

## LEGISLATIVE FOLLOW-UP

Throughout 2022, 2 legislative proposals have been promulgated by the President of Romania and became laws<sup>1</sup>. Currently, 9 legislative proposals aiming to amend the integrity framework are pending before the Parliament procedures<sup>2</sup>. Throughout 2022, one legislative proposal has been rejected by the Parliament<sup>3</sup>.

### A) 2 legislative proposals promulgated by the President of Romania

#### *1. Legislative proposal on the protection of public interest whistleblowers (Pl-x nr. 219/2022)*

Currently, a legislative proposal (initiated by the Ministry of Justice) for transposing the *Whistleblower Protection Directive (2019/1937)* (deadline according to PNRR – 31<sup>st</sup> of March 2022) is on the legislative circuit, as follows:

**Follow-up of the legislative proposal:** Promulgated by the President of Romania through Decree no. 1681/2022 – becomes Law no. 361/2022

**Last mention:** 16.12.2022 – Promulgated by the President of Romania through Decree no. 1681/2022 – becomes Law no. 361/2022

*At the same time, a legislative proposal regarding the protection of whistleblowers in the public interest, initiated by 40 deputies (Pl-x no. 573/2021), was adopted by the Chamber of Deputies on March 28, 2022, but, later, on 02 May 2022, was rejected by the Romanian Senate.*

*2. Legislative proposal for the completion of art. 1 paragraph (1) of Law no. 176/2010 on integrity in the exercise of public functions and dignities, for the amendment and completion of Law no. 144/2007 on the establishment, organization and functioning of the National Integrity Agency, as well as for the amendment and completion of other normative acts – ANI favorable point of view – L571/2022 (Pl-x nr. 605/2022)*

**Summary of the legislative project:** A new category of public officials shall fall under the obligation to submit asset and interest disclosures, namely “The presidents, vice-presidents, secretaries and treasurers of national sports federations, of the Romanian Olympic and Sports Committee and of the National Paralympic Committee”.

**Follow-up of the legislative proposal:** Promulgated by the President of Romania through Decree no. 1700/2022 – becomes Law no. 372/2022

**Last mention:** 21.12.2022 – Promulgated by the President of Romania through Decree no. 1700/2022 – becomes Law no. 372/2022

<sup>1</sup> Promulgated by the President of Romania: Law no. 361/2022 (Pl-x nr. 219/2022); Law no. 372/2022 (Pl-x nr. 605/2022)

<sup>2</sup> Pending before Parliament: Pl-x 135/2020, Pl-x 398/2021, Pl-x 415/2019, Pl-x 179/2018, Pl-x 364/2022, Pl-x 27/2022, Pl-x 249/2022, L732/2022, L733/2022

<sup>3</sup> Rejected by the Parliament: Pl-x 200/2021

## **B) 9 pending legislative proposals aiming to amend the integrity framework**

1. *Legislative proposal to complete the Emergency Ordinance no 57/2019 on the Administrative Code - (Pl-x 135/2020 – L93/2020) – ANI negative point of view*

**Summary of the legislative project:** The initiators propose to modify the Emergency Ordinance no 57/2019, in the sense that:

- the persons who did not commit deeds which determined the existence of a conflict of interest or a state of incompatibility, less than 3 years before the election date, ascertained through ANI's evaluation reports, which remained definitive, **can be validated in the local councilor mandate;**
- the persons who committed deeds which determined the existence of a conflict of interest or a state of incompatibility, more than 3 years before the election date, ascertained through ANI's evaluation reports, which remained definitive, **can candidate and occupy local elected official positions;**
- the persons who committed deeds which determined the existence of a conflict of interest or a state of incompatibility, less than 3 years before the election date, ascertained through ANI's evaluation reports, which remained definitive, **cannot candidate and occupy local elected official positions.**

*Furthermore, through the joint report of the Commission for Public Administration and Territorial Organization and the Legal, discipline and immunities Commission from 28.04.2020, additional amendments to the legislative proposal were adopted, for which ANI has also sent a negative point of view.*

**Follow-up of the legislative proposal:** Pending before the standing committees of the Chamber of Deputies

**Last mention:** 17.05.2021 – Sent for additional report before the Committee for Public Administration Territorial Planning and Committee for Legal Matters, Discipline, and Immunities

**No progress has been registered since the last report**

2. *Legislative proposal to amend and complete the Emergency Ordinance no 57/2019 on the Administrative Code - L227/2021 (Pl-x nr. 398/2021) - ANI negative point of view*

