ministers of the Council of Europe to member states:

[Recommendation CM/Rec\(2016\)4 of the Committee of Ministers to member States on the protection of journalism and safety of journalists and other media actors](#)

35. Access to information and public documents

Office of the Commissioner for Human Rights

[Access to official documents is crucial – let's make it a reality - Human Rights Comments - Commissioner for Human Rights \(coe.int\)](#) – published on 1 December 2020

36. Other - please specify

Office of the Commissioner for Human Rights

Tapping the full potential of Equality Bodies for a fairer Europe [Tapping the full potential of Equality Bodies for a fairer Europe - Human Rights Comments - Commissioner for Human Rights \(coe.int\)](#) – published on 26 June 2020

Platform to promote the protection of journalism and safety of journalists  
<https://www.coe.int/en/web/media-freedom/romania>

Freedom of expression chapters of the annual reports of the Secretary General of the Council of Europe featuring indicators on media pluralism and transparency of ownership, media independence and safety of journalists as well as country-specific assessments:

2018  
<https://rm.coe.int/state-of-democracy-human-rights-and-the-rule-of-law-role-of-institutio/168086c0c5>

2017  
<https://edoc.coe.int/en/an-overview/7345-pdf-state-of-democracy-human-rights-and-the-rule-of-law.html>

2016  
[https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectId=0900001680646af8](https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=0900001680646af8)

2015  
[https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectID=090000168058e01e](https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=090000168058e01e)

## IV Other institutional issues related to checks and balances

### A. The process for preparing and enacting laws

37. Stakeholders'/public consultations (particularly consultation of judiciary on judicial reforms), transparency of the legislative process, 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)

Department for the Execution of Judgments of the European Court of Human Rights  
[Group Strain and Others](#) (No. 57001/00) (ENHA): Systemic deficiencies in the mechanisms set up in Romania as of 1990 to afford restitution or compensation for properties nationalised during the communist period. The ECtHR found this to warrant examination under the pilot judgment procedure and delivered such a judgment in 2010. Among many others, [the ECtHR criticised the complexity of the relevant legislation and the frequent changes made to it which had resulted in inconsistent judicial practice and in a general lack of legal certainty as to the interpretation of the core concepts.](#)

Latest information received on 15 January 2021: [DH-DD\(2021\)73](#)

Next examination by the Committee of Ministers in March 2021; link to Hudoc.exec provided for follow-up:

[Strain group](#)

The European Commission for Democracy through Law – Venice Commission  
CDL-AD(2019)014 English 24/06/2019 - Public

[Romania – Opinion on Emergency Ordinances GEO No. 7 and GEO No. 12 amending the Laws of Justice, adopted by the Venice Commission at its 119th Plenary Session \(Venice, 21-22 June 2019\)](#)

CDL-AD(2018)021 English 22/10/2018 - Public

[Romania - Opinion on draft amendments to the Criminal Code and the Criminal Procedure Code, adopted by the Commission at its 116th Plenary Session \(Venice, 19-20 October 2018\)](#)

CDL-AD(2012)026 English 17/12/2012 - Public

[Opinion on the compatibility with Constitutional principles and the Rule of Law of actions taken by the Government and the Parliament of Romania in respect of other State institutions and on the Government emergency ordinance on amendment to the Law N° 47/1992 regarding the organisation and functioning of the Constitutional Court and on the Government emergency ordinance on amending and completing the Law N° 3/2000 regarding the organisation of a referendum of Romania, Adopted by the Venice Commission at its 93rd Plenary Session \(Venice, 14-15 December 2012\)](#)

### 38. Regime for constitutional review of laws

The European Commission for Democracy through Law – Venice Commission

CDL-AD(2014)010 English 24/03/2014 - Public

[Opinion on the Draft Law on the Review of the Constitution of Romania, adopted by the Venice Commission at its 98th Plenary Session, \(Venice, 21-22 March 2014\)](#)

CDL-AD(2006)006 English 20/03/2006 - Public

[Opinion on the Two Draft Laws amending Law NO. 47/1992 on the organisation and functioning of the Constitutional Court of Romania adopted by the Commission at its 66th plenary session \(Venice, 17-18 March 2006\)](#)

CDL-AD(2004)040 English 04/01/2005 - Public

[Opinion on the Law for the Election of Local Public Administration Authorities in Romania adopted by the Council for Democratic Elections at its 11th meeting \(Venice, 2 December 2004\) and the Venice Commission at its 61st plenary session \(Venice, 3-4 December 2004\)](#)

