

1) MEASURES TAKEN TO IMPLEMENT THE RECOMMENDATIONS ADDRESSED BY THE RULE OF LAW REPORT 2023 AND DEVELOPMENTS ON THE POINTS RAISED IN THE CHAPTER/COUNTRY REPORT¹

In the 2023 EC Rule of Law Report – Chapter on the rule of law situation in Romania, one of the recommendations referred to ***completing the process initiated in view of taking into account the recommendations contained in the opinion of the Venice Commission on the Justice Laws, in particular by finalising the assessment being carried out by the panel of high-level experts*** (on the appointment of high-level prosecutors and deputy heads of courts and prosecutors' offices).

There should be mentioned that these aspects are regulated by Law No 303/2022 on the statute of judges and prosecutors, which entered into force on 16.12.2022 (Art. 144-166).

From the perspective of the Superior Council of Magistracy, it is relevant that, during the referred period, in order to bring the secondary legislation in line with the new statute of judges and prosecutors, regulations on the appointment in leading positions of judges and prosecutors were adopted.

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

As regards the new justice laws adopted in December 2022, it should be noted that in terms of the management of the prosecutors' career, in relation to some specific issues identified along their implementation, a review/re-analysis was deemed necessary; in this regard discussions have already been initiated with the Ministry of Justice, and depending on the need for possible legislative changes, they will be resumed in the second half of 2024.

At the same time, regarding the appointment of prosecutors in leading positions at the Prosecutors' Office attached to the High Court of Cassation and Justice, the Directorate for Investigating Organised Crime and Terrorism and the National Anticorruption Directorate, there should be mentioned the positive endorsements given by the Section for Prosecutors of the Superior Council of Magistracy, for the majority of the proposals of the minister of justice, currently the procedure for appointing the chief prosecutors being ongoing.

Another recommendation made in the 2023 EC Rule of Law Report aimed to ***continuing efforts to ensure adequate human resources for the justice system, including for the prosecution services, taking into account European standards on resources for the justice system.***

In this respect, there should be mentioned that, in order to adapt the secondary legislation to the new legal framework, created as a result of the entry into force of the new justice laws at the end of 2022, the following regulations and methodologies were adopted by the Superior Council of Magistracy:

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

¹ We would point out that this information is also mentioned in the SCM's reply to the ENCI questionnaire prepared in order to contribute to the preparation of the 2024 RoL Report.

European Rule of Law Mechanism

- The *Regulation on admission to the National Institute of Magistracy*, approved by Decision no. 114/28.06.2023 of the Plenum of the Superior Council of Magistracy, published in the Official Gazette of Romania, Part I, no. 605/03.07.2023
- The *Regulation on the appointment of prosecutors in non-leading positions at the National Anticorruption Directorate and the revocation from these functions*, approved by Decision no. 1107/31.08.2023 of the Section for Prosecutors, published in the Official Gazette of Romania, Part I, no. 795/4.09.2023;
- The *Regulation on the appointment of prosecutors in non-leading positions at the Directorate for the Investigation of Organised Crime and Terrorism and the revocation from these positions*, approved by Decision no. 843/13.06.2023 of the Section for Prosecutors, published in the Official Gazette of Romania, Part I, no. 578/27.06.2023;
- *Methodology on re-appointment as a judge/in the judge position*, approved by Decision of the Section for Judges no. 423/23.03.2023;
- *Methodology on re-appointment as a prosecutor/in the prosecutor position*, approved by Decision no. 240/04.04.2023 of Section for Prosecutors.

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

At the same time, in relation to the provisions of the Government Emergency Ordinance no. 34/2023 on certain fiscal-budgetary measures, the extension of some deadlines, as well as for amending and supplementing certain normative, the Superior Council of Magistracy appreciated the need for the Government of Romania to approve, through memorandum, the organization of the competition for admission in the magistracy, under the conditions laid down in Article 63 of Law no. 303/2022 on the statute of judges and prosecutors, for filling in the vacancies at the level of the first instance courts and at the prosecutors' offices attached to the first instance courts and, therefore, the matter was referred to the decision-making authorities.

In this respect, there should be underlined the continuing/constant concern of the Superior Council of Magistracy, considering its legal attributions, for ensuring the necessary human resources for the judicial system; in this regard, statistical data on the situation of human resources in 2023, including aspects regarding the organisation of competitions for admission in profession, appointments, promotions, transfers etc., can be found below, in the second section of the Superior Council of Magistracy contribution (in the questions 2, 3, 4, 13, 17). Further details are presented below (in the question 17) on the work of the inter-institutional working group to develop a human resources strategy, in line with specific objective 3.7. of the Strategy for the development of the judicial system (SDSJ) 2022-2025 and its Activity Plan (PASDSJ), as well as with the measures agreed at the Strategic Management Council meeting on April 27, 2023, aiming to develop a study/concept on a new map of courts and prosecutors' offices, as well as a long-term human resources strategy, including elements of demographic dynamics and economic development of regions to address the vulnerability of human resources shortages in the judiciary.

2) SIGNIFICANT DEVELOPMENTS SINCE JANUARY 2023, ACCORDING TO THE CHAPTERS IN THE SECTION BELOW²

JUDICIAL SYSTEM

A INDEPENDENCE

2. Appointments and selection of judges, prosecutors and court presidents (including judicial review)

Updating the general information on the legislative framework in the field with details on the relevant legislative changes occurred during the referred period, as well as on the procedures for entering the profession, respectively for filling in the vacancies:

During the referred period, no changes were brought to the primary legislation regarding the appointments and selection of judges, prosecutors and presidents of courts (including judicial review). Instead, the secondary legislation was adapted to the new legal framework, created as a result of the entry into force of the new justice laws at the end of 2022.

Thus, the following regulations and methodologies were adopted by the Superior Council of Magistracy:

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

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

— The Regulation on the appointment of prosecutors in non-leading positions at the National Anticorruption Directorate and the revocation from these functions, approved by Decision No 1107/31.08.023 of the Section for Prosecutors, published in the Official Gazette of Romania, Part I, no. 795/4.09.2023;

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

— The Regulation on the appointment of judges in leading positions, approved by Decision no. 266/16.02.2023 of the Section for Judges, published in the Official Gazette Part I, no. 144/21.02.2023;

— The Regulation on the appointment of prosecutors in leading positions, approved by Decision no. 506/11.04.2023 of the Section for Prosecutors, published in the Official Gazette of Romania, Part I, no. 356/27.04.2023;

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

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

² Answers to questions falling within the competence of the SCM, as also indicated in the letter of MJ

European Rule of Law Mechanism

- Distribution of graduates of the National Institute of Magistracy, the 2023 promotion

In view of Constitutional Court Decision No 121/2020, no competitions for admission to the National Institute of Magistracy were organised between 2020 and July 2021, therefore during 2023 there is no promotion of graduates of the National Institute of Magistracy, similar to the situation in 2022.

