

Brussels, 24.7.2024

SWD(2024) 823 final

**COMMISSION STAFF WORKING DOCUMENT**

**2024 Rule of Law Report**

**Country Chapter on the rule of law situation in Romania**

**Accompanying the document**

**COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS**

**2024 Rule of Law Report**

**The rule of law situation in the European Union**

**ABSTRACT**

On 15 September 2023, in line with the 2006 decision setting up the Cooperation and Verification Mechanism (CVM), the Commission formally closed the CVM, as Romania had satisfactorily fulfilled all the benchmarks and all recommendations set under the mechanism. Monitoring continues under the Rule of Law report, as for all EU Member States.

Steps were taken to complete the process initiated in view of taking into account the recommendations of the Venice Commission on the Justice Laws, with the focus now on implementation. A number of the disciplinary sanctions imposed by the Superior Council of the Magistracy have been annulled by the High Court of Cassation and Justice, showing that redress continues to be efficient. Efforts are ongoing to ensure adequate human resources for the justice system, although for the time being there are still a number of vacancies which could, over time, affect the quality and efficiency of justice. Significant efforts have been made to improve digitalisation within the justice system. Several additional steps have been taken to ensure the effective implementation of the Justice Laws.

The implementation of the 2021-2025 Anti-Corruption Strategy remains on track. The authorities maintain a positive track record in combating corruption, including as regards high-level corruption cases. However, the delayed legislative response on the statute of limitations continued to result in the closing of many corruption cases and the annulment of convictions. There have been further steps taken as regards the system for investigating and prosecuting corruption offences in the judiciary. A proposal to update the integrity framework has been submitted to the Ministry of Justice, but it does not cover revolving doors. There have been no further steps taken on introducing rules on lobbying for Members of Parliament. The National Integrity Agency continued to work efficiently on conflicts of interest, asset declarations and whistleblowing. The adoption of legislation to improve the transparency of political party financing remains pending. Public procurement remains a sector with a high risk of corruption, and as it is a high priority sector, steps are being taken to identify which areas and procedures are most prone to corruption in public procurement.

The functioning and effectiveness of the National Audiovisual Council is expected to be improved with the update of its technology systems. While information on the shareholding structure of companies holding audiovisual licenses is now public, it still appears difficult for the general public to know who ultimately owns media companies beyond the audiovisual sector. There is still a need to enhance the independent governance and editorial independence of

public service media and lack of funding makes it difficult for public TV to fulfil its public service mandate. Despite a strong legal framework and the application of penalties, some political parties are reported to have increased their financing of private media for political advertising. The legal framework on access to information has not yet improved. Threats and instances of harassment against journalists remain an issue, and commercial pressure on editorial independence affects journalists' work.

Efforts are still needed to ensure effective public consultations as shortcomings persist. Considerable efforts are being made to increase the quality and transparency of the decision-making process; the government is still making frequent use of emergency ordinances, but their number is decreasing. Positive steps have been taken to obtain accreditation for two National Human Rights Institutions. Draft legislation and an upcoming new strategy could contribute to improve the situation of civil society organisations, which continue to face legal and financial challenges.

## RECOMMENDATIONS

Overall, concerning the recommendations in the 2023 Rule of Law Report, Romania has made:

- Some further progress on completing the process initiated to take into account the recommendations in the opinion of the Venice Commission on the Justice Laws.
- Some further progress on ensuring adequate human resources for the justice system, including for the prosecution services, taking into account European standards on resources for the justice system.
- Some progress on taking measures, in particular at an operational level, to address remaining concerns about the investigation and prosecution of criminal offences in the judiciary, including as regards corruption offences, taking into account European standards.
- No progress on introducing rules on lobbying for Members of Parliament.
- No progress on strengthening the rules and mechanisms to enhance the independent governance and editorial independence of public service media taking into account European standards on public service media.
- No further progress on ensuring effective public consultations before the adoption of legislation.
- Some progress on obtaining the accreditation of a National Human Rights Institution taking into account the UN Paris Principles.

On this basis, and considering other developments that took place in the period of reference, and in addition to recalling the relevant commitments made under the Recovery and Resilience Plan, it is recommended to Romania to:

- Complete the process initiated in view of taking into account the recommendations of the Venice Commission on the Justice Laws, including through consultations and evaluations in view of further improving the Justice Laws at a next opportunity.
- Continue 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.
- Take measures, in particular at an operational level, to ensure efficient investigation and prosecution of criminal offences in the judiciary, including as regards corruption offences, taking into account European standards.
- Introduce rules on lobbying for Members of Parliament.
- Step up efforts to strengthen the rules and mechanisms to enhance the independent governance and editorial independence of public service media taking into account European standards on public service media.
- Step up efforts to ensure effective public consultations before the adoption of legislation.
- Take forward the process for obtaining accreditation for two National Human Rights Institutions, taking into account the UN Paris Principles.

## I. JUSTICE SYSTEM

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<sup>42</sup> (...) The National Integrity Agency requested 27 positions, see below in pillar 2 (information received in the context of the country visit to Romania from the National Integrity Agency).