CDL-AD(2003)004 English 18/03/2003 - Public

[Opinion on the Draft Revision of the Constitution of Romania \(Unfinished texts by the Committee for the revision of the Constitution\) adopted by the Venice Commission at its 54th Plenary Session \(Venice, 14-15 March 2003\)](#)

CDL-AD(2002)021 English 22/10/2002 - Public

[Supplementary Opinion on the Revision of the Constitution of Romania, adopted by the Venice Commission at its 52nd Plenary Session \(Venice, 18-19 October 2002\)](#)

CDL-AD(2002)012 English 09/07/2002 - Public

[Opinion on the Draft Revision of the Romanian Constitution, adopted by the Venice Commission at its 51st plenary session \(Venice, 5-6 July 2002\)](#)

## B. Independent authorities

39. independence, capacity and powers of national human rights institutions, ombudsman institutions and equality bodies

## C. Accessibility and judicial review of administrative decisions

40. modalities of publication of administrative decisions and scope of judicial review

The European Commission for Democracy through Law – Venice Commission

CDL-AD(2005)026 English 25/10/2005 - Public

[Opinion on the Draft Law on the Statute of National Minorities living in Romania adopted by the Venice Commission at its 64th Plenary Session \(Venice, 21-22 October 2005\)](#)

CDL-AD(2004)020rev English 26/08/2004 - Public

[Opinion on the Draft Law concerning the Support to Romanians living abroad of the Republic of Romania adopted by the Venice Commission at its 59th Plenary Session \(Venice, 18-19 June 2004\)](#)

#### 41. implementation by the public administration and State institutions of final court decisions

Department for the Execution of Judgments of the European Court of Human Rights

Sacaleanu group (No. 73970/01) (ENHA) – longstanding structural dysfunctions related to the non-implementation or delayed implementation of final court decisions by the State or legal persons under the responsibility of the State

Latest information received on 16 December 2020: [DH-DD\(2020\)1177](#)

Next examination by the Committee of Ministers in March 2021; presentation on Hudoc.exec provided for follow-up: [Sacaleanu](#).

The European Commission for Democracy through Law – Venice Commission

CDL-AD(2005)026 English 25/10/2005 - Public

[Opinion on the Draft Law on the Statute of National Minorities living in Romania adopted by the Venice Commission at its 64th Plenary Session \(Venice, 21-22 October 2005\)](#)

CDL-AD(2004)020rev English 26/08/2004 - Public

[Opinion on the Draft Law concerning the Support to Romanians living abroad of the Republic of Romania adopted by the Venice Commission at its 59th Plenary Session \(Venice, 18-19 June 2004\)](#)

### D. The enabling framework for civil society

#### 42. Measures regarding the framework for civil society organisations

The European Commission for Democracy through Law – Venice Commission

CDL-AD(2018)004 English 16/03/2018 - Public

[Romania - Joint Opinion on Draft Law No. 140/2017 on amending Governmental Ordinance No. 26/2000 on Associations and Foundations adopted by the Venice Commission at its 114th Plenary Session \(Venice, 16-17 March 2018\)](#)

CDL-AD(2005)037 English 04/11/2005 - Public

[Opinion on the Draft Law regarding the Religious Freedom and the General Regime of Religions in Romania adopted by the Venice Commission at its 64th plenary session \(Venice, 21-22 October 2005\)](#)

#### 43. Other - please specify

Conference of INGO's of the Council of Europe

<https://rm.coe.int/report-visit-of-the-conference-of-ingos-to-romania-ii-2018/168097e57e>

Expert Council on NGO Law report on criminalisation of NGO activity in relation to migration and a compendium of developments 2017-2019 in NGO law, freedom of association

<https://rm.coe.int/expert-council-conf-exp-2020-1-ngos-developments-in-standards-mechanis/16809ccd3a>

<https://rm.coe.int/expert-council-conf-exp-2019-1-criminal-law-ngo-restrictions-migration/1680996969>

Private Office procedure on human rights defenders interacting with the Council of Europe

[https://www.coe.int/en/web/secretary-general/news-2019-thorbjorn-jagland/-/asset\\_publisher/9j1gCsAwfdMt/content/revised-private-office-procedure-on-human-rights-defenders-interacting-with-the-council-of-europe](https://www.coe.int/en/web/secretary-general/news-2019-thorbjorn-jagland/-/asset_publisher/9j1gCsAwfdMt/content/revised-private-office-procedure-on-human-rights-defenders-interacting-with-the-council-of-europe)

CPT

Report on the CPT's 2018 periodic visit, [CPT/Inf \(2019\) 7](#), paragraphs 21 to 24 (specifically on effectiveness of investigation but paragraphs 12 to 20 deal with ill-treatment issues)