

# 2024 Rule of Law Report - targeted stakeholder consultation

Fields marked with \* are mandatory.

## Introduction

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The annual Rule of Law Report lies at the centre of the Annual Rule of Law Cycle, which acts as a preventive tool, deepening multilateral dialogue and joint awareness of rule of law issues. So far, four editions of the Rule of Law Report have been published in 2020, 2021, 2022 and 2023.

The Commission would like to invite stakeholders to provide contributions to the 2024 Rule of Law Report. This survey provides information on the type of information and topics that will be covered in the 2024 Rule of Law Report, in order to allow stakeholders to provide input. More targeted input may be requested at a later stage of preparation of the 2024 Rule of Law Report, including in the context of country visits, or bilateral contacts.

The 2024 Rule of Law Report will continue to deepen the assessment under the existing four pillars, and will also follow-up on the implementation of the recommendations to Member States, that were issued as part of the 2023 Rule of Law Report. The contribution to be provided should include **(1) information on measures taken to implement the recommendations addressed to the Member State in the 2023 Rule of Law report, as well as developments with regard to the points raised in the respective country chapter and (2) any other significant developments since January 2023<sup>[1]</sup> falling under the ‘type of information’ outlined in section II.**

The input should consist of a short summary, if possible in English, covering the areas referred to below. Legislation or other documents may be referenced with a link. Contributions should focus on significant developments since the last Rule of Law Report both as regards the legal framework and its implementation in practice.

[1] Unless the information was already submitted in the input for the previous Rule of Law Reports.

## Type of information

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The topics are structured according to four pillars: I. Justice system; II. Anti-corruption framework; III. Media pluralism; and IV. Other institutional issues related to checks and balances. The replies could include aspects set out below under each pillar. This can include challenges, current work streams, positive developments and best practices:

## A) Legislative developments

- Newly adopted legislation
- Legislative drafts currently discussed in Parliament
- Legislative plans envisaged by the Government

## B) Policy developments

- Implementation of legislation
- Evaluations, impact assessment, surveys
- White papers/strategies/actions plans/consultation processes
- Follow-up to reports/recommendations of Council of Europe bodies or other international organisations
- Important administrative measures
- Generalised practices

## C) Developments related to the judiciary / independent authorities

- Important case law by national courts
- Important decision/opinions from independent bodies/authorities
- State of play on terms, nominations and expired mandates for high-level positions (e.g. Supreme Court, Constitutional Court, Council for the Judiciary, heads of independent authorities included in the scope of the questionnaire[2])

## D) Any other relevant developments

- Respondents are free to add any further information, which they deem relevant; however, this should be short and to the point.

Please also indicate whether the developments reported are linked to the implementation of reforms and investments under the RRP, where applicable.

If there are no changes, it is sufficient to indicate this and the information covered in the contributions for the previous Rule of Law Reports should not be repeated.

[2] Such as: media regulatory authorities and bodies, national human rights institutions, equality bodies, ombudsman institutions, supreme audit institutions and, where they exist, transparency authorities.

## About you

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\* I am giving my contribution as

- ☐ Academic/research institution
- ☐ Business association
- ☒ Civil society organisation/NGO

- ☐ International organisation
- ☐ Judicial association or network
- ☐ Media organisation or association
- ☐ Public authority or network of public authorities
- ☐ Other

\* Organisation name

*250 character(s) maximum*

APADOR-CH

Main Areas of Work

- ☒ Justice System
- ☐ Anti-corruption
- ☐ Media Pluralism
- ☒ Other

If "Other", please specify

human rights

Please insert an URL towards your organisation's main online presence or describe your organisation briefly:

*500 character(s) maximum*

www.apador.org

Transparency register number

Check if your organisation is in the transparency register. It's a voluntary database for organisations seeking to influence EU decision-making

\* Country of origin

Please add the country of origin of your organisation

- ☐ Afghanistan
- ☐ Albania
- ☐ Algeria
- ☐ Andorra
- ☐ Angola
- ☐ Antigua and Barbuda
- ☐ Argentina
- ☐ Armenia
- ☐ Australia
- ☐ Austria
- ☐ Azerbaijan

