

**LIBERTIES**

**RULE OF LAW REPORT**

**2024**

**ROMANIA**

**#ROLREPORT2024**



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## **FOREWORD**

This country report is part of the Liberties Rule of Law Report 2024, which is the fifth annual report on the state of rule of law in the European Union (EU) published by the Civil Liberties Union for Europe (Liberties). Liberties is a non-governmental organisation (NGO) promoting the civil liberties of everyone in the EU, and it is built on a network of national civil liberties NGOs from across the EU. Currently, we have member organisations in Belgium, Bulgaria, the Czech Republic, Croatia, Estonia, France, Germany, Hungary, Ireland, Italy, Lithuania, the Netherlands, Poland, Romania, Slovakia, Slovenia, Spain and Sweden, as well as a contributing partner organisation in Latvia.

Liberties, together with its members and partner organisations, carries out advocacy, campaigning and public education activities to explain what the rule of law is, what the EU and national governments are doing to protect or harm it, and gathers public support to press leaders at EU and national level to fully respect, promote and protect our basic rights and values.

The 2024 report was drafted by Liberties and its member and partner organizations, and it covers the situation during 2023. It is a ‘shadow report’ to the European Commission’s annual rule of law audit. As such, its purpose is to provide the European Commission with reliable information and analysis from the ground to feed its own rule of law reports, and to provide an independent analysis of the state of the rule of law in the EU in its own right.

Liberties’ report represents the most in-depth reporting exercise carried out to date by an NGO network to map developments in a wide range of areas connected to the rule of law in the EU. The 2024 report includes 19 country reports that follow a common structure, mirroring and expanding on the priority areas and indicators identified by the European Commission for its annual rule of law monitoring cycle. Thirty-seven member and partner organisations and one independent human rights expert contributed to the compilation of these country reports.

**[Download the full Liberties Rule of Law Report 2024 here](#)**

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# ROMANIA

## About the authors

Association for the Defence of Human Rights in Romania - the Helsinki Committee (APADOR-CH)



APADOR-CH is a non-governmental, generalist human rights organisation, working since 1990 in Romania to promote and protect civil rights, the civic space and the rule of law. Its mission is to take action for the protection of human rights and the establishment of equilibrium when they are in danger or infringed upon. Its vision is a society in which human rights are respected, for everyone, always.

APADOR-CH uses four main tools to achieve its objectives: legislative advocacy, strategic litigation, public communication/watchdog, and monitoring/research. It advocates for access to information of public interest, transparency in the decision-making process and good governance. It documents police abuses and follows up on the implementation of police law. APADOR-CH is also working for the development of efficient legal and institutional mechanisms for respecting human rights and continues to advance the right to freedom of association and assembly, as well as freedom of expression.

## Key concerns

Concerning the Justice Laws, significant changes were adopted at the end of 2022. In 2023, Romania did not finalise the process initiated in view of taking into account the recommendations in the opinion of the Venice Commission on the Justice Laws. The panel of high-level experts created in May 2023 has produced a working document in order to start a comprehensive internal evaluation on how to implement the recommendations

of the Venice Commission, made in Opinion No. 11061/2022, regarding the country's three laws of justice that entered into force at the end of 2022. This document is in the process of internal evaluation, subject to analysis at the level of specialised departments within the Ministry of Justice (it is not public).

Regarding the anti-corruption framework, Romania adopted a new law on the protection of whistleblowers in 2022 as part of the national framework to prevent and combat

corruption, but its implementation at the institutional level lags behind. Parliament's failure to fulfil its constitutional duty to replace a law found unconstitutional in a timely manner has also led to the cessation of legal action in more than 5,000 court cases, many involving politicians and businessmen charged with corruption.





In the area of media environment and media freedom, against the backdrop of a national press weakened in recent years due to being funded by political parties, censorship actions such as those alleged by the Ringier journalists have raised further questions about the editorial independence of Romania's media. The saga of journalist Emilia Șercan continued into 2023, when the Public Prosecutor's Office finally closed all the cases concerning the threats and reputational damage levied against the journalist, who published investigations about the plagiarism of former Prime Minister Nicolae Ciucă.