- Admission in magistracy by means of competition

During 2023, two admission competitions were completed, initiated in 2022, by Decision No 92/2022 of the Plenum of the Superior Council of Magistracy and Decision No 141/2022 of the Plenum of the Superior Council of Magistracy, with **127** positions of judge in first instance courts being occupied, as follows: 76 positions following the competition which took place from 12 July 2022 to 2 March 2023, according to the proposal for appointment made by Decision No 344/2023 of the Section for Judges, as well as 51 positions following the competition which took place from 14 October 2022 to 15 June 2023, according to the proposal for appointment made by Decision No 1622/2023 of the Section for Judges.

Also, as a result of these competitions, **40** positions of prosecutor were occupied, and they were appointed to office starting with 23.03.2023 and 16.06.2023 respectively.

At the current moment, a competition for admission in magistracy is ongoing, in accordance with Article 63 of Law No 303/2022, as established by Decision No 119/2023 of the Plenum of the Superior Council of Magistracy, in order to fill **250** positions of judges in first instance courts and **147** positions of prosecutors in the prosecutors' offices attached to the first instance courts. The competition is due to be finalised in March 2024.

- Appointment, upon request, of prosecutors in judge positions and of judges in prosecutor positions

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

The interview under this procedure took place during the sessions of the Section for Judges which were held on 27 and 28 June 2023, being issued **35** proposals for the appointment to the position of judge. As a result of the fact that some proposals have been challenged by the prosecutors' offices, out of which so far 9 have been resolved in final instance by rejection, until presently, only 29 appointment decrees from the position of prosecutor have been issued. The concrete situation of the other 6 nominations made by the Section for Judges will be finalised in relation to the final solutions to be rendered by the court.

At the same time, it is worth mentioning that a new appointment procedure from the position of prosecutor in/to the position of judge was initiated on 7 December for 145 first instance courts. Within the 15-day legal deadline, 30 prosecutors have submitted requests to be appointed in judge positions. During 2023, the Section for Prosecutors of the Superior Council of Magistracy admitted the requests submitted by 9 judges for dismissal from this position and appointment in/to the position of prosecutor. In the context where one of the judges requested the revocation of the measure, 8 decrees were issued in this regard, in August 2023, by the President of Romania.

- Appointment in judge or prosecutor positions, after passing the capacity examination

Between November 2022 and April 2023, the capacity examination of trainee judges and prosecutors was carried out in accordance with the provisions of Article 25(1) of Law No 303/2004, republished, as subsequently amended and supplemented. As a result of that examination, during 2023, through

European Rule of Law Mechanism

*Decisions of the Section for Judges No 1457-1459 of 4 May 2023, proposals were issued for the appointment by decree of the President of Romania, of **140** judges without, however, actually occupying new vacant positions.*

According to Article 38(2) of the Regulation on the Capacity Examination of Trainee Judges and Trainee Prosecutors, approved by Decision No 103/2019 of the Plenary of the Superior Council of Magistracy, trainee judges may only opt/choose for judge positions and trainee prosecutors may choose only prosecutor positions.

Consequently, in the light of the abovementioned legal provisions, after the completion of the capacity examination, the trainee prosecutors could no longer opt for the positions of judges.

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

- *Appointments and re-appointment in judge and prosecutor positions according to Article 83(3) of Law No 303/2004 republished, as subsequently amended and supplemented*

By Decision No 1627/30.05.2023, the Section for Judges of the Superior Council of Magistracy decided to approve the initiation of the re-appointment procedure in judge positions for former judges, in accordance with the provisions of Article 216(2)-(3) of Law No 303/2022 on the status of judges and prosecutors.

Thus, in accordance with Article 2 of the Methodology on re-appointment to the position of judge, approved by Decision No 423/2023 of Section for Judges, judges who previously retired starting with 31.5.2020, were able to submit applications.

*During the session of the Section for Judges of 14 September 2023, 13 proposals for re-appointment were made, of which 11 at first instance courts and 2 at tribunals, **13** former judges having been re-appointed, starting with 03 October 2023.*

In 2023, by Decision of the Section for Prosecutors of the Superior Council of Magistracy no. 1108/31.08.2023, the re-appointment session of former prosecutors who previously retired was initiated, in accordance with Article 216 of Law No 303/2022 on the status of judges and prosecutors. In the session of the Section for Prosecutors of 28 November 2023, it was decided to submit to the President of Romania 5 proposals for re-appointment in function of former prosecutors.

- *Appointment of judges in leading positions of President and Vice-President of the courts of appeal, tribunals, specialised tribunals and first instance courts*

Between September and December 2022, the second competition/exam of 2022 for the appointment in leading positions took place, for 170 vacant positions (including positions to be vacant at the beginning of January 2023) as approved by Judges Section Decision No 2057/08.09.2022. In the session of the Section for Judges from 15 December 2022 the results of the competition/examination were validated and 36 candidates were appointed in leading positions as of 4 January 2023 and 7 January 2023 respectively, out of which 18 were President positions and 18 Vice-President positions.

The results of this competition will be reflected in the situation of leading positions occupied during 2023.

It should be noted that, in relation to the start date, the contest/exam was organised and conducted in accordance with the provisions of Law no. 303/2004, republished, as subsequently amended and supplemented, which stated that both the positions of president and vice-president were to be occupied by competition/examination.

European Rule of Law Mechanism

At present, the provisions of Article 150 of Law No 303/2022 on the statute of judges and prosecutors are in force, which regulate, in paragraphs (1) to (3), that the appointment to the positions of President of first instance courts, tribunals, specialised courts and courts of appeal shall be made only by competition or examination organised, whenever necessary, by the Superior Council of Magistracy, with the support of the National Institute of Magistracy, and the appointment to other leading positions within the first instance courts, tribunals, specialised courts and courts of appeal shall be made without competition or examination, on the proposal of the president of the court, in accordance with the procedure provided for by law. The appointment in leading positions of first instance courts, tribunals, specialised tribunals and courts of appeal shall be made by decision of the Section for Judges, for a period of 3 years, with the possibility of re-investment, only once, under the same conditions.

In accordance with the new legal provisions applicable to the procedure for appointment in leading positions, which entered into force in December 2022, Decision No 268/23.02.2023 of the Section for Judges approved the organisation of the competition/examination for the filling of 137 vacant president positions at courts of appeal, tribunals, specialised courts and first instance courts. 55 applications were submitted for this procedure, for 42 president positions, whilst no applications for the remaining 95 leading positions were registered.

By Decision No 1721/15.06.2023, the Section for Judges validated the results of the competition/examination and stated that only 34 leading positions could be occupied, representing 24.81 % of the total leading positions for which the competition was organised, namely 80.95 % of the 42 positions of president for which applications were submitted.

Thus, by Decision No 1722/15.06.2023, the Section for Judges decided on the appointment of 34 persons in leading positions, starting with 22 August 2023, for a 3-year term of office.

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

Also, between September and December 2023, a new competition/examination is ongoing to fill 134 vacant positions of president or which will be vacant until 6 January 2024 at courts of appeal, tribunals, specialised courts and first instance courts, as approved by Decision No 2088/24.08.2023 of Section for Judges. The results of this procedure have been validated in the session of the Section for Judges of December 19th, 2023, but the 32 filled in leading positions shall have an impact in the data for 2024 (with the mention that for only one leading position the appointment has been ordered starting with December 20th 2023, while the other positions shall be filled in beginning with January 6th, 2024).