- ☐ Bahamas
- ☐ Bahrain
- ☐ Bangladesh
- ☐ Barbados
- ☐ Belarus
- ☐ Belgium
- ☐ Belize
- ☐ Benin
- ☐ Bhutan
- ☐ Bolivia
- ☐ Bosnia and Herzegovina
- ☐ Botswana
- ☐ Brazil
- ☐ Brunei Darussalam
- ☐ Bulgaria
- ☐ Burkina Faso
- ☐ Burundi
- ☐ Cabo Verde
- ☐ Cambodia
- ☐ Cameroon
- ☐ Canada
- ☐ Central African Republic
- ☐ Chad
- ☐ Chile
- ☐ China
- ☐ Colombia
- ☐ Comoros
- ☐ Congo
- ☐ Costa Rica
- ☐ Côte D'Ivoire
- ☐ Croatia
- ☐ Cuba
- ☐ Cyprus
- ☐ Czechia
- ☐ Democratic Republic of the Congo
- ☐ Denmark
- ☐ Djibouti
- ☐ Dominica
- ☐ Dominican Republic
- ☐ Ecuador
- ☐ Egypt
- ☐ El Salvador
- ☐ Equatorial Guinea
- ☐ Eritrea
- ☐ Estonia
- ☐ Eswatini
- ☐ Ethiopia

- ☐ Fiji
- ☐ Finland
- ☐ France
- ☐ Gabon
- ☐ Gambia
- ☐ Georgia
- ☐ Germany
- ☐ Ghana
- ☐ Greece
- ☐ Grenada
- ☐ Guatemala
- ☐ Guinea
- ☐ Guinea Bissau
- ☐ Guyana
- ☐ Haiti
- ☐ Honduras
- ☐ Hungary
- ☐ Iceland
- ☐ India
- ☐ Indonesia
- ☐ Iran
- ☐ Iraq
- ☐ Ireland
- ☐ Israel
- ☐ Italy
- ☐ Jamaica
- ☐ Japan
- ☐ Jordan
- ☐ Kazakhstan
- ☐ Kenya
- ☐ Kiribati
- ☐ Kuwait
- ☐ Kyrgyzstan
- ☐ Laos
- ☐ Latvia
- ☐ Lebanon
- ☐ Lesotho
- ☐ Liberia
- ☐ Libya
- ☐ Liechtenstein
- ☐ Lithuania
- ☐ Luxembourg
- ☐ Madagascar
- ☐ Malawi
- ☐ Malaysia
- ☐ Maldives
- ☐ Mali

- ☐ Malta
- ☐ Marshall Islands
- ☐ Mauritania
- ☐ Mauritius
- ☐ Mexico
- ☐ Micronesia
- ☐ Monaco
- ☐ Mongolia
- ☐ Montenegro
- ☐ Morocco
- ☐ Mozambique
- ☐ Myanmar
- ☐ Namibia
- ☐ Nauru
- ☐ Nepal
- ☐ Netherlands
- ☐ New Zealand
- ☐ Nicaragua
- ☐ Niger
- ☐ Nigeria
- ☐ North Korea
- ☐ North Macedonia
- ☐ Norway
- ☐ Oman
- ☐ Pakistan
- ☐ Palau
- ☐ Panama
- ☐ Papua New Guinea
- ☐ Paraguay
- ☐ Peru
- ☐ Philippines
- ☐ Poland
- ☐ Portugal
- ☐ Qatar
- ☐ Republic of Moldova
- ☒ Romania
- ☐ Russian Federation
- ☐ Rwanda
- ☐ Saint Kitts and Nevis
- ☐ Saint Lucia
- ☐ Saint Vincent and the Grenadines
- ☐ Samoa
- ☐ San Marino
- ☐ Sao Tome and Principe
- ☐ Saudi Arabia
- ☐ Senegal
- ☐ Serbia

- ☐ Seychelles
- ☐ Sierra Leone
- ☐ Singapore
- ☐ Slovakia
- ☐ Slovenia
- ☐ Solomon Islands
- ☐ Somalia
- ☐ South Africa
- ☐ South Korea
- ☐ South Sudan
- ☐ Spain
- ☐ Sri Lanka
- ☐ Sudan
- ☐ Suriname
- ☐ Sweden
- ☐ Switzerland
- ☐ Syrian Arab Republic
- ☐ Tajikistan
- ☐ Tanzania
- ☐ Thailand
- ☐ Timor-Leste
- ☐ Togo
- ☐ Tonga
- ☐ Trinidad and Tobago
- ☐ Tunisia
- ☐ Turkey
- ☐ Turkmenistan
- ☐ Tuvalu
- ☐ Uganda
- ☐ Ukraine
- ☐ United Arab Emirates
- ☐ United Kingdom
- ☐ United States of America
- ☐ Uruguay
- ☐ Uzbekistan
- ☐ Vanuatu
- ☐ Venezuela
- ☐ Viet Nam
- ☐ Yemen
- ☐ Zambia
- ☐ Zimbabwe

First name

Georgiana

Surname

Gheorghe

Email Address of the organisation (this information will not be published)

**\* Publication of your contribution and privacy settings**

You can choose whether you wish for your contribution to be published and whether you wish your details to be made public or to remain anonymous.