As regards checks and balances, no progress has been made to establish a National Human Rights Institution taking into account the UN Paris Principles. The applications lodged by the Romanian Institute for Human Rights (RIHR) and by the Ombudsperson before the Global Alliance of National Human Rights Institutions' (GANHRI) Sub-Committee




on Accreditation (SCA) are still pending and are due to be considered in 2024.

In the area of civic space, the targeting of civil society organisations that have challenged Bucharest authorities over real estate developments is alarming, and has led to the closure of one organisation and the near closure of a second. The dissolution of civic organisations that pressure the authorities to do their duties as public officials deprives civic space of actors that are essential in a democracy.

### State of play (versus 2023)

-  Justice system
- N/A** Anti-corruption framework
-  Media environment and freedom of expression and of information
-  Checks and balances
-  Enabling framework for civil society
- N/A** Systemic human rights issues

#### Legend

- | Regression  | No progress   | Progress  |
|---|---|---|
|  |  |  |

## Justice system -

### Key recommendations

- *The Ministry of Justice should speed up the process of internal evaluation regarding the manner of implementing the recommendations formulated by the Venice Commission and make public any information on how (and if) these will be integrated at the administrative and legislative level.*

### Judicial independence

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

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

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

In June 2023, in an extraordinary appeal (appeal in cassation), Piedone was acquitted<sup>1</sup> by the High Court of Cassation and Justice, the country's Supreme Court, on the grounds that the criminal offence imputed by the accusation did not exist. Convicting someone for a non-existent offence is one of the biggest mistakes (if not the gravest) the judicial system

can make. In this case, not only was there a conviction, but the convicted person was also incarcerated for one year and one month following his conviction.

It should be noted that none of the three courts involved in the case (the tribunal, the Court of Appeal and the High Court of Cassation and Justice) agreed with the sentences given out by the lower courts. Indeed, courts don't have to agree on all cases, because this would make appeals useless. However, when there are significant discrepancies between court judgments issued in the same case and based on the same material evidence, there is a striking difference between the initial eight-a-half-year initial conviction and the final acquittal, on grounds that the charges did not exist. The public has every reason to doubt the objectivity and professionalism of the courts, thus affecting public confidence in the judicial system.

1 <https://www.hotnews.ro/stiri-esential-26347971-fostul-primar-cristian-popescu-piedone-pus-libertate-condamnat-4-ani-inchisoare-este-achitat.htm>

## Quality of justice

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

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

Despite this, in 2023, a whistleblower notified APADOR-CH that the Bacău Bar Association refused to grant him legal aid and asked him

to send documents showing his financial situation.<sup>2</sup> He claimed that he was not the only whistleblower who was refused legal aid by the Bacău Bar Association. At the end of August 2023, the Bar Association finally accepted, after the third attempt, the whistleblower's request and assigned him a lawyer without asking him for proof of his financial situation.

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

## Anti-corruption framework N/A

### **Framework to prevent corruption**

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#### **Measures in place to ensure whistleblower protection and encourage reporting of corruption**

In December 2022, Romania adopted a new law on the protection of whistleblowers as part of the national framework to prevent and combat corruption.<sup>3</sup> Its implementation at the institutional level lags behind. For example,

the Romanian police, the Gendarmerie as well as the Ministry of Internal Affairs, all failed to undertake a review of the current legislation on whistleblower rules and procedures in order to make them compliant with the new law on the protection of whistleblowers (according to the assessment of APADOR-CH, and also underlined by the 2023 GRECO<sup>4</sup> report).

