

Transparency of the system and access to information

- information provided by the Superior Council of Magistracy-

With regard to transparency and accountability of the Superior Council of Magistracy, taking into account also the maintenance of the provisions in the new regulation (Article 32(2) of Law No 305/2022 on the Superior Council of Magistracy), in order to inform about the activity of courts and prosecutor's offices, the

Members of the Council regularly made visits to the premises of the courts and prosecutor's offices and organised meetings with judges, prosecutors, professional associations and representatives of civil society. Similarly, the members of the Superior Council of Magistracy participated at the general assemblies of courts and prosecutors' offices where the annual activity reports were debated and approved.

At the same time, the full transparency coordinates that characterise the activity of the Superior Council of Magistracy include the consultation of the courts and prosecutor's offices attached to them on draft normative acts related to the activity of the judicial authority. An example of this is the consultation on legislative initiatives aimed at dismantling the Section for Investigating Criminal Offences within the Judiciary, the views thus expressed being taken into account by the Superior Council of Magistracy when adopting the opinions issued in this regard. The Council also carried out a broad consultation of the courts and prosecutors' offices on the drafts of the three justice laws, submitted for endorsement by the Ministry of Justice, their contribution, with numerous comments and proposals being significant, grounding the opinion expressed by the Council.

In the same vein, transparency in the Council's work was also achieved through the communication to the courts and prosecutor's offices of relevant solutions adopted at Council level, in the Plenum, Sections or in specialised committees, thus being widely and timely disseminated to judges and prosecutors.

Similarly, as an expression of the institutional collaboration promoted by the Council, representatives of the courts and prosecutor's offices and professional associations were invited to participate in working groups or other activities carried out at Council level.

The activity of the Superior Council of Magistracy is carried out in full transparency, enshrined in the provisions of its organic law, in which we mention, as an example, the provisions of Article 29(8) and (9) of Law No 305/2022, according to which the draft agenda to be submitted to the vote of the plenum or sections shall be published three working days in advance on the website of the Superior Council of Magistracy. The decisions of the Superior Council of Magistracy shall be published on the website of the Superior Council of Magistracy.

Also, in order to ensure transparency, the public sessions of the plenum and of the sections are and shall be (under the provisions of the new justice laws as well) transmitted live on the website of the Superior Council of Magistracy and the stream is available on the main page of the website, with maximum visibility, with the exception of the sessions of the sections where requests for permission to search, detention, pre-trial detention or house arrest, judicial control or judicial review on bail with regard to judges or prosecutors, as well as those concerning hearings and deliberations in disciplinary matters,

which are not public (Article 29(1) of Law No 305/2022); the normative decisions of the Council adopted in plenum or in sections shall be subject to the provisions of Law no. 52/2003 on transparency of decision-making in the public administration, republished, as amended; at the end of the decisions adopted by the plenum or the sections, without prejudice to the secrecy of the vote, the number of votes “in favour”, the number of votes “against” and the number of votes “abstained”, as the case may be shall be mentioned.

In addition, judges and prosecutors have access to the Council’s disciplinary case law/jurisprudence.

We also remind that the website of the Superior Council of Magistracy has been redesigned, using the current visual identity elements of the Council, and the navigation is intuitive, the users having access to the information of interest in as few clicks as possible. The development of the institutional webpage is also important from the perspective of ensuring the possibility for the content of the new website to be retrieved within the E-Justice Portal developed at EU level.

At the level of primary legislation there are also institutional transparency responsibilities for elected members, representatives of civil society. Thus, Article 56(8) of Law No 305/2022 provides that the elected members of the Superior Council of Magistracy who are representatives of civil society, have the following specific duties:

- a) ensure that civil society organisations are constantly informed about the work of the Superior Council of Magistracy;
- b) conducts the consultation of civil society organisations on their proposals and suggestions regarding the necessary steps at the level of the Superior Council of Magistracy to improve the activity of judicial institutions as a public service in the service of society, drawing up a quarterly report on the analysis and synthesis of the proposals, which they send to the plenum or sections, as appropriate, for analysis and decision;
- c) monitor compliance with the obligations of the Superior Council of Magistracy, transparency, ensuring public access to information and resolution of petitions in relation to civil society, and draw up an annual report which they publish on the website of the Superior Council of Magistracy.

The Superior Council of Magistracy implements an extensive project with European funding (Project “TAEJ-Transparency, accessibility and legal education by improving public communication at the level of the judiciary”) whose general objective is 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.