- *Appointment of judges in other leading positions pursuant to Article 150(2) of Law No 303/2022.*

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

- *Appointment of prosecutors in the leading positions of Prosecutor General and First Prosecutor from the Prosecutors' Offices attached to the Courts of Appeal, Tribunals and First instance courts*

By Decision no. 1057/2023, the Section for Prosecutors of the Superior Council of Magistracy approved the organisation, through the National Institute of Magistracy, in Bucharest, between 1 August and

European Rule of Law Mechanism

22 November 2023, of the competition/exam for the appointment in leading positions at the Prosecutors' Offices attached to the courts of appeal, tribunals and first instance courts.

177 vacant positions of Prosecutor General and First Prosecutor of the Prosecutors' Offices attached to the courts of appeal, tribunals and first instance courts were open for this competition.

This procedure was finalised on 22.11.2023, the results of this competition were validated by the Decision of the Section for Prosecutors no. 1492/28.11.2023.

Following the completion of this procedure, 64 leading positions will be filled in as of 1.1.2024 (8 positions of Prosecutor General, 56 positions of First Prosecutor).

- Appointment of prosecutors in other leading positions, pursuant to the provisions of Articles 149 and 150(2), (3) of Law No 303/2022 on the statute of judges and prosecutors

In accordance with the provisions of Article 149(1) of Law No 303/2022 on the statute of judges and prosecutors "appointment in leading positions other than those provided for in Article 144(1) within the Prosecutors' Office attached to the High Court of Cassation and Justice, the National Anti-Corruption Directorate and the Directorate for the Investigation of Organised Crime and Terrorism shall be made for a period of 3 years, with the possibility of re-investment once, in the same way, by the Section for Prosecutors of the Superior Council of Magistracy, on the proposal of the Prosecutor General of the Prosecutors' Office attached to the High Court of Cassation and Justice, of the Chief Prosecutor of the National Anticorruption Directorate or of the Chief Prosecutor of the Directorate for the Investigation of Organised Crime and Terrorism, as appropriate, with the recommendation of the head of the section of the Prosecutors' Office attached to the High Court of Cassation and Justice, the National Anti-Corruption Directorate or the Directorate for the Investigation of Organised Crime and Terrorism, where the prosecutor is to be appointed'.

At the same time, in accordance with the provisions of Article 150(2) and (3) of Law No 303/2022 on the statute of judges and prosecutors, "appointment in leading positions other than those provided for in paragraph (1) of the first instance courts, tribunals, specialised tribunals and courts of appeal and prosecutors' offices attached thereto shall be made without competition or examination, at the proposal of the president of the court or the head of the prosecutors' office, in accordance with the procedure provided for in this law. The appointment in leading positions for first instance courts, tribunals, specialised tribunals and courts of appeal, as well as in the prosecutors' offices attached to them, shall be made by decision of the Section for Judges and the Section for Prosecutors, respectively, for a period of 3 years, with the possibility of re-investment, only once, under the conditions laid down in paragraphs (1) and (2).'

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

3. Irremovability of judges, including transfers (including as part of the judicial map reform) dismissal and retirement regime of judges, court presidents and prosecutors (including judicial review)

Updating the general information on the relevant legislative framework with details of the relevant legislative changes made during the reference period, as well as the transfer procedures and the situation of magistrates exiting the profession:

European Rule of Law Mechanism

In this respect, the only changes which occurred during the reference period in the primary legislation addressed the service pensions of judges and prosecutors.

Thus, Law No 282/2023 amending and supplementing certain legislative acts in the field of service pensions and Law No 227/2015 on the Fiscal Code, published in the Official Gazette of Romania, Part I, No 950/20.10.2023, was amended and supplemented by Law No 303/2022 on the status of judges and prosecutors with regard to the retirement age, the basis for calculation, the amount of the pension, the assimilated seniority and the updating of the service pension. Provisions on the calculation of the tax on pension income and the period for payment have also been introduced. This law is due to enter into force on 1 January 2024.

As regards secondary legislation, the following methodologies and procedures have been adopted by the Superior Council of Magistracy:

— Methodology on secondment and delegation of judges, approved by Decision No 1471/04.05.2023 of Section for Judges;

— Methodology for carrying out specialised medical expertise in case of suspension from office of judges for a condition other than mental illness, approved by Decision No 1798/22.06.2023 of Section for Judges;

— Methodology for carrying out specialised medical expertise in case of suspension from office of judges for mental illness, approved by Decision No 1799/22.06.2023 of Section for Judges;

— Methodology for carrying out specialised medical expertise in case of suspension from office of prosecutors for a condition other than mental illness, approved by Decision No 852/15.06.2023 of Section for Prosecutors;

— Methodology for carrying out specialised medical expertise in case of suspension from office of prosecutors for mental illness, approved by Decision of Section for Prosecutors no. 851/15.06.2023.

➤ *For the transfer session organised at the end of January 2023, there were 594 transfer applications submitted for the first stage and 362 transfer applications submitted for the second stage of transfers requests by judges.*

At the same time, the transfer procedure from civil courts to military courts was initiated, for 8 positions, namely: Bucharest Military Court of Appeal – 2 positions, Bucharest Military Tribunal – 1 position, Cluj Military Tribunal – 1 position, Iasi Military Tribunal – 2 positions and Timișoara Military Tribunal – 2 positions, but only 5 of these positions were occupied (at the Bucharest Military Court of Appeal, Iasi Military Tribunal, Timis Military Tribunal – 2 posts and the Cluj Military Court).

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

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

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

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

➤ *Situation of exiting from the profession in 2023:*

European Rule of Law Mechanism

*By decrees of the President of Romania published in the referred period, up to and including 31.12.2023, **306** persons were released from the position of judge, as follows:*

- **297**, through retirement;*
- **1** person as a result of resignation;*
- **8** persons as a result of the appointment to the position of prosecutor.*

At the same time, during this year, 1 post was vacated following the death of a judge.

*Up to and including 31.12.2023, **197** persons were released from the position of prosecutor, by decrees of the President of Romania, as follows:*

- **165** persons as a result of retirement;*
- **2** persons as a result of resignation;*
- **29** prosecutors have been appointed to the position of judge;*
- **1** person as a result of final conviction.*

*At the same time, 3 positions became vacant this year, following the death of **3** prosecutors.*

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

Update on the general information on the legislative framework in the field with details on the relevant legislative changes made during the reference period, as well as on the promotion procedures carried out:

During the referred period, no changes were made at the level of primary legislation regarding the promotion of judges and prosecutors (including jurisdictional control). Instead, from the perspective of putting in accordance the secondary legislation with the primary legislation, we would point out that the following regulations have been adopted at the level of the Superior Council of Magistracy:

- Regulation on the organisation and carrying out the promotion of judges at the High Court of Cassation and Justice, approved by Decision No 1057/06.04.2023 of the Section for Judges, published in the Official Gazette, Part I, no. 302/10.04.2023;*
- Regulation on the competition for the promotion of judges, approved by Decision No 1434/27.04.2023 of Section for Judges, published in the Official Gazette of Romania, Part I, No 376/03.05.2023;*
- Regulation on the competition for the promotion of prosecutors, approved by Decision No 682/04.05.2023 of the Section for Prosecutors, published in the Official Gazette of Romania, Part I, No 394/09.05.2023.*

➤ Promotion of judges

During 2023, a single competition for effective promotion in non-leading positions was organised, in accordance with Articles 139-141 of Law No 303/2022.