The National Integrity Agency (ANI) remains insufficiently resourced. In October 2023, ANI had only 4 integrity officers to handle

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2 <https://apador.org/en/tara-in-care-nici-barourile-de-avocati-nu-respecta-legea/>

3 <https://whistleblowingmonitor.eu/country/romania>

4 <https://rm.coe.int/fourth-evaluation-round-corruption-prevention-in-respect-of-members-of/1680a9c84f>

537 whistleblower complaints (according to an FOIA reply sent to APADOR-CH in October 2023).

## ***Investigation and prosecution of corruption***

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### ***Effectiveness of investigation and application of sanctions for corruption offences (including for legal persons and high level and complex corruption cases) and their transparency, including as regards to the implementation of EU funds***

The Parliament's failure to comply with a constitutional obligation has led to a legal controversy and compromised the prosecution of several criminal cases.

The Criminal Code contains a provision ("the interruption of the statute of limitations") which allows the statute of criminal liability to be extended for a certain period and allows for criminal punishment of a person, even after an extended period has passed since the crime was committed.

In 2018, the Romanian Constitutional Court (CCR) decided through judgement 297/26.04.2018 that this provision of the Criminal Code was unclear and thus unconstitutional. According to the Romanian Constitution,

the Parliament was obliged to replace the unconstitutional text with a constitutional one within 45 days of the publication of the CCR decision. From 2018 to 2022, the Parliament violated its constitutional obligation by not replacing the unconstitutional provision with a constitutional one.

In 2022, the Romanian Constitutional Court issued a new decision (No.358/26.05.2022) regarding the issue of the interruption of the statute of limitations and established that, given the 2018 decision, no legal provision allowing the extension of the period of prescription had existed since 2018. It was only after this decision that the Parliament amended the text of the Criminal Code on the interruption of the statute of limitations, which became constitutional.

Some courts disagreed with the decision that no legal text allowed the interruption (extension) of the statute of limitations between 2018 and 2022. As a result, the matter was referred to the CJEU, which delivered judgement C-107/23 on 24 July 2023. In this decision, it was established, among other things, in answer No.3, that if they invoke the principle of supremacy of Union law, the national courts no longer have to respect the decisions of the Constitutional Court of Romania nor those of the High Court of Cassation and Justice.<sup>5</sup>

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5 "The principle of the primacy of EU law is to be interpreted as precluding national legislation or a national practice pursuant **to which the ordinary national courts are bound by decisions of the national Constitutional Court and binding decisions of the national supreme court and may not, for that reason and at the risk of committing a disciplinary offence, of their own motion disapply the case-law resulting from those decisions**, even if, in light of a judgement of the Court of Justice, they take the view that case-law is contrary to Article 2 TEU, the second paragraph of Article 19(1) TEU, read in conjunction with Article 325(1) TFEU, in application of [Decision 2006/928]." - Judgement C- 107/23 of July 24th 2023.



However, in criminal cases where the question of the intervention of the statute of limitations for criminal liability has been raised, national courts have almost unanimously preferred the application of national decisions, namely CCR (358/2022) and ICCJ (HP decision No.67/2022) decisions, which establish that in the period 2018-2022, there was no legal text allowing the interruption (extension) of the statute of limitations. As a result, in several cases, the trial was halted due to the determination that it was no longer possible to pronounce a judgement of acquittal or

conviction, as pertained to the case. The press reported that the number of cases “cleared” in this manner amounted to more than 5,000 and included politicians and businessmen charged with corruption.

All these issues could have been easily avoided if the Parliament had fulfilled its constitutional obligation to replace a law found unconstitutional by the Constitutional Court with a constitutional one within the 45 days provided for in the Constitution, not four years later.