- ☐ Anonymous - Only your type of respondent, country of origin and contribution will be published. Organisation name, URL, transparency register number, first name and surname given above will not be published. **To maintain anonymity, please refrain from mentioning the name of your organisation and any details from which your organisation can be identified in the rest of your contribution.**
- ☒ Public - Your personal details (name, organisation name, transparency register number, country of origin will be published with your contribution).
- ☐ No publication - Your contribution will not be published. Elements of your contribution may be referred to anonymously in documents produced by the Commission based on this consultation.

☒ I agree with the personal data protection provisions.

[Specific privacy statement targeted stakeholder consultation 2024 rule of law report.pdf](#)

## Questions on horizontal developments

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In this section, you are invited to provide information on general horizontal developments or trends, both positive and negative, covering all or several Member States. In particular, you could mention issues that are common to several Member States, as well as best practices identified in one Member State that could be replicated. Moreover, you could refer to your activities in the area of the four pillars and sub-topics (an overview of all sub-topics can be found below), and, if you represent a Network of national organisations, to the support you might have provided to one of your national members.

Overview topics for contribution

[List of topics 2024 RoL Report.pdf](#)

Please provide any relevant information on horizontal developments here

*5000 character(s) maximum*

## Questions for contribution

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The following four pillars (I.-IV.) are sub-divided into topics (A., B., etc.) and sub-topics (1., 2., 3., etc.). For each of the topics and sub-topics, you are invited to provide (1) information on measures taken to implement the recommendations addressed to the Member State in the 2023 Rule of Law report, as well as



developments with regard to the points raised in the respective country chapter of the 2023 Rule of Law Report and (2) any other significant developments since January 2023[3]. Please always include a link to and reference relevant legislation/documents (in the national language and/or where available, in English). Significant developments can include challenges, positive developments and best practices, covering both legislative developments or implementation and practices.

If there are developments you consider relevant under each of the four pillars that are not mentioned in the sub-topics, please add them under the section "other - please specify". Only significant developments should be covered.

Information provided in reply to the first question under each pillar, related to the follow-up to the recommendations, does not need to be repeated in subsequent parts of the questionnaire, but can be cross-referenced in the subsequent questions, where relevant. All other questions are not limited to the recommendations, but as in previous years, cover the entire scope of the Report.

[3] Unless already covered in the input for the previous Rule of Law Reports.

Member State covered in contribution [only one choice possible]

**If you wish to submit information concerning several Member States, please fill in the questionnaire separately for each Member State. There is no limit to the number of contributions submitted by a single participant.**

- ☐ Austria
- ☐ Belgium
- ☐ Bulgaria
- ☐ Croatia
- ☐ Cyprus
- ☐ Czechia
- ☐ Denmark
- ☐ Estonia
- ☐ Finland
- ☐ France
- ☐ Germany
- ☐ Greece
- ☐ Hungary
- ☐ Ireland
- ☐ Italy
- ☐ Latvia
- ☐ Lithuania
- ☐ Luxembourg
- ☐ Malta
- ☐ Netherlands
- ☐ Poland
- ☐ Portugal
- ☒ Romania
- ☐ Slovak Republic
- ☐ Slovenia
- ☐ Spain

## I. Justice System

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

5000 character(s) maximum

Concerning the first recommendation of the European Commission for 2023, according to the Ministry of Justice (December 2023 reply to a FOIA request) Romania has not finalised the process initiated in view of taking into account the recommendations contained in the opinion of the Venice Commission on the Justice Laws. The high-level experts panel created in May 2023 has produced a working document in order to start comprehensive internal evaluation regarding the way to implement the recommendations formulated by the Venice Commission through Opinion no. 110612022 by reference to the three laws of justice entered into force at the end of 2022. This document is in the process of internal evaluation, subject to analysis at the level of specialised departments within the Ministry of Justice (not public).

APADOR-CH recommends that the Ministry of Justice speeds up the process of internal evaluation regarding the way to implement the recommendations formulated by the Venice Commission and make public information on how (and if) these will be integrated at the administrative and legislative level.

### A. Independence

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

(The reference to 'judges' concerns judges at all level and types of courts as well as judges at constitutional courts)

5000 character(s) maximum

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)

5000 character(s) maximum

Promotion of judges and prosecutors (incl. judicial review)

5000 character(s) maximum

Allocation of cases in courts

5000 character(s) maximum

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)

*5000 character(s) maximum*

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)

*5000 character(s) maximum*

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

*5000 character(s) maximum*

Independence/autonomy of the prosecution service

*5000 character(s) maximum*

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

*5000 character(s) maximum*

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

*5000 character(s) maximum*

In 2019, the acting mayor of Bucharest Sector 5, publicly known as Piedone, was sentenced to 8 years and 6 months in prison for abuse of office concerning the fire that took place in 2015 at the Colectiv Club in Bucharest, a fire which killed 65 people and injured 150.