Thus, the competition for effective promotion in non-leading positions was organised as approved by Decision No 1506/11.05.2023 of the Section for Judges, to be held during May - October 2023. For this competition, 68 posts were allocated/opened for competition at the courts of appeal and 432 positions in tribunals, and 332 judges submitted applications to participate in the competition, out of which one judge dropped off. After verifying the fulfilment of the conditions for participation and the resolution of the appeals, 292 candidates meet the conditions laid down by law.

At the session of the Section for Judges held on 5 October 2023, the results of this competition were validated and the actual promotion to the higher courts was ordered starting with 1 November 2023

European Rule of Law Mechanism

(with two exceptions regarding the effective promotion on 1.1.2024 and an exception on the effective promotion of 15.11.2023) for 201 judges, of which 53 to the courts of appeal and 148 judges to the tribunals.

Distinctly, the Section for Judges decided to promote to the higher courts 7 judges (4 judges at the Court of Appeal and 3 Judges at the Tribunal), starting from 1 June 2023, following the vacation of the positions afterwards, by taking into account the results obtained in the competition for promotion to execution positions of judges held between May - October 2022. (Decision of the Section for Judges No. 1415/27.04.2023). In addition, during this year, the Section for Judges validated the results of the competition for effective promotion in non-leading positions held between April and August 2021 and the promotion of the candidate, starting with 1 June 2023 (Decision of the Section for Judges No 1519/11.05.2023).

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

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

At the level of the Supreme Court, following the completion of the competitions held between November 2022 and March 2023, in the session held on 23.03.2023, the Section for Judges decided on the promotion of 6 judges to the Supreme Court, of which 2 judges in the 1st Civil Section, 1 judge in the Administrative and Fiscal Litigation Section, 1 judge in the Criminal Section and 2 judges in Second Civil Section.

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

➤ Promotion of prosecutors

Between May and October 2023, a competition was held for effective promotion in non-leading positions for prosecutors.

Thus, by Decision of the Section for Prosecutors no. 744/23.05.2023, the organisation of the competition for effective promotion in non-leading positions for prosecutors for 154 positions was approved. Following the completion of this competition, 88 prosecutors were effectively promoted to the higher prosecutors' offices. Also, in the sessions of the Section for Prosecutors of 21 November 11.2023 and 12 December 2023, the effective promotion to higher prosecutions' offices was decide for other 29 prosecutors, as an effect of the admission of their requests for valorisation the results obtained in the exam.

5. Allocation of cases in court

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

6. Independence (including composition and nomination and dismissal of its members) and powers of the body responsible for safeguarding the independence of the judiciary (e.g. Council for the Judiciary)

During the referred period, no changes were made at the level of primary legislation regarding the independence (including the composition and appointment of members) and the powers of the body in charge of defending the independence of the judiciary (the Superior Council of Magistracy). On the other hand, from the perspective of harmonising secondary legislation with primary legislation, it should be pointed out that the Regulation on the organisation and functioning of the Superior Council of Magistracy, approved by Decision No 122/06.07.2023 of the Plenum of the Superior Council of Magistracy, was adopted, published in the Official Gazette of Romania, Part I, No 640 bis/13.07.2023.

The Superior Council of Magistracy, pursuant to Article 24(8) of Law No 305/2022 on the Superior Council of Magistracy, organised, beginning with 6.10.2023, the elections for the positions of President and Vice-President of the Superior Council of Magistracy, on 29.11.2023 being the deadline for submitting nominations, accompanied by a draft on the objectives pursued.

On 05.12.2023 the examination and debate of the applications submitted and the appointment of candidates for the positions of President and Vice-President by the corresponding Sections of the Superior Council of Magistracy took place, as well as the election of the President and Vice-President by the Plenum of the Superior Council of Magistracy.

7. Accountability of judges and prosecutors, including disciplinary regime and bodies and ethical rules, judicial immunity and criminal/civil (where applicable) liability of judges (including judicial review)

No legislative changes have taken place during the reference period concerning the liability of judges and prosecutors, including disciplinary liability, ethics rules, immunities, criminal liability of judges (including jurisdictional control).

However, it should be noted that, by Decision of the SCM Plenary no. 156 of 26 October 2023, proposals were made to amend and supplement the provisions on disciplinary liability; it should be mentioned the introduction of a new disciplinary offence representing: acts affecting the honor or professional probity or prestige of justice, provided by law as criminal offences, for which the closure or termination of criminal proceedings was ordered, in the situations provided for in Article 16(1)(e), (f) and (g) of Law No 135/2010 on the Code of Criminal Procedure, as subsequently amended and supplemented.

In the context of the implementation of the new legislative provisions (Law No 303/2022 on the statute of judges and prosecutors and Law no.305/2022 on the Superior Council of Magistrates) in the field of disciplinary liability of magistrates, it should be noted that, during the reference period, the Sections of the Superior Council of Magistracy have found that the disciplinary sanctions applied

European Rule of Law Mechanism

to certain magistrates were *de jure* removed³ (four such requests were resolved). It should be noted that the procedure for the application of the provisions newly introduced in this matter by the new justice laws was detailed in the Regulation on the organisation and functioning of the SCM, adopted by Decision No 122/2023 of the SCM Plenum.

8. Remuneration/bonuses/rewards for judges and prosecutors, including observed changes (significant and targeted increase or decrease over the past year), transparency on the system and access to information

Transparency of the system and access to information.

➤ Regarding the transparency and accountability of the Superior Council of Magistracy, taking into account the provisions kept in the new legislation in the matter, in order to be informed on the activity of courts and prosecutors' offices, the members of the Council continued to regularly pay visit to the courts and to the prosecutors' offices and have organised meetings with judges, prosecutors. Similarly, the members of the Superior Council of Magistracy have participated in the general assemblies of the courts and prosecutors' offices where the annual activity reports were debated and approved.

At the same time, according to the full transparency coordinates that characterises the activity of the Superior Council of Magistracy, it should be mentioned, as previously pointed out, the consultation of the courts and of the prosecutors' offices attached to them, for example, on the secondary legislation elaborated in the application of the new justice laws.

It is also worth mentioning the constant nature of communicating to the courts and prosecutors' offices the relevant solutions adopted at Council level, in the Plenum, in its Sections or in the specialised Committees, these being disseminated widely and in a timely manner to judges and prosecutors.