**Summary of the legislative project:** The initiators propose the amendment of the Emergency Ordinance no 57/2019 as follows:

- Art. 415, para. (3) is amended and shall have the following content: "(3) Civil servants elected in the management bodies of trade unions may opt for one of the two positions. If the civil servant chooses to carry out the activity in the management position in the trade union organizations, their office is suspended for a period equal to that of the mandate in the management position in the trade union organization."
- Art. 415, para. (4) is amended and shall have the following content: "(4) Civil servants elected in the management bodies of trade unions may simultaneously hold the public office and the position in the governing bodies of trade unions, with the obligation to comply with the regime of incompatibilities and conflicts of interest applicable to them."

**Follow-up of the legislative proposal:** Pending before the standing committees of the Chamber of Deputies

Last mention: **10.11.2022 – The Romanian Government sends favorable notice - The Government supports the adoption of this legislative initiative subject to the appropriation of the annexed amendments**

3. *Legislative proposal to amend Law no. 161/2003 on certain measures to ensure transparency in the exercise of public dignities, of public offices and in the business environment, and prevent and sanction corruption L238/2019 (Pl-x 415/2019 – Bp. 74/2019) – ANI negative point of view*

**Summary of the legislative project:** Through this proposal, the initiators propose to establish some exceptions to the legal regime of incompatibilities and conflicts of interest for certain categories of public offices, which result from simultaneously holding the public office/dignity of deputy, senator, minister, prefect and deputy prefect and the quality of natural person merchandiser, as well as limiting the situations of incompatibility in which a person who exercises the position of deputy, senator, prefect and deputy prefect, is found, in the sense in which the quality of natural person merchandiser is excepted, with the exception of liberal activities and those of agriculture, unless he has a contract concluded with the public authority of which he is a part.

**Follow-up of the legislative proposal:** Pending before the Chamber of Deputies

Last mention: **16.03.2022 – The Romanian sends point of view – The Romanian Parliament shall decide**

4. *Legislative proposal to amend and complete art. 178 of Law no. 95/2006 on reform in the health field – ANI negative point of view - L57/2018 (Pl-x nr. 179/2018: Bp 532/2017)*

**Summary of the legislative project:** Removing the incompatibility situation caused by the simultaneous exercise of the position of hospital manager and the medical activities carried out in other public or private sanitary units.

**Follow-up of the legislative proposal:** Under debate at the Chamber of Deputies

Last mention: 12.02.2020 – The Government sends NEGATIVE point of view.

**No progress has been registered since the last report**

5. *Legislative proposal for the transparency of the interests of the members of the Export Council by supplementing Law no. 176/2010 – ANI favorable point of view – L280/2022 (Pl-x nr. 364/2022)*

**Summary of the legislative project:** A new category of public officials shall fall under the obligation to submit asset and interest disclosures, namely “Members of the Export Council”.

**Follow-up of the legislative proposal:** Pending before the Romanian Chamber of Deputies

Last mention: **08-06-2022 – Adopted by the Romanian Senate**

**22-06-2022 – The Committee for Human Rights, Cults and National Minorities' Issues sends favorable notice.**

6. *Legislative proposal on the approval of Government Emergency Ordinance no. 127/2021 for the amendment of Law no. 176/2010 on integrity in the exercise of public functions and dignities, for the amendment and completion of Law no. 144/2007 on the establishment, organization and functioning of the National Agency of Integrity, as well as for the amendment and completion of other normative acts and art. III of Law no. 105/2020 for the*



completion of Law no. 176/2010 on integrity in the exercise of public functions and dignities, for the amendment and completion of Law no. 144/ 2007 regarding the establishment, organization and operation of the National Integrity Agency, as well as for the modification and completion of other normative acts **L545/2021** (PL-x nr. 27/2022)

**Follow-up of the legislative proposal:** Pending before the Romanian Chamber of Deputies

**Last mention:** 10.03.2022 – Commission for Public Administration and Territorial Organization sends *favorable* notice

**No progress has been registered since the last report**

7. Legislative proposal for the transparency of the interests of the management of national research and development institutes by supplementing Law no. 176/2010 on integrity in the exercise of public functions and dignities, to amend and supplement Law no. 144/2007 on the establishment, organization and operation of the National Agency for Integrity, as well as for the modification and completion of other normative acts – **ANI favorable point of view** - **L732/2022**

**Summary of the legislative project:** The purpose of the legislative proposal is to establish the obligation to submit declarations of wealth and interests also for the members of the boards of directors, of the management committees, the general director as well as the persons who hold management positions within the national research and development institutes established on the basis of Ordinance no. 57/2002 on scientific research and technological development.