Subsequently, in May 2022, in the appeal, the sentence was reduced to 4 years imprisonment and enforced.

In June 2023, in an extraordinary appeal (appeal in cassation), Piedone was acquitted by the Supreme Court (High Court of Cassation and Justice) on grounds that the criminal offence imputed by the accusation did not exist. Convicting someone for a non-existent offence is one of the judicial system's biggest mistakes (if not the gravest). This case is not only about a conviction but also about the fact that the person was incarcerated for 1 year and one month following this conviction.

It should be noted that none of the 3 courts involved in the case (the tribunal, the Court of Appeal and the High Court) agreed with the sentences given out by the previous courts. Indeed, courts don't have to agree on all cases because this would make appeals useless. However, when there are significant discrepancies between court judgements given in the same case and based on the same material evidence, the difference

between the 8-a-half-year initial conviction and the final acquittal, on grounds that the charges did not exist. The public opinion has every reason to doubt the objectivity and professionalism of the courts, thus affecting the public confidence in the judicial system.

## B. Quality of justice

*(Under this topic, you are not required to give statistical information but should provide input on the type of information outlined under section 2)*

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

*5000 character(s) maximum*

The Romanian whistle-blower legislation (Law 361/2022) provides that whistle-blowers will receive free legal aid to defend themselves against harassment to which they are subjected as a consequence of their whistleblowing. Also, according national legislation regarding public legal aid, in such cases, free legal aid is granted regardless of the material situation of the whistle-blower.

Despite this, in 2023, a whistleblower notified APADOR-CH that the Bacău Bar association refused to grant him a legal aid and asked him to send documents showing his financial situation. He claimed that he was not the only whistleblower who was refused legal aid by the Bacău Bar Association. At the end of august 2023, the Bar Association finally accepted, after the third attempt, the whistleblowers' request M.M. and assigned him a lawyer, without asking him for proof of his financial condition.

At APADOR-CH's request the National Union of the Bar Association informed that it will consider the option of informing all Romanian Bar associations about the provisions of the new whistleblower legislation and the method of uniform application.

### Resources of the judiciary (human/financial/material)

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

*5000 character(s) maximum*

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

*5000 character(s) maximum*

### Digitalisation (e.g. use of digital technology, particularly electronic communication tools, within the justice system and with court users, procedural rules, access to judgments online)

*5000 character(s) maximum*

### 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)

*5000 character(s) maximum*

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

5000 character(s) maximum

C. Efficiency of the justice system

(Under this topic, you are not required to give statistical information but should provide input on the type of information outlined under section 2)

Length of proceedings

5000 character(s) maximum

Other - please specify

5000 character(s) maximum

•Elections managed by the Romanian Intelligence Service

Romania's National Security Law (L51/1991) was amended in early 2023 by Law 58/2023 on Cyber Security. The amendments include the definition of new types of threats to national security, such as those listed under Art. 3, letter p of the new law: "actions carried out by state or non-state entities, by carrying out cyber propaganda or disinformation campaigns aimed at changing the constitutional order."

APADOR-CH has pointed out since the public debate of the law that the ambiguous wording of this article raises constitutionality issues because it transforms any opinions, political or not, presented to the public by anyone (individual, association or political party running for election) into national security threats (which can also be qualified as offences under Article 404 of the Criminal Code). For example, if these opinions contradict or break the "official" line of thinking set out by the public authorities, these can be seen as threats to national security or punishable crimes.

Nevertheless, Law 58/2023 was passed and enacted with this ambiguous wording. The Ombudsperson appealed the law to the Constitutional Court (CCR), but the court ruled that the law was constitutional.

A few months after the law was passed, Anton Rog, general of the Romanian Intelligence Service (SRI) and the head of the National Cyberint Center, explained in an interview how the Romanian Intelligence Service interprets article 3, letter p of the new law, admitting that even the political discourse of the opposition parties during election campaigns can qualify as a national security threat if this discourse can change the constitutional order, and the will of the voters, showing how SRI was ready to intervene in "counteracting" these new types of threats: by surveillance operations or censorship of websites.

In 2024, a year with four election rounds, Romanian citizens cannot freely vote for a party or candidate they believe represents them. They will only be able to elect parties or candidates that the Romanian Intelligence Service deems "worthy" to run, i.e., those who do not "disinform" or "spread propaganda" during elections. This is a clear violation of the following constitutional rights: freedom of expression (art. 30), the right to information (art. 31), the right to vote (art. 36), the right to be elected (art. 37-38) and the right of association

(art. 40).