## Media environment and media freedom

### Key recommendations

- *APADOR-CH recommends that the current draft law 334/2006, subject to public debate, on the financing of the activity of political parties and electoral campaigns should be supplemented with a provision stating that, where the services are provided through intermediaries (in which case the contractor is not the final provider), the list of suppliers submitted must include each intermediary as well as the person or persons who will directly provide the service, i.e. each final provider. More specifically, the obligation to declare must relate to the name of each natural or legal person in the chain of service providers, indicating the purpose, the value and the date of payment for each one. The consequence of this change would be improved public confidence in the media, which is suspected of being bought to a significant extent by political parties through the use of state subsidies.*

### Public service media

#### Independence of public service media from governmental interference

##### Ringier and press freedom in Romania

A press scandal started in the summer of 2023, involving two media outlets - Gazeta

Sporturilor (GSP) and Libertatea, both owned by the Swiss media Group Ringier. GSP's editor-in-chief was fired by Ringier's management on the grounds of 'differences in strategic vision'. In response, 95 GSP and Libertatea journalists published an editorial denouncing repeated editorial interference by some of Ringier Sports Media Group's top managers and their desire to change newsroom

procedures to favour betting companies that are advertising clients, something that the journalists rejected. Following the dismissal of the GSP editor-in-chief, the newspaper's print edition was discontinued for financial reasons and limited to online publication.

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

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

### ***Financing (including transparency of financing)***

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

The European Commission's Rule of Law Report 2023 concludes that, "There have been no significant improvements on the transparency of media<sup>6</sup> financing, particularly audiovisual media, by political parties."

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

An excellent opportunity to increase transparency could be the adoption of the draft law to amend and supplement Law No.334/2006 on financing political parties and election campaigns. The Senate passed the draft law and it is currently under debate in the Chamber of Deputies, registered under No.PL-x516/2023. So far, the Chamber of Deputies has not adopted the draft, as the opinions of several parliamentary committees are still pending.

The draft law provides, among other things, for the introduction of a new article (Article 27/1) to the Law No.334/2006, which obliges political parties which receive state funding to submit to the Romanian Permanent Electoral Authority an itemised statement of expenses incurred from state subsidies in the previous month, until the 25th of each month. According to the draft law, the "itemised

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6 <https://expertforum.ro/wp-content/uploads/2023/08/PB153subventii.pdf>

statement of expenses” also includes “the list of suppliers and the value of provided goods or services”. This new provision is a step towards better transparency but does not help to reveal the complete chain of service providers paid by political parties from state subsidies. This regulation only provides for the disclosure of the first service provider but not that of the final provider, the one actually performing the service. Thus, the true service provider (the final/real beneficiary of the party funds) may be hidden by introducing one or more intermediaries in the service supply chain. If political parties are required to publish the identity of the first supplier (the intermediary, the main contractor), but not the identity of the final supplier, then it cannot be argued that there is full transparency regarding the beneficiaries of payments made from state subsidies to political parties.

APADOR-CH recommends that Paragraph 3 of Article 27.1 should be supplemented with a provision stating that, where the services are provided through intermediaries (in which case the contractor is not the final provider), the list of suppliers submitted must include each intermediary as well as the person or persons who will directly provide the service, i.e. each final provider. More specifically, the obligation to declare must relate to the name of each natural or legal person in the chain of service providers, indicating the purpose, the value and the date of payment for each one.

Otherwise, the real beneficiary of the sums paid by the party will remain unknown, as only the intermediary (possibly a front company) will be known, not the subcontractor or the person who actually provides the service. When it

comes to media, the need to communicate the whole chain of providers is even more significant, so the public can assess whether there is a relationship between the funding received by a media entity and a particular editorial policy.

## ***Safety and protection of journalists and other media actors***

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### ***Rules and practices guaranteeing journalist's independence and safety***

*Law enforcement's capacity to ensure journalists' safety and to investigate attacks on journalists and media activists*

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

In early 2022, Șercan reported that several personal photographs stolen from her were published on various adult sites and news sites. The journalist managed to have the photos taken down through personal efforts and with the help of international organisations, only for them to re-emerge on websites belonging to controversial Romanian owners with ties to politicians. At present, more than a year later since the situation was reported, the Romanian authorities have thus far failed to delete the photos or investigate the culprits.