## II. ANTI-CORRUPTION FRAMEWORK

(...)

The National Integrity Agency (ANI) carries out administrative investigations regarding conflicts of interests, incompatibilities of activities and unjustified wealth, and is responsible for the monitoring and verification of declarations of assets, including of all elected officials.

**A proposal to update the legislative framework on integrity has been submitted to the Ministry of Justice, but it does not cover rules on revolving doors.** As reported in 2023, the evaluation of the existing framework on integrity showed that there are gaps and that the fragmentation of the rules on integrity makes it difficult to comply and follow-up with the legal obligations<sup>115</sup>. The project to update and codify the legislative framework on integrity started in 2022 and should enter into force by the end of 2024, in line with Romania's commitments under the RRP<sup>116</sup>. Following consultations with stakeholders in August 2023, on 20 December 2023 ANI submitted a proposal for updating the integrity legislation to the Ministry of Justice. The proposal suggests targeted amendments to the existing laws, which would be combined in one omnibus law<sup>117</sup>. The scope of the proposal remains limited to conflicts of interest, incompatibilities of activities and unjustified wealth and does not cover other aspects of integrity rules. This includes, for example, rules on revolving doors which remain limited and scattered across different laws<sup>118</sup>.

**ANI maintained its results in managing conflicts of interest and asset declarations.** At the end of 2023, a series of austerity measures were taken that affect the public service generally, with an impact on ANI<sup>119</sup>. The low salaries are considered an obstacle to attract competent staff<sup>120</sup> and ANI continues to advocate for a rise in the salaries of inspectors<sup>121</sup>. ANI nevertheless manages to maintain its results of the last years. The number of finalised cases has remained relatively constant. ANI identified a record amount of unjustified wealth of over EUR 6 million<sup>122</sup>. The National Integrity Council (NIC) provides political oversight for ANI, guaranteeing its independence and monitoring its performance<sup>123</sup>. Its 4-year mandate ended in March 2024 but no new members have yet been appointed<sup>124</sup>. ANI is also responsible for the verification and publication of asset declarations. By 31 December 2023, over 11.9 million asset declarations were published<sup>125</sup>. In December 2023, the law was changed so as to no longer allow certain public officials, such as police officers, to anonymise their declarations<sup>126</sup>. Since January 2024, ANI no longer accepts declarations signed by hand, which reduces the risk of errors<sup>127</sup>. The risk analysis platform to help with the verification of the disclosures is expected to become operational in 2024<sup>128</sup>.

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<sup>115</sup> 2023 Rule of Law Report, Country Chapter on the rule of law situation in Romania, p. 18.

<sup>116</sup> Milestone no. 431 of Romania's RRP states: 'Consolidated laws on integrity shall enter into force. The update of the integrity legislation shall be realised based on a prior evaluation and analysis of the integrity laws, together with an initial clustering of the normative acts. Within the second phase of the project, the existing laws shall either be unified and updated, or new normative acts shall be proposed.' Milestone no. 431 will be assessed under the 6th payment request, expected in 2025.

<sup>117</sup> Taking into account the national elections taking place in 2024, Romania does not expect to start the public debate on the proposal before the third quarter of 2024; information received from ANI in the context of the country visit to Romania.

<sup>118</sup> As noted already with concern in the 2021 Rule of Law Report, Country Chapter on the rule of law situation in Romania, p. 16. There are no regulations concerning cooling-off periods for key decision-makers. As a result, moving directly from a job with the regulator to a regulated company, and the other way around, happens frequently, for instance, in the energy or finance sectors. Regulating post-employment interdictions is a measure under the NAS 2021-2025. In the summer of 2023, a working group took place on this topic. Information received from ANI in the context of the country visit to Romania.

<sup>119</sup> This resulted in the loss of 40 (unoccupied) posts out of a total of 200 posts, the loss of around 40% of its middle-management positions and a reduction of salaries. Salaries within ANI are lower in comparison with other similar offices within the public administration of Romania. This is also because a 2017 law created a steady increase in salaries for public officials, which does not apply to ANI. Information received from ANI in the context of the country visit to Romania.

<sup>120</sup> Information received from ANI in the context of the country visit to Romania. There is limited interest in competitions organised to fill in positions in ANI because of non-competitive financial benefits, the complexity of the work and the lack of the statute regulating the specific status of the Integrity Inspector. External Audit of the Management of National Integrity Agency for 2022 (2023), Factual Findings Report.

<sup>121</sup> ANI has asked the Ministry of Justice since 2021 to grant integrity inspectors (in contrast to the other people working in ANI) with a special statute that would allow them to receive a higher salary under the applicable legislation.