Given the worrying statements made by the SRI general, APADOR-CH again urged the Ombudsperson to appeal against the amendments to the law on national security to the Constitutional Court, but the Ombudsperson considered that a new intervention was not necessary and asked the Intelligence Service if there were legal guarantees that it would not abuse the new law. The Romanian Intelligence Service responded that these legal guarantees exist.

## 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, changes or measures introduced that have occurred since these documents were published.

Please provide information on measures taken to follow-up on the recommendations received in the 2023 Report regarding the anti-corruption framework (if applicable)

*5000 character(s) maximum*

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

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 and with foreign authorities. Indicate any relevant measure taken to effectively and timely cooperate with OLAF and EPPO (where applicable)

*5000 character(s) maximum*

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

*5000 character(s) maximum*

Information on the implementation of measures foreseen in the strategic anti-corruption framework (if applicable). If available, please provide relevant objectives and indicators

*5000 character(s) maximum*

## B. Prevention

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

*5000 character(s) maximum*

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)

*5000 character(s) maximum*

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)

*5000 character(s) maximum*

If available to you, for the three preceding questions, you are also invited to 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.).

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

*5000 character(s) maximum*

In December 2022, Romania adopted a new law on the protection of whistle-blowers as part of the national framework to prevent and combat corruption. Its implementation at the institutional level lags behind. For example, the Romanian Police, the Gendarmerie as well as the Ministry of Internal Affairs failed to undertake a review of the current legislation, whistle-blower rules and procedures in order to make them compliant with the new law on the protection of whistle-blowers (according to the assessment of APADOR-CH and also underlined by the 2023 GRECO report).

The National Integrity Agency (ANI) remains insufficiently resourced. In October 2023, ANI had only 4 integrity officers (FOIA reply sent to APADOR-CH in October 2023).

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)

*5000 character(s) maximum*

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

*5000 character(s) maximum*

## C. Repressive measures

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

*5000 character(s) maximum*

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

*5000 character(s) maximum*

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)

*5000 character(s) maximum*

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

*5000 character(s) maximum*

Other - please specify

*5000 character(s) maximum*



### III. Media pluralism and media freedom

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

*5000 character(s) maximum*

#### A. Media authorities and bodies

*(Cf. Article 30 of Directive 2018/1808)*

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

*5000 character(s) maximum*

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

*5000 character(s) maximum*

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

*5000 character(s) maximum*

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

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

*5000 character(s) maximum*

Transparency in the use of public subsidies received by political parties for the press

The European Commission's Rule of Law Report 2023 concludes, "There have been no significant improvements on the transparency of media financing, particularly audiovisual media, by political parties."

Given that half of the state subsidies received by political parties are spent on media and political propaganda, the increase in transparency should primarily concern how political parties finance the media. One consequence would be improved public confidence in the media, which is suspected of being bought to a significant extent by political parties through the use of state subsidies.

An excellent opportunity to increase transparency could be adopting the draft law to amend and supplement

Law 334/2006 on financing political parties and election campaigns. The Senate passed the draft law and it is currently under debate in the Chamber of Deputies, the decisional chamber, registered under no. PL-x 516 /2023. So far, the decisional chamber has not adopted the draft, as the opinions of several parliamentary committees are still pending.

The draft law provides, i.a., the introduction of a new article (art. 27/1) to the Law no. 334/2006, which obliges political parties which receive state funding to submit to the Romanian Permanent Electoral Authority an itemized statement of expenses incurred from state subsidies in the previous month, until the 25th of each month. According to the draft law, the "itemized statement of expenses" also includes "the list of suppliers and the value of provided goods or services." This new provision is a step towards better transparency but does not help to reveal the complete chain of service providers paid by political parties from state subsidies. This regulation only provides for the disclosure of the first service provider but not that of the final provider, the one actually performing the service. Thus, the true service provider (the final/real beneficiary of the party funds) may be hidden by introducing one or more intermediaries in the service supply chain. If political parties are required to publish the identity of the first supplier (the intermediary, the main contractor), but not the identity of the final supplier, then it cannot be argued that there is full transparency regarding the beneficiaries of payments made from state subsidies to political parties.

APADOR-CH recommends that paragraph (3) of art. 27/1 should be supplemented with a provision stating that, where the services are provided through intermediaries (in which case the contractor is not the final provider), the list of suppliers submitted must include each intermediary as well as the person or persons who will directly provide the service, i.e. each final provider. More specifically, the obligation to declare must relate to the name of each natural or legal person in the chain of service providers, indicating the purpose, the value and the date of payment for each one.