In the summer of 2023, APADOR-CH submitted a memorandum to the Attorney General<sup>7</sup> of the Prosecutor's Office of the High Court of Cassation and Justice (ICCJ), asking them to take the necessary steps to ensure that the subordinate institutions uphold the law in Şercan's case. More specifically, to comply with their legal obligation (under Article 306, paragraph 1 of the Code of Criminal Procedure) to take the necessary steps to limit the consequences of criminal offences for which a complaint has been logged.

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

The same happened in a separate case concerning the threats received by Şercan after she exposed the academic plagiarism in then Prime Minister Nicolae Ciucă's doctoral thesis. This file was closed on the grounds that further investigation was 'not in the public interest'. Şercan appealed the decision of the Prosecutor's Office in court, which reopened the case.

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

## Checks and balances

### **Electoral framework**

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#### **Limitations on the right to vote**

*Elections managed by the Romanian Intelligence Service*

Romania's National Security Law (L51/1991) was amended in early 2023 by Law 58/2023 on Cybersecurity. The amendments include the definition of new types of threats to national security, such as those listed under Article 3, letter p of the new law: "actions carried out

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<sup>7</sup> <https://apador.org/en/19-ong-uri-ii-cer-procurorului-general-sa-respecte-legea-in-cazul-emilia-sercan/>

by state or non-state entities, by carrying out cyber propaganda or disinformation campaigns aimed at changing the constitutional order.”<sup>8</sup>

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

Nevertheless, Law 58/2023 was passed and enacted with this ambiguous wording. The Ombudsperson appealed the law to the Constitutional Court (CCR), but the court ruled that the law was constitutional.<sup>9</sup>

A few months after the law was passed, Anton Rog, head of the Romanian Intelligence Service (SRI) and the head of the National Cyberint Center, explained in an interview<sup>10</sup> how the Romanian Intelligence Service interprets Article 3, letter p of the new law, admitting that even the political discourse of the opposition parties during election campaigns

can qualify as a national security threat if this discourse can change the constitutional order, as well as the will of the voters, showing how SRI was ready to intervene in ‘counteracting’ these new types of threats: by surveillance operations or censorship of websites.

In 2024, a year with four elections (European, parliamentary, local and presidential), Romanian citizens cannot freely vote for a party or candidate they believe represents them. They will only be able to elect parties or candidates that the Romanian Intelligence Service deems ‘worthy’ to run, i.e., those who do not ‘disinform’ or ‘spread propaganda’ during elections. This is a clear violation of the following constitutional rights: freedom of expression (Article 30), the right to information (Article 31), the right to vote (Article 36), the right to be elected (Article 37-38) and the right of association (Article 40).

Given the worrying statements made by the SRI head, APADOR-CH again urged the Ombudsperson to appeal the amendments to the law on national security to the Constitutional Court, but the Ombudsperson considered that a new intervention was not necessary and asked the Intelligence Service if there were legal guarantees that it would not abuse the new law.<sup>11</sup> The Romanian Intelligence Service responded that these legal guarantees exist.

8 <https://apador.org/en/mos-parlament-vine-cu-amenzi-uriase-si-puscarie-pentru-cine-ameninta-cu-vorba-securitatea-cibernetica-a-statului/>

9 <https://apador.org/en/cerem-avocatului-poporului-sa-atace-la-ccr-legea-care-anuleaza-alegerile-libere/>

10 <https://www.youtube.com/watch?v=dlijLKLrAno>

11 <https://apador.org/en/avocatul-poporului-ne-apara-de-abuzurile-sri-intreband-sri-ce-parere-are/>

## Civic space –

### Key recommendations

- *APADOR-CH recommends that the Ministry of Justice initiate a draft law that would eliminate the possibility of an NGO becoming insolvent (consequently leading to its dissolution), because it goes to court to resolve a matter of public interest. The legislative solution proposed is the introduction in the Code of Civil Procedure (for example, adding a new paragraph to Article 453), or in the special laws that regulate the respective matters (Law 544/2001, regulations in the field of urban planning and the environment), a provision that, in the case of lawsuits whose object is free access to information of public interest or urban planning or environmental issues, court expenses should not be borne by the party that loses the lawsuit, as is the rule, but by exception to the rule in Article 453, paragraph 1 of the Civil Procedure Code that each party should bear its own court costs.*