In the same line of promoting transparency, it is worth mentioning the recent establishment (December 2021) of the Civil Society Forum for a justice in the benefit of the citizen, which appeared in the context of the increasing complexity of activities in the field of justice, the need to strengthen the current legal system, but also its development in order to cope with an ever-changing and diversifying society. To this end, it was assessed that it was necessary to consult as many specialists as possible, including in the area of civil society, to help identify the problems at the justice level as early as possible, but also to find appropriate solutions to solve them.

The consultation of this Forum will be complementary/in addition to the public consultation process provided for by law (which, however, does not replace it) and aims to achieve a greater openness of public structures with responsibilities in the field of justice to civil society.

This permanent mechanism for dialogue with civil society has been put in place with a view to moving to a higher level of ensuring the principles of transparency. Thus, the involvement in the decision-making process of as many informed voices as possible would have the effect of identifying early problems at the level of justice, would increase the institutional foresight capacity of the Superior Council of Magistracy and would reduce the time to identify widely agreed solutions. The establishment of such an instrument would represent an important step in the management of change, an affirmation of the new vision for effective consultation and dissemination of the most important messages on the activity of the institution in relation to society, a concrete manifestation on openness to society in order to improve and strengthen the judiciary, especially in the current context of its reform.

Pursuant to Article 39(6) of Law No 305/2022, the Superior Council of Magistracy prepares annually a report on the state of justice and a report on its own activity, to be presented to the Joint Chambers of the Romanian Parliament by 15 February of the following year and publishes them in the Official Gazette of Romania, Part III, and on the website of the Superior Council of Magistracy.

In 2021 Rejust portal, <https://rejust.ro>. was launched, an application created and developed by the Superior Council of Magistracy to enable citizens and practitioners in the judiciary to have easier access to judicial decisions of national courts.

To highlight the success of the national case law portal, please find some statistical information:

Thus, if 156 398 documents were accessed in the first three months after the launch of the case-law portal and conducted 180 166 searches using the filters available on the platform, 626 021 documents were accessed in the last three months and 689 665 searches were made using the filters available on the platform.

It can therefore be noted that in just one year there has been a roughly fourfold increase in access to application functions, as a consequence of improvements made to the portal at a steady pace.

Thus, substantial changes have been made to the search engine throughout the period of time since launching to present and the available filters have been improved.

The search engine is optimised and there are no bottlenecks in using the portal, and the interface is very easy to use.

Among these changes we can list:

A. Ability to refine search using successive keyword series

Thus, searches can be done using keywords progressively, with the list of results updated after each set of keywords.

B. Displaying the relevant paragraphs of the judgment directly on the search page

Highlighting the paragraphs containing the keywords, the user can still clarify from the search interface whether the document is relevant or not, without opening each document individually.

C. Items available in search filter lists (e.g.: objects, instances) are updated after each application of filters and are ordered according to the number of documents containing that information

Next to each item in the list is displayed a percentage, but when positioning the mouse cursor above that element, the application also shows the number of documents.

In this way, the rejust.ro portal also acquires a statistical value, and can be used as a working tool for determining certain statistics, especially in situations where it is necessary to search within documents.

The EC report on the Rule of Law Mechanism, chapter on Romania — 2022, mentioned the implementation of the Rejust portal, noting that some shortcomings should be addressed for it to fulfil its function adequately.

It was noted that it was not possible to search by keywords or case number, which limits the practical use of this application.

In this respect, we would point out that, since its launching, there has been a text box allowing the introduction of keywords for filtering results, constituting an essential criterion for ordering the results, given the high number of court decisions.

Search using keywords has been constantly improved and results are displayed much faster, depending on relevance.

When a keyword search is performed, the relevant paragraph is displayed for each result highlighting the searched words.

Therefore, every document no longer needs to be opened in order to analyse whether it is indeed relevant in the analysis.

Keywords can be applied progressively, with the list of results narrowing down after each keyword series.

Regarding the search using the number of the case, we would point out that, indeed, judgments cannot be searched by its number, but this information can be found in the content of the page on which the judgment is displayed.

The anonymisation is carried out in accordance with the rules applicable in Romania, the elimination of the possibility of searching by the number of the decision being expressly requested by the National Supervisory Authority for Personal Data Processing, given that allowing the search by case number/decision number allows de-anonymisation of the document.

The number of the decision can be easily obtained by physically studying the register of the hearing or by accessing a portal managed by MJ — portal.just.ro. The possibility of searching for a decision by its number makes virtually any anonymisation of the decision vulnerable.

The portal does not experience any technical problems and the availability time is very high, with the monitoring system indicating an uptime of 99.95 %.

Due to the success of the portal at national level and the performance of the search engine, within the Foster Transparency of Judicial Decisions and Enhancing the National Implementation of the ECHR (TJENI) project, the representative of the Superior Council of Magistracy was invited as a speaker to illustrate best practices in the technical field.