Otherwise, the real beneficiary of the sums paid by the party will remain unknown, as only the intermediary (possibly a front company) will be known, not the subcontractor or the person who actually provides the service. When it comes to the media, the need to communicate the whole chain of providers is even more significant so the public can assess whether there is a relationship between the funding received by a media entity and a particular editorial policy.

Safeguards against state / political interference, in particular:

- safeguards to ensure editorial independence of media (private and public)
- specific safeguards for the independence of heads of management and members of the governing boards of public service media (e.g. related to appointment, dismissal), safeguards for their operational independence (e.g. related to reporting obligations and the allocation of resources) and safeguards for plurality of information and opinions
- information on specific legal provisions and procedures applying to media service providers, including as regards granting/renewal/termination of licenses, company operation, capital entry requirements, concentration and corporate governance

*5000 character(s) maximum*

Ringier and press freedom in Romania

A press scandal started in the summer of 2023, involving two media outlets - Gazeta Sporturilor (GSP) and Libertatea, both owned by the Swiss media Group Ringier. GSP's editor-in-chief was fired by Ringier's management on the grounds of "differences in strategic vision". In response, 95 GSP and Libertatea journalists published a protest denouncing repeated editorial interference by some of Ringier Sports Media Group's top managers and their desire to change newsroom procedures to favor betting companies that are

advertising clients, something that the journalists rejected.

Following the dismissal of the GSP editor-in-chief, the newspaper's print edition was discontinued for financial reasons and limited to online publication.

Censorship actions such as those alleged by the Ringier journalists have raised serious questions about the editorial independence of Romania's media. The series of layoffs at Ringier Romania publications continued. In December 2023, the editorial coordinator of Libertatea, Cătălin Tolontan (who had previously been removed from his position as editor-in-chief of GSP) and the two deputy editors-in-chief of Libertatea, Iulia Roșu and Camelia Stan, were dismissed. In addition, the publication has announced a series of redundancies in its editorial team, as it moves to focus more on digital content, as printed media no longer generate sufficient revenue.

These developments come against the backdrop of a national press weakened in recent years due to being funded by political parties, and the actions of Ringier, one of the last Western media investors in Romania, have given a clear signal of the company's commercial interest in prevailing over journalism in the public interest.

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

*5000 character(s) maximum*

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

Rules and practices guaranteeing journalists' 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

*5000 character(s) maximum*

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

*5000 character(s) maximum*

The saga of journalist Emilia Șercan, known for her investigations regarding the academic plagiarism of people at the top of state institutions continued in 2023, when the Public Prosecutor's Office finally closed all the cases concerning the threats and smear campaigns against the journalist who published investigations about the plagiarism of former Prime Minister Nicolae Ciucă.

In early 2022, journalist Emilia Șercan reported that several personal photographs, stolen from her were published on various adult sites and news sites. The journalist managed to take down the photos through personal efforts and with the help of international organizations, only for these to reemerge on websites belonging to Romanian controversial owners, with political ties. More than a year later since the situation was reported, the Romanian authorities failed to both delete the photos or investigate the culprits.

In the summer of 2023, APADOR-CH submitted a memorandum to the Attorney General of the Prosecutor's Office of the High Court of Cassation and Justice (ICCJ), asking them to take the necessary steps to ensure

that the subordinate institutions uphold the law in Emilia Șercan's case. More specifically, to comply with their legal obligation (under art. 306, paragraph (1) Code of Criminal Procedure) to take the necessary steps to limit the consequences of criminal offences for which a complaint has been logged.

The prosecutor never submitted an official response to the memorandum signed by multiple NGO's, instead the photos "miraculously" disappeared from the indicated websites, without the investigators taking any credit. However, the Prosecution's case concerning the discreditation of the journalist by the very people within the police force who should have investigated the digital theft and the publication of the photographs, was closed in November 2023, after dragging on for over a year, without punishing the perpetrators.

The same thing happened with the case concerning the threats received by the journalist, right after she exposed the academic plagiarism in the then Prime Minister's Nicolae Ciucă doctoral thesis. This file was closed on the grounds that further investigation was "not of public interest". The journalist appealed the action of the Prosecutor's office in court, which reopened the case.

In the memorandum sent to the public Prosecutor's office, APADOR-CH pointed out that, the criminal prosecution body's failure to take action in Emilia Șercan's case, may lead to the conclusion that the state lacks the adequate practical means to stop certain types of crimes, or, even worse, that it fails to provide the appropriate legal protection to a very incisive investigative journalist, who through her investigations and revelations regarding the malfeasances committed by very important public persons (politicians, members of the Parliament, ministers, and prime-ministers), has upset may powerful decision-makers.