**Follow-up of the legislative proposal:** Pending before the standing committees of the Senate (the Senate is the first Chamber notified)

**Last mention:** 29.11.2022 – The Committee for science, innovation and technology send favorable notice no. 197

8. Legislative proposal for the transparency of the interests of the management of companies and economic units indirectly owned by the state by supplementing Law no. 176/2010 on integrity in the exercise of public functions and dignities, to amend and supplement Law no. 144/2007 on the establishment, organization and operation of the Agency National Integrity Laws, as well as for the modification and completion of other normative acts – **ANI favorable point of view** - **L733/2022**

**Summary of the legislative project:** The purpose of the legislative proposal is to establish the obligation to submit asset and interest disclosures for members of administrative boards, management boards or supervisory boards, as well as persons who hold management positions in subsidiaries or in other divisions and units of the autonomous national or local interest, national companies and societies or, as the case may be, commercial companies in which the state or a local public administration authority is a majority or significant shareholder, as well as in commercial companies in which one of the previously listed entities is a majority or significant shareholder, motivated by the fact that in practice it has been found that the current wording of point 34 is laconic and unclear with regard to members with similar functions, responsibilities and attributions in the subsidiaries of national companies or in other dismemberments or established units of the mentioned entities, as well as in the company e commercial companies which, although not majority or significantly owned by the state directly, are owned indirectly, through a company in which the state is the majority shareholder.

**Follow-up of the legislative proposal:** Pending before the standing committees of the Senate (the Senate is the first Chamber notified)

Last mention: 29.11.2022 – The Committee for Human Rights, Equal Opportunities, Religions and Minorities sends negative point of view no. 970

9. The legislative proposal (B117/2022; PI-x nr. 249/2022) which provides the members of the National Integrity Council a monthly allowance equal to 20% of the gross salary income received by the president of ANI and providing the president of the Council with a meeting allowance greater than 10% of the allowance granted to CNI members, as well as which provides the members of the Secretariat of the Council with a monthly allowance of 5% of the gross salary income received by the president of ANI has been adopted by the Romanian Parliament and sent on 17.12.2022 to the Romanian President for promulgation.

### C) 1 legislative proposal has been rejected by the Parliament

1. *Legislative proposal to amend Law no. 176/2010 – L470/2021 (PI-x 200/2021) - ANI favorable point of view*

#### Summary of the legislative project:

- **amending point 31 of art. 1, para. (1) of Law no. 176/2010**, by defining the categories of persons who have the obligation to declare assets and interests, namely “persons with public or contractual offices”;
- **amending art. 25, para. (2) of Law no. 176/2010**: “The person removed from office under the provisions of paragraph (1) or towards which it was found the existence of a conflict of interest or incompatibility loses their right to exercise a public office or dignity or exercise by contract or by delegation any management or control duties in a public institution for a period of 3 years after removal from that office or public dignity or from the date of mandate end.

The proposed amendment removes the interpretation according to which that a person found to be in a state of incompatibility or conflict of interest is prohibited from holding the position that generated the state of incompatibility or conflict of interest, and may instead hold any other eligible position. Thus, through the legislative amendment, once the existence of a state of incompatibility or conflict of interest is definitively ascertained, the person loses the right to hold any other public office, a public dignity or to exercise by contract or delegation any management duties or control in a public institution, for a period of 3 years from the end of the mandate.

- **adding art. 25 para. (21)** according to which “in case the person no longer holds a public office or dignity at the date of ascertaining the state of incompatibility or the conflict of interests, the 3-year interdiction provided by par. (2) operates according to the law, from the date when the evaluation report remained definitive or from the date of the definitive and irrevocable Court decision confirming the existence of the conflict of interests or state of incompatibility”.
- **repeal of para. (5) in art. 25 of Law no. 176/2010**, according to which “Civil, administrative or disciplinary liability for deeds that determine the existence of conflict of interest or incompatibility of persons exercising public



dignities or offices is removed, and can no longer be held, after the general term of prescription of 3 years from the date of their commission, in accordance with art. 2.517 of Law no. 287/2009 on the Civil Code, republished, with subsequent amendments. "

**Follow-up of the legislative proposal:** Rejected by the Senate

**Last mention:** 24.10.2022 – Rejected by the Senate - termination of the legislative procedure through definitive rejection by the Senate