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

➤ As already indicated in the follow-up document of this year's country visit, the main directions of action and objectives of the Superior Council of Magistracy, for the mandate 2023-2029, have been elaborated and made available by publication on the Council's website, being adopted by Decision No 55 of 30 March 2023, of the SCM Plenum.

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

➤ We should also recall the Council's constant concern to maintain high standards of institutional transparency, including by ensuring optimal parameters/framework for the accessibility of the official website and the intuitive and up-to-date nature with information/press releases/areas of interest to citizens.

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

European Rule of Law Mechanism

- Also, in view of the digitalisation component for the judiciary, including as an attribute of transparency, a number of applications (detailed in question 15) have been developed at the level of the SCM, integrated in the www.Rejust.ro portal, in order to benefit from the high level of visibility and accessibility already achieved by this website, which currently has more than 25000 users.
- Moreover, given the interest for transparency, but also for the proper functioning of the judicial system and for ensuring a quality judicial act, the perception and satisfaction of the participants in the process are important indicators that will be valued in a new uniform evaluation mechanism from this perspective. Thus, as detailed in Question 16, the Decision of the Section for Judges no. 2646 of 16.11.2023 approved this unitary mechanism for assessing the satisfaction of the stakeholders (court users, parties, lawyers, etc.) as a satisfaction questionnaire to be applied periodically countrywide, at the level of the courts.
- Also, as detailed in the Annex, we should recall that during the reference period, the Superior Council of Magistracy has completed the implementation of a large project with European funding (Project “TAEJ-Transparency, Accessibility and Legal Education by improving public communication within the judiciary”) whose general objective was to improve and uniformly address public communication at the level of the judiciary in order to strengthen its image, ensure greater transparency within and outside the system, as well as improve access to justice by increasing information, raising awareness of citizens’ rights and developing legal culture. During the referred period, several actions have been carried out within the project, consisting, among other activities, in: increasing transparency and clarifying the relationship with the executive and legislative powers, through the bilateral ownership of best practice guidelines in this regard, but also in carrying out an integrated public information campaign, under the slogan “People for Justice. Justice for People”, which took place during a six-month period, from 12 August 2022 to 8 February 2023,⁴ or the distribution of four information leaflets in the areas of Enforcement in civil matters, Citizens’ Rights, Criminal Procedure for All and Civil Law, printed in a circulation of 80.000 copies, and made available at the premises of all courts and prosecutors’ offices countrywide.

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

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

01.01.2023 – 28.11.2023 (Plenum, SJ, SP)			
TOTAL decisions:	Defending the independence of the judicial authority as a whole: (Plenum)	Defending the independence of the judiciary/independence of impartiality, professional reputation, (Section for Judges)	Defending the independence of prosecutors of the Public Ministry/ professional reputation,

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

European Rule of Law Mechanism

13 of which	0	9, of which:	independence, impartiality: (Section for Prosecutors) 4, of which:
ACCEPTED: 7 REJECTED: 6	0	ACCEPTED: 4 REJECTED: 5	ACCEPTED: 3 REJECTED: 1

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

The public stands expressed during 2023 are published on the official website of the Council⁵.

B. QUALITY OF JUSTICE⁶

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

⁵ <https://www.csm1909.ro/PageDetails.aspx?FolderId=10789>
<https://www.csm1909.ro/PageDetails.aspx?FolderId=10786>
<https://www.csm1909.ro/PageDetails.aspx?FolderId=10751>
<https://www.csm1909.ro/PageDetails.aspx?FolderId=10549>
<https://www.csm1909.ro/PageDetails.aspx?FolderId=10496>
<https://www.csm1909.ro/PageDetails.aspx?FolderId=10491>
<https://www.csm1909.ro/PageDetails.aspx?FolderId=10398>
<https://www.csm1909.ro/PageDetails.aspx?FolderId=10293>
[https://www.csm1909.ro/PageDetails.aspx?PageId=299&FolderId=10877&FolderTitle=COMUNICAT%20DE%20PRES%20C4%82-\(2023-11-28\)](https://www.csm1909.ro/PageDetails.aspx?PageId=299&FolderId=10877&FolderTitle=COMUNICAT%20DE%20PRES%20C4%82-(2023-11-28))
[https://www.csm1909.ro/PageDetails.aspx?PageId=299&FolderId=10886&FolderTitle=Comunicat%20de%20pres%C4%83%20referitor%20la%20C3%AEenc%C4%83lcare%20independen%C8%9Bei%20judec%C4%83torilor%20din%20cadrul%20Tribunalului%20Bra%C8%99ov%20C3%AEen%20raport%20cu%20afirma%C8%9Biile%20unor%20membri%20CNCS-\(2023-12-06\)](https://www.csm1909.ro/PageDetails.aspx?PageId=299&FolderId=10886&FolderTitle=Comunicat%20de%20pres%C4%83%20referitor%20la%20C3%AEenc%C4%83lcare%20independen%C8%9Bei%20judec%C4%83torilor%20din%20cadrul%20Tribunalului%20Bra%C8%99ov%20C3%AEen%20raport%20cu%20afirma%C8%9Biile%20unor%20membri%20CNCS-(2023-12-06))
[https://www.csm1909.ro/PageDetails.aspx?PageId=299&FolderId=10891&FolderTitle=COMUNICAT%20DE%20PRES%20C4%82%20referitor%20la%20pozi%C8%9Bia%20Consiliului%20Superior%20al%20Magistraturii%20de%20sus%C8%9Biere%20a%20judec%C4%83torilor-\(2023-12-08\)](https://www.csm1909.ro/PageDetails.aspx?PageId=299&FolderId=10891&FolderTitle=COMUNICAT%20DE%20PRES%20C4%82%20referitor%20la%20pozi%C8%9Bia%20Consiliului%20Superior%20al%20Magistraturii%20de%20sus%C8%9Biere%20a%20judec%C4%83torilor-(2023-12-08))
[https://www.csm1909.ro/PageDetails.aspx?PageId=299&FolderId=10894&FolderTitle=COMUNICAT%20DE%20PRES%20C4%82%20referitor%20la%20pozi%C8%9Bia%20Consiliului%20Superior%20al%20Magistraturii%20de%20sus%C8%9Biere%20a%20procurorilor-\(2023-12-08\)](https://www.csm1909.ro/PageDetails.aspx?PageId=299&FolderId=10894&FolderTitle=COMUNICAT%20DE%20PRES%20C4%82%20referitor%20la%20pozi%C8%9Bia%20Consiliului%20Superior%20al%20Magistraturii%20de%20sus%C8%9Biere%20a%20procurorilor-(2023-12-08))
[https://www.csm1909.ro/PageDetails.aspx?PageId=299&FolderId=10912&FolderTitle=COMUNICAT%20DE%20PRES%20C4%82%20privind%20pozi%C8%9Bia%20CSM%20C3%AEen%20raport%20de%20preconizatele%20m%C4%83suri%20legislative%20de%20natur%C4%83%20s%C4%83%20afecteze%20drepturile%20personalului%20din%20sistemul%20justi%C8%9Biei-\(2023-12-14\)](https://www.csm1909.ro/PageDetails.aspx?PageId=299&FolderId=10912&FolderTitle=COMUNICAT%20DE%20PRES%20C4%82%20privind%20pozi%C8%9Bia%20CSM%20C3%AEen%20raport%20de%20preconizatele%20m%C4%83suri%20legislative%20de%20natur%C4%83%20s%C4%83%20afecteze%20drepturile%20personalului%20din%20sistemul%20justi%C8%9Biei-(2023-12-14))

⁶ Member States are not asked to provide statistical data but input on information such as that required in Section 2.