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)

*5000 character(s) maximum*

The secrecy surrounding President Iohannis's travel expenses

Throughout 2023, civil society organizations as well as the media tried to determine the public cost of the President's foreign trips by sending information requests to public institutions, per law 544/2001. Details have been made public about the rental of private luxury planes used by President Iohannis for various official trips, as well as information that the entire travel budget will be spent only in the first half of 2023, i.e. 5 million euros, and that this budget will be supplemented at the end of 2023. This public interest information has become a closely guarded national secret, although there is no legal basis for the secrecy concerning the flight costs (an no national security reason either).

The correspondence between the Presidential Administration and the General Secretariat of the Government of Romania (SGG) on this issue was ridiculous and absurd, as the two institutions refer to each other to determine the author of the classification of the public documents in question.

The Presidential Administration first responded that the information was classified "because of" an old government decision from 1998, but that decision only classified the President's flights, not their cost. Until a few years ago, these expenses were public, as they should. Then, the General Secretariat of the Government of Romania (SGG) responded that Government Decision 755/1998 was indeed secret, but it could not say what it contained, as it was a secret.

The SGG refused even to say which institutions were the initiators of GD 755/1998 and which interested public institutions had been informed of this decision, claiming that even this information was classified. This makes Romania an EU country in which the cost of presidential visits is kept secret through a document that

is classified by secret institutions, the secrecy of which is also unjustified since it is impossible to find out who issued this document, why it was kept secret and what it contains using democratic mechanisms.

An investigation by the media outlet Recorder estimated the President's travels in the past year, tallying all the private luxury aircraft against the cost to other EU counterparts. Without any official information, Recorder called on the public to e-mail a petition to the Presidential Administration requesting the disclosure of these public expenses. This initiative gathered over 40,000 requests submitted to the Presidential Administration. Despite the public pressure, the President, who at the end of the year was touring several African countries, where he also flew in several private aircraft, refused to disclose the information.

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

*5000 character(s) maximum*

Other - please specify

*5000 character(s) maximum*

## IV. Other institutional issues related to checks and balances

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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)

*5000 character(s) maximum*

No progress has been made to establish a National Human Rights Institution taking into account the UN Paris Principles. The applications lodged the Romanian Institute for Human Rights (RIHR) and by the Ombudsperson before the Global Alliance of National Human Rights Institutions' (GANHRI) Sub-Committee on Accreditation (SCA) are still pending and are due to be considered in 2024.

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

Framework, policy and use of impact assessments and evidence based policy-making, stakeholders'[1] /public consultations (including consultation of judiciary and other relevant stakeholders on judicial reforms), and transparency and quality of the legislative process both in the preparatory and the parliamentary phase

[1] This includes also the consultation of social partners

*5000 character(s) maximum*

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)

*5000 character(s) maximum*

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

*5000 character(s) maximum*

Regime for constitutional review of laws

*5000 character(s) maximum*

## B. Independent authorities

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 institutions

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

*5000 character(s) maximum*

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

*5000 character(s) maximum*

## C. Accessibility and judicial review of administrative decisions

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

*5000 character(s) maximum*

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)

5000 character(s) maximum

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

5000 character(s) maximum

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

5000 character(s) maximum

## D. The enabling framework for civil society

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

5000 character(s) maximum

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

5000 character(s) maximum

The cases of the Association Salvați Bucureștiul & the Spiritual Militia vs. One United Properties

The Salvați Bucureștiul Association and the Spiritual Militia are two NGOs that, along the years have challenged in court a series of urban planning documents issued by the local Bucharest authorities in relation to several real estate developments.

Court cases started in 2017 and the real estate developers One United Properties and Auchan- beneficiaries of the authorisations issued by the Capital City Hall and the National Environment Agency- also intervened in the lawsuits. During the lawsuits, NGOs often accused real-estate developers of intimidation campaigns against them and local residents as well as a clear disproportion of resources between the civic organisations and the real estate developers who were represented in court by the law firm of a former Justice Minister.

After successively winning and losing the lawsuits, finally, in 2022, the organisations that represented the interests of the residents lost definitively, and the court determined that they should pay court costs to the developers, in the amount of approximately 60.000 euros.

As they were unable to pay the full amount, developer One United Properties sued to dissolve the organisations on the grounds that they had become insolvent. It should be mentioned that the law (art. 56 para. 1 letter d of OG 26/2000 on associations and foundations) provides that an NGO that has become insolvent is dissolved, by court decision, at the request of the Public Ministry or any other interested person.

In 2022, the court decided to dissolve one of the associations - namely the Spiritual Militia - and at the end of 2023, it also decided to dissolve the Salvați Bucureștiul Association, the decision not being final. Both civic organisations are about 20 years old.