**ANI performs the role of main external whistleblower channel and redirects whistleblower reports on corruption to other competent authorities.** The law on whistleblowers' protection, which is part of the RRP, made ANI the main body responsible for external reporting. Throughout the reporting period, ANI received reports on violations of law, offered counselling and established and maintained relations with relevant stakeholders. ANI redirected the 13 reports on corruption it received in 2023 to the DNA and other competent authorities. While ANI is not competent to investigate cases of corruption, it provided these whistleblowers with aid in further proceedings, as well as counselling<sup>129</sup>. From the legally required 15 integrity inspectors in the Whistleblowing Directorate, six inspectors were operational in February 2024 (two in March 2023<sup>130</sup>) and no further competitions will be held in 2024<sup>131</sup>. ANI considers the budget increase of 2024 to be sufficient for its additional tasks on whistleblower reporting<sup>132</sup>. Actions to facilitate the application of the whistleblower protection legislation include raising awareness among the Romanian National Bar Association about whistleblowers' right to free legal aid in case of retaliation for their reporting, irrespective of their income<sup>133</sup>.

**Public procurement remains a sector with a high risk of corruption, and as it is a high priority sector, steps are being taken to identify which areas and procedures are most prone to corruption in public procurement.** (...) The number of integrity warnings issued by the electronic system to prevent conflicts of interests in public procurement continued to be stable over the last four years, while in October 2023, it identified a potential conflict of interest in a public procurement procedure of around EUR 1.4 billion<sup>147</sup>.

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<sup>122</sup> This concerned the case of a Bucharest Court judge, which is pending before the Wealth Investigation Commission attached to the Bucharest Court of Appeal. ANI also filed a request to the Prosecutor's office related to possible conflict of interest of the Bucharest's General Mayor and Mayor of District 5. In September 2023, the Bucharest Court of Appeal admitted the General Mayor's request to annul the evaluation report, which decision has been challenged before the High Court of Cassation and Justice, with a hearing scheduled for 24 September 2024. The Mayor of District 5 also challenged ANI's report but a hearing has not yet been planned. Information received from ANI in the context of the country visit to Romania.

<sup>123</sup> It is comprised of representatives of the categories of officials designated by law to submit asset declarations. ANI argues that the political representation within the 2020-2024 Council lacked equilibrium which presents a risk to its independence and mandate. ANI called upon the Senate in February 2024 to prevent the indirect formation of a majority of the same political colour members within the Council. Preferably, ANI considers that the NIC should not include members of political parties.

<sup>124</sup> In 2023, a member of NIC was investigated by ANI integrity inspectors and the member was revoked by the Romanian Senate. In September 2023, the former Member accused ANI and management of abuse of office in the media. Information received from ANI in the context of the country visit to Romania.

<sup>125</sup> Written input from Romania in the context of the 2024 Rule of Law Report, p. 25 (up from 10.8 million in 2022). Declarations are posted on ANI's website for the duration of the term of office and three years after its termination.

<sup>126</sup> The only exception to this new provision applies to offices for which there is no obligation to submit disclosures (e.g. spouse of the public official working in a private company). Information received from ANI in the context of the country visit to Romania.

<sup>127</sup> See the 2023 Rule of Law Report, Country Chapter on the rule of law situation in Romania, p. 18. This date was postponed from 2023 to 2024 in order to grant all stakeholders the opportunity to allow for electronic signature. However, and despite awareness-raising measures over the past years, there remain public institutions that do not foresee for electronic signature. ANI has therefore started offering this possibility free of charge. The deadline to submit declarations is in June each year.

<sup>128</sup> Information received from ANI in the context of the country visit to Romania. The project was supposed to be introduced at the end of 2023. See the 2023 Rule of Law Report, Country Chapter on the rule of law situation in Romania, p. 18.

<sup>129</sup> ANI received in total 587 reports in 2023, of which 280 were closed, 260 were redirected to other authorities and 47 are under evaluation. ANI provided counselling in a total of 241 cases. Information received from ANI in the context of the country visit to Romania.

<sup>130</sup> 2023 Rule of Law Report, Country Chapter on the rule of law situation in Romania, p. 19.

<sup>131</sup> On 15 December 2023, a Government Emergency Ordinance suspended the organising of competitions for the entire 2024 year. Information received from ANI in the context of the country visit to Romania.

<sup>132</sup> ANI asked in 2023 for additional funds to comply with its new obligations as whistleblowing channel, see 2023 Rule of Law Report, Country Chapter on the rule of law situation in Romania, p. 19.

<sup>133</sup> Information received from ANI in the context of the country visit to Romania.

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<sup>147</sup> There were 21 integrity warnings in 2023, in comparison to 22 in 2022, 26 in 2021, and 20 in 2020. Written input from Romania for the 2024 Rule of Law Report, p. 27 and information received from ANI in the context of the country visit to Romania. See also the 2023 Rule of Law Report, Country Chapter on the rule of law situation in Romania, p. 21.

### III. MEDIA PLURALISM AND MEDIA FREEDOM

(...)

### IV. OTHER INSTITUTIONAL ISSUES RELATED TO CHECKS AND BALANCES

(...)

#### **Annex II: Country visit to Romania**

The Commission services held virtual meetings in February 2024 with:

(...)

- National Integrity Agency

(...)