Human resources:

➤ December 2023:

- as of 31 December 2023, out of a total of 5066 positions (taking into account the positions allocated from the reserve fund under the conditions Article 147 of Law No 304/2022) 3902 judge positions are filled in while 1164 positions are vacant. According to the above data, there was noted a decrease in the occupancy rate (77,00 %) compared to the employment rate recorded at the beginning of 2023 (80 %), especially at the level of first instance courts.

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

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

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

For more details, the Report on the activity of the Superior Council of Magistracy for 2023 can be consulted.

14. Training in the judiciary (including judges, prosecutors, lawyers, auxiliary staff)

➤ The National Institute of Magistracy, the institution responsible for the recruitment of judges and prosecutors, for the initial and continuous training of judges and prosecutors in office, as well as for the training of trainers, is organised and operates, as of 16 December 2022, in accordance with the provisions of Law No 304/2022 on judicial organisation, Law No 303/2022 on the statute of judges and prosecutors and Law No 305/2022 on the Superior Council of Magistracy, and, as a novelty, in accordance with the provisions of the Regulation on the National Institute of Magistracy, approved by Decision No 92/2023 of the CSM Plenary. <http://lege5.ro/App/Document/geztomjzgg4di/hotararea-nr-92-2023-pentru-aprobarea-regulamentului-institutului-national-al-magistraturii>

As new developments, the entry into force of the new laws on the judiciary should be mentioned. The changes aimed to increase the duration of initial training from 2 to 3 years. This change will not take immediate effect, the justice auditors admitted in the period 2022-2024 will follow a 2-year study period, as before, this being a transitional period. However, the content of the training will undergo changes, meaning that in the first year of the initial training there will be 3 months of internship, and in the second year, at least 6 months.

During 2023, the training of the justice auditors was carried out in accordance with the Initial Training Programme for the first year 2022, approved by Decision No 36 of the SCM Plenary of 17 March 2022, the following Initial Training Programme for the first year 2023 and the Initial Training Programme for the second year 2023, both approved by Decision No 60 of 6 April 2023 of CSM Plenary. During the reporting year, the National Institute of Magistracy is training a total of 548 justice auditors, of which 269 auditors in the first year and 279 auditors in the second year.

European Rule of Law Mechanism

The continuous training for 2023 was carried out from both budgetary funds and mixed and extra-budgetary funds, a majority share in the continuing vocational training programme being represented by training activities organised in the framework of projects with European funding. The first is a project implemented only by NIM – "Justice 2020: Professionalism and integrity", code SIPOCA 453, MySMIS2014 + 118978, which includes training in the field of ethics for judges and prosecutors, judicial management, fight against corruption. The project will be finalised on 6 December 2023. The second project is implemented in partnership with the Superior Council of Magistracy – "Professional Training and Capacity Building in the Judicial System", financed by the 'Justice' programme, within the Norwegian Financial Mechanism (MFN) 2014-2021, which includes training sessions on judicial cooperation in civil and criminal matters, in the field of jurisprudence of the Court of Justice of the European Union and the European Court of Human Rights.

Other novelties were the measures for the implementation the specific training objectives set out in the Strategy for the Development of the Judiciary 2022-2025. Therefore, the Continuous Training Programme for 2023 included training sessions in the fight against environmental and forestry crime and also in the area of anti-discrimination, with a focus on combating hate crime.

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

➤ *The initial professional training organized by the National School of Clerks continues to take into account exclusively the training of clerks with higher legal education, the initial training activity of the School responding to the need to fill vacancies for qualified clerks with higher legal education. In 2023, as in the previous year, the initial training courses are conducted exclusively in face-to-face format, for a number of 82 students (of which 52 for courts and 30 for prosecutors' offices). The graduates of National School of Clerks are to be assigned to vacant positions in the judicial system at the end of the 2023-2024 school year, respectively on 11 March 2024.*

Also in terms of continuous training for clerks from the courts and the prosecutors' offices attached to them, organized by National School of Clerks, the year 2023 meant a continuation of The multi-year continuous professional training program of specialized auxiliary staff from the courts and the prosecutors' offices attached to them for the years 2022-2023, developed within the project "Effective training for unified ethical, administrative and judicial practices (FEPEAJU)", SIPOCA code 1156, SMIS code 152441, financed through the Operational Administrative Capacity Program 2014-2020. The program was approved by The Plenary Decision of the Superior Council of Magistracy no. 22/11.02.2022 and completed during the year 2023 by The Plenary Decision of the Superior Council of Magistracy no. 31/07.03.2023. Out of the total training sessions scheduled within the project, in 2022, the first year of implementation of the multi-annual continuous training programme, 81 training sessions were carried out in centralized and decentralized face-to-face format, as well as online training sessions.

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

European Rule of Law Mechanism

the field of unification of administrative and judicial practices, 3 webinar sessions in the field of professional ethics, 6 eLearning sessions), with a total of 2.404 court and prosecutors' office clerks trained.

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

In addition to organizing the training sessions, there have been edited and uploaded to the training platform a number of 15 video presentations and 45 tutorials in fields such as: civil and criminal procedure codes and related legislation, laws implementing the provisions judicial bodies, international judicial cooperation, technical systems used in the judicial system.

Furthermore, the „Virtual library” section on the online training platform of the National School of Clerks, as well as newsletters, permit the access of court clerks from the judicial system to a number of 465 didactic materials, developed both in written and audio video formats.

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

*i. As regards the use of digital technology in the judiciary, we note that in July 2023, the application **Electronic File for Judges** became operational for all national courts, as a module within the Rejust application. The Electronic File for Judges is a web application that allows remote access to the cases allocated to judges, through an interface that facilitates the processing of files.*

As a novelty to the existing IT solutions and to the access of any judge as a user with visiting rights in ECRIS, the electronic file within www.rejust.ro allows the judge to search a file in all courts.

By way of example, for a case which, following the procedural stages, appeared before the First Instance Court of Sector 1 Bucharest, the Bucharest Tribunal and the Bucharest Court of Appeal, the application will show all the information in this file in a single interface.

This function is particularly beneficial to judges from tribunals and courts of appeal as they can easily access documents from the courts that have judged the previous procedural stages of a case, without the need to use the visiting interface available in EMAP.

Also, being a module within www.rejust.ro, the electronic file can be accessed on any device, including mobile phone, not just from the internal network.

One additional element is that, as opposed to accessing the ECRIS interface for visiting another court, the electronic file does not allow to view documents which are not closed. This removes the risk of accessing a document which is not final.