At the end of 2023, the amount necessary to cover the damage was collected from donations - the court costs requested by One United Properties - so that the Salvați Bucureștiul Association could be saved from the dissolution, on appeal.

The dissolution of some civic organisations, which in this case tried to force the authorities to do their duty to the citizens, widows the civic space of essential actors in any democracy.

It should be mentioned that, also in the case of court cases that have as their object free access to information of public interest (Law 544/2001), there have been, over time, several cases in which NGOs or ordinary citizens, who lost the court case, were forced to pay very high court costs. The consequence was the discouraging of those who could turn to the courts to resolve issues of obvious public interest, such as obtaining information of public interest.

APADOR-CH considers that there is a relatively simple solution to eliminate the risk that NGOs or ordinary citizens who address the courts in matters that clearly concern the public interest will be obliged to pay exorbitant sums under the title of court expenses, in case they lose the case. The rule in the civil cases is that the party who loses the lawsuit bears the court costs incurred by the other party, the one that won the lawsuit. There are already exceptions to this rule, provided in the Civil Procedure Code, in the sense that, for certain procedures, each party bears its own court costs. The same derogatory system for bearing legal costs (each party bears its own legal costs) should also be provided for the court cases that have as object Law 544/2001 on free access to information of public interest, and for trials regarding urban planning issues or the environment. Should this change happen, we would not be in the current situation where ordinary citizens or NGOs have to pay exorbitant fees to law firms hired by the opposing party. Going into insolvency for the simple reason that an issue of obvious public interest was tried to be resolved in court is a consequence incompatible with a functional democratic system.

Organisation of financial support for civil society organisations 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)

*5000 character(s) maximum*



Rules and practices on the participation of civil society organisations 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.)

*5000 character(s) maximum*

In early 2023, several press investigations revealed serious abuses, ill-treatment and human rights violations committed over a long period of time in several nursing homes for the elderly and people with special needs near the country's capital (Voluntari, Ilfov). The care centers were private but received public funding for the service they provided, and the journalists' investigations, which continued in the following months, also exposed links between the managers of the centers and politicians in power.

The media investigations were prompted by several reports by the Centre for Legal Resources (CRJ), a non-governmental organisation that conducts unannounced monitoring visits to such centres. During these monitoring visits, the organisation's experts observed multiple human rights violations:

- Arbitrary deprivation of liberty and unlawful confinement;
- Lack of appropriate treatment for people with intellectual and psychosocial disabilities;
- Lack of access to justice - several people have complained, in writing, without receiving a response;
- Poor living conditions, lack of hygiene, bedbugs, and lack of access to personal care products.

The situation had already been reported by CRJ at the end of 2022, but the only action taken by the authorities, who were supposed to monitor these centres and ensure their proper operation, was to prohibit CRJ from carrying out monitoring visits. In this instance, the Ministry of Labor, which approves the operation of these centres, decided to terminate the protocol with CRJ, based on the UN Convention on the Rights of Persons with Disabilities, which allowed the organisation to make visits and thus report on dysfunctions.

At the request of the press and the CRJ, the Public Prosecutor's Office opened a criminal investigation which confirmed the issues raised. In the summer of 2023, the authorities raided several centres in Ilfov, patients were transferred to hospitals and 24 people involved in the scheme were arrested. The only one still denying that he knew what was going on under his watch was the Minister of Labour.

Evidence of the involvement of key political figures in this scheme to defraud public funds and torture people with special needs unable to defend themselves continued to emerge. What this information showed was that a whole system of public institutions that were supposed to authorise the operation of these care centres, monitor them and ensure that the rights of the of the persons in their care were protected, were not doing their job and were even defrauded by officials who were relatives and friends of politicians. The scandal eventually led to the resignation of the Labor Minister and the head of the Bucharest PSD and Minister for Family, Youth, and Equal Opportunities, Gabriela Firea. Her sister, her best friend and the driver were involved in managing these care centres.

Despite the scandal, the issue disappeared from the public agenda in less than a few months, so that by the end of 2023 there was no information on the progress of the investigation, the patients were released and the accused politicians began to return to public life, claiming they had nothing to do with it. In the aftermath of these events, a proposed legislative amendment by the Ministry of Labour to stop care homes making a profit.

According to the Ministry of Labour, there are 745 homes for the elderly in Romania. Of these, more than 200 are limited liability companies. Under the planned changes, these centres are to become social enterprises and the managers will be obliged to reinvest 90% of the profits in the development of the center.

## E. Initiatives to foster a rule of law culture

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, education initiatives etc.)

*5000 character(s) maximum*

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Other - please specify

*5000 character(s) maximum*

## Contact

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