The Electronic File application also allows to customise the main page with the specifics of the judge's

⁷ Factual information submitted in documents submitted to the Commission in December 2020, in the Justice Scoreboard 2023, need not be repeated

European Rule of Law Mechanism

activity, displaying a list of files with no court date allocated to the judges' panels, a list of future court dates and a list of documents which are not finished or not drafted.

Thus, the judge does not need to obtain a court hearing list to study the court hearing via the electronic file. All the information the judge needs is available on the platform.

Using the functions available on this website, the judge can draft decisions and study court hearings remotely, requiring only access to internet.

Access to all resources of the Rejust portal is fully logged for control, thus the use of the Electronic File application is carried out solely for the purpose of the magistrate's line of duty.

The data source underpinning the Electronic File is the central database managed by the Superior Council of Magistracy. It retrieves documents and metadata about parties from the national databases in addition to the data already retrieved for the STATIS judicial statistical application. The current replication mechanism in the central database is configured at an interval of 5 minutes, so any information about the files pending before the courts is propagated immediately.

ii. Furthermore, as regards the use of digital technology to the benefit of the litigant, also in July 2023 the Judicial Informatics and Statistical Service of the SCM finalised the technical process of extending the portal developed by the Galați Court of Appeal for submitting petitions, documents and payment of stamp fees at national level. The application was retrieved on a central server of the Superior Council of Magistracy and it was developed so that it can be operationalised for all the courts.

The portal **registratura.rejust.ro** became operational as of 10.7.2023. The following online facilities have been made available to litigants and legal professionals:

1. SUBMISSION OF PETITIONS AND DOCUMENTS

The portal contains template forms with minimum mandatory data, customised according to the following situations: registration of petition, registration of appeals, filing of documents in an existing file, issuing a certificate of registry and issuing a certified copy of the decision. After completing the form, the portal sends to the e-mail address registered by the court an e-mail with the request-form filled in by the user, to which the documents uploaded by the user are attached and the proof of payment of the court stamp fee generated by the portal, if the payment of a stamp fee has been chosen.

The request – form, together with all attachments, must be printed, according to the same rules as the court applies to requests by e-mail directly from the parties or their defenders because the e-mail sent through the portal has the same legal value as the email sent by the user directly to the court. Subsequently, they must be recorded in the ECRIS application and entered in the normal flow of documents, depending on the type of request.

The application also allows requests for issuing a certificate of registry and a certified copy of the court decision. In the email received there is a field relating to identification of the decision and a field on the manner indicated by the applicant: scanned by e-mail, sent by post or picked up directly from the court premises.

2. PAYMENT OF STAMP DUTIES

With regard to stamp duties paid through the portal, it should be noted that an email containing the information from the form used for payment of stamp duty is sent to the court's email address, such as: name, personal identification number/ social security number, domicile, file number, stamp fee amount. At the same time, the email mentions the RRN code (the transaction identifier in the Ghiseul.ro) and the unique CSM Portal ID (the identifier in the portal).

Also, a PDF is attached to the email sent, which is proof that the stamp fee has been paid. The fact

European Rule of Law Mechanism

that the transaction was successful is transmitted programmatically by Ghiseul.ro to the portal, together with the generated RRN code.

In view of these elements, there is no need for the extract generated by Ghiseul.ro, which is transmitted exclusively to the petitioner.

Therefore, unlike the situation in which the petitioner pays the stamp duty directly through the ghiseul.ro, when the applicant submits the extract from Ghiseul.ro, in the case of the use of the portal registratura.rejust.ro, the proof of payment attached to the file is generated by the portal registratura.rejust.ro, bearing the CSM logo.

This evidence contains the same elements as the proof generated by Ghiseul.ro and is based on all the data generated by the IT system managed by the National Electronic System for the Online Payment of Taxes and Duties using the bank card (SNEP).

iii. The project developed at the level of SCM – www.rejust.ro, which makes available to the general public the anonymized judicial decisions is continuously improved. Thus, in 2023, within the framework of the Convention concluded by and between the Superior Council of Magistracy and the Institute for Research for Artificial Intelligence “MIHAI Drăgănescu” (ICIA), funded through a Grant in the framework of the Council of Europe’s project TJENI, a **collaboration project was initiated with the Romanian Academy in the field of artificial intelligence** applied on the specifics of the activity of the courts. The project aims to create a data model that would allow an artificial intelligence algorithm using Natural Language Processing – NLP technology to understand the text of documents issued by the court. This will allow the automatic recognition of personal data from the content of court decisions and the algorithm will be used for the anonymisation of case law on www.rejust.ro.

Primarily, this project will aim to achieve the following objectives:

- improving the anonymisation mechanisms so as to present as much relevant information as possible from the content of the case law, while protecting personal data;
- increasing the availability and accessibility of information about courts on their websites so that public service recipients can easily and centrally know this information;
- analysis of the text of legal documents in order to identify possibilities for streamlining the work of the judicial system.

Following the implementation of this project, new opportunities for using the data model or the creation of other data models will be identified in order to improve the efficiency of the courts.

➤ Within the project “Judicial Training and Capacity Building”, financed under the Norwegian Financial Mechanism 2014-2021 and implemented by the Council, as detailed in the [Annex](#), during the reference period it was completed the endowment with IT equipment and furniture of the hearing rooms for minors identified within certain courts . Also, during 2023, the endowment component of the project was extended; new IT equipment will be purchased for the Superior Council of Magistracy, the National Institute of Magistracy and the National School of Clerks, audio-video equipment will be procured for new beneficiaries of hearing rooms for minors at the level of courts, as well as refrigeration and office equipment for the Superior Council of Magistracy.

➤ Within the European funded project "Strengthening the Organizational and Administrative Capacity of the Superior Council of Magistracy", implemented by the Council, as detailed in the [Annex](#), the CSMapp information system was developed. CSMapp is an application designed to meet the Council’s digitization needs, to use the latest technologies and to ensure integration with national

European Rule of Law Mechanism

systems such as ECRIS, but also with other IT applications developed in other projects.

➤ Within the project “Improving digitalisation at the level of the Superior Council of Magistracy” financed by the Recovery and Resilience Mechanism, as detailed in the Annex, the IT infrastructure and IT security of the institution will be supported by components such as technological upgrade of the technical platform, increasing the level of security for cyber infrastructure or endowing with technical means for teleworking.

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

➤ In order to generate statistical data on the activity of courts, the STATIS application, using the existing data from the ECRIS system, continued to be the main judicial statistical tool with national coverage in 2023, which provided information support for a number of indicators for monitoring and evaluating the work of courts and their staff. Developed internally by the IT staff of Argeş Tribunal, under the coordination of the Service of IT and Judicial Statistics of SCM and with the technical and logistical support of the Ministry of Justice, through the short-term completion of the technical upgrade procedures to an improved version, STATIS will be able to provide the possibility to aggregate statistical data in real time, thus generating up-to-date statistical reporting, including at national level (currently the latter are updated on a quarterly basis).

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

➤ In the context of the Strategy for the Development of the Judiciary 2022-2025, in order to achieve the specific objective of defining and implementing a unitary mechanism for the regular evaluation of stakeholder satisfaction at the level of all courts, including the perception of access to justice, measures within the competence of the Council were carried out, i.e. the identification and evaluation of the mechanism for assessing the satisfaction of existing stakeholders and the establishment of the uniform mechanism for assessing the satisfaction to be implemented.

The existing mechanisms for assessing customer satisfaction, i.e. the satisfaction questionnaires used so far from the courts, addressed to litigants, lawyers and journalists, were analysed. A working group was also set up at the level of the SCM to identify and develop a unitary mechanism for assessing the satisfaction of stakeholders, as well as the perception of access to justice. The working group identified the best option, in the absence of additional material resources, for the preparation of a single questionnaire, which will be applied at the level of at least 57 courts – courts of appeal and tribunals – in a unitary manner and at least once a year. The Decision of the Section for Judges no. 2646 of 16.11.2023 approved the questionnaire drawn up within the working group, proposed as a way of assessing the satisfaction of stakeholders. A press briefing was published on the Council’s website on the adoption of the single evaluation mechanism and the model questionnaire adopted.

European Rule of Law Mechanism

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

As mentioned above, it should be emphasised that through the implementation of these projects were achieved the measures assumed on the various components of judicial reform, in the field of **training, optimisation of the management of courts and prosecutors' offices respectively, elimination of factors for the high number of cases, strengthening the organisational and administrative capacity of the Council or improving the system of assessment and psychological assistance at the level of the judiciary**. At the same time, through the **IT mechanisms and applications** developed within these projects and through a unitary vision of their implementation, a substantial reform of the judiciary will be achieved in an interconnected manner and tools for improving performance and efficiency will be made available to the system.

For example, within the project "Optimisation of management at the level of the judiciary. The court component" was developed the Integrated Information System for Court Management (**OptiMapp**), designed to support the administrative and managerial activities of the courts; within the project "Optimisation of management in the judicial system. The prosecutors' office component" was developed the IT application for calculating the complexity and workload of prosecutors/prosecutors' offices; within the project "CPCI — Increasing institutional performance and quality by improving the system of evaluation and psychological assistance at the level of the judiciary", an integrated IT system for evaluation and psychological assistance in the judicial system was developed.

Data on the activities carried out during the reference period in all projects can be found in the Annex.

17. Geographical distribution and number of courts/jurisdictions ("judicial map") and their specialisation, in particular courts or chambers within courts specialized on fraud and corruption cases

During 2023, requests made by some courts or territorial-administrative units concerning the constituencies of certain first instance courts were examined, while the opinion provided for in Article 42(2) of Law No 304/2022 on judicial organisation was issued as regards the draft Government Decision on determining the localities forming part of the constituencies of the courts and prosecutors' offices attached to them.

Last but not least, during the period analysed, the Superior Council of Magistracy approved, in accordance with the legal provisions in the field, the establishment or, as the case may be, the dismantling of specialised panels.

In addition, in the session of 9 May 2023 of the joint Commission No.2 – "Human resources and organisation" it was ordered, inter alia, the establishment of the inter-institutional working group for the elaboration of a human resources strategy, in line with the Specific Objective 3.7. of the Strategy for the Development of the Judicial System (SDSJ) 2022-2025 and its Activity Plan (PASDSJ), as well as with the measures agreed at the Strategic Management Council meeting of 27 April 2023, to develop a study/concept on a new map of courts and prosecutors' offices, as well as of a long-term human resources strategy, including from the perspective of demographic dynamics and economic development of regions to address the vulnerability of human resources shortages in the judiciary.

European Rule of Law Mechanism

In accordance with the provisions of Article 3(3) of Law No 49/2022 on the abolition of the Section for the Investigation of Offences in the Judiciary, as well as for the amendment of Law No 135/2010 on the Code of Criminal Procedure, the Plenum of the Superior Council of Magistracy makes proposals for the appointment by the Prosecutor General of the Prosecutors' Office attached to the High Court of Cassation and Justice of prosecutors who will carry out criminal prosecution in the cases expressly provided for in Article 3(1) and (2) of Law No 49/2022.

According to Article 10 of the same legislative act, the maximum number of appointed prosecutors of the Section of criminal investigation and forensic is 14, and the maximum number of appointed prosecutors in the prosecutors' offices attached to the courts of appeal is 3 for each of them.

In this context, during 2023, by Decisions no. 87 of 18 May 2023 and no.105 of 15.6.2023 of the Plenum of the Superior Council of Magistracy, 2 prosecutors were proposed for appointment by the Prosecutor General of the Prosecutors' Office attached to the High Court of Cassation and Justice, in order to carry out the criminal prosecution in cases provided for by Article 3(1) and (2) of Law No 49/2022.

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

C. EFFICIENCY OF THE JUSTICE SYSTEM⁸

18. Length of proceedings

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

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

➤ *We recall the introduction through the project "Optimisation of management at the level of the judiciary. The court component", implemented by the SCM, **of a new category of staff – the judge's assistant** – which functioned in a pilot exercise within the project, thus being selected 165 experts, acting as assistants of the judge. Due to the success of this pilot exercise, the work of the assistants of the judge being well appreciated in the courts, the new professional category was regulated by the adoption of the law on the status of the judge's assistant on 26 June 2023; after the rejection, on*

⁸ Member States are not required to submit statistical information but must send input per type of information required in section 2

European Rule of Law Mechanism

October 24, of the exceptions of unconstitutionality made in relation to it, the law⁹ was sent for promulgation and has entered into force on December 17th 2023.

OTHER INSTITUTIONAL ISSUES RELATED TO THE CHECKS AND BALANCES

C. Accessibility and judicial review of judgments in administrative matters

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

The preliminary ruling procedure is governed by Article 267 of the Treaty on the Functioning of the European Union (TFEU), thereby ensuring the uniform interpretation of EU law, namely its uniform application by the national courts of the Member States and the protection of the rights of natural and legal persons.

At the level of national law, provisions on referring a request for a preliminary ruling to the Court of Justice of the European Union are contained in the Code of Civil Procedure. Thus, according to Article 412(1), point 7, the proceedings shall be de jure suspended when the court makes a reference for a preliminary ruling to the Court of Justice of the European Union, in accordance with the provisions of the Treaties on which the European Union is founded, and pursuant to Article 413(1)(11) the court may suspend the proceedings where, in a similar case, a request for a preliminary ruling was brought before the Court of Justice of the European Union.

Furthermore, in accordance with Article 21(1) of Law No 554/2004 on administrative litigation, as amended, it constitutes grounds for revision, in addition to those laid down in the Code of Civil Procedure, the delivery of judgments which have become final in breach of the principle of priority of European Union law, governed by Article 148(2) in conjunction with Article 20(2) of the Romanian Constitution, republished.

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

⁹ Law no. 393 on the statute of the assistant of the judges, published in the Official Gazette no. 1132 of December 14th 2023