## Freedom of expression and of information

### Restrictions on access to information

#### *The secrecy surrounding President Iohannis's travel expenses*

Throughout 2023, civil society organisations as well as the media tried to determine the public cost of the President's foreign trips by sending information requests to public institutions, as per law 544/2001.<sup>12</sup> Details have been made public about the rental of private luxury planes used by President Iohannis for various official trips, as well as information that the entire travel budget was spent only in the first half of 2023, i.e. €5 million, and that this budget was supplemented at the end of 2023.<sup>13</sup> This

public interest information has become a closely guarded national secret, although there is no legal basis for the secrecy concerning the flight costs (and no national security reason either).

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

The Presidential Administration first responded that the information was classified "because of" an old government decision from 1998, but that decision only classified the President's flights, not their cost. Until a few years ago, these expenses were public, as they

12 <https://apador.org/en/vin-alegerile-cum-facem-sa-nu-mai-iesim-pacaliti-si-in-2024/>

13 <https://romania.europalibera.org/a/cheltuieli-avion-iohannis/32488672.html>

should be. Then, the General Secretariat of the Government of Romania (SGG) responded that Government Decision 755/1998 was indeed secret, and thus it could not say what it contained, as it was a secret.

The SGG refused even to say which institutions were the initiators of GD 755/1998 and which interested public institutions had been informed of this decision, claiming that even this information was classified. This makes Romania an EU country in which the cost of presidential visits is kept secret through a document that is classified by secret institutions, the secrecy of which is also unjustified since it is impossible to find out who issued this document, why it was kept secret and what it contains using democratic mechanisms.

An investigation by the media outlet Recorder estimated the President's travels in the past year, tallying all the private luxury aircraft against the cost to other EU counterparts.<sup>14</sup> Without any official information, Recorder called on the public to email a petition to the Presidential Administration requesting the disclosure of these public expenses. This initiative gathered over 40,000 requests submitted to the Presidential Administration.<sup>15</sup> Despite public pressure, the President, who at the end of the year was touring several African countries, where he also flew in several private aircraft, refused to disclose the information.

APADOR-CH has initiated legal proceedings for the declassification of this information.

## ***Attacks and harassment***

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### ***Legal harassment, including Strategic Lawsuits Against Public Participation (SLAPPs), prosecutions and convictions of civil society actors***

#### *Dissolution of NGOs due to the loss of lawsuits*

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

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

After successively winning and then losing the lawsuits, finally in 2022 the organisations that

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14 <https://recorder.ro/deasupra-tuturor-cat-costa-zborurile-pe-care-presedintele-le-tine-secrete/>

15 <https://recorder.ro/transparenta/>

represented the interests of the residents lost definitively, and the court determined that they should pay court costs to the developers, to the amount of approximately €60,000.

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

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

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

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

It should be mentioned that there have been previous court cases, that had as their objective free access to information of public interest

(Law 544/2001), several instances in which NGOs or ordinary citizens who lost the court case were forced to pay very high court costs. This creates a deterrence to turn to the courts to resolve issues of obvious public interest, such as obtaining information of public interest.

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



## **Disregard of human rights obligations and other systemic issues affecting the rule of law environment** N/A

### **Other systemic issues**

In early 2023, several press investigations<sup>16</sup> revealed serious abuses,<sup>17</sup> ill-treatment and human rights violations committed over a long period of time in several nursing homes for the elderly and people with special needs near the country's capital (Voluntari, Ilfov). The care centres were private but received public funding for the service they provided, and the journalists' investigations, which continued in the following months, also exposed links between the managers of the centres and politicians in power.

The media investigations were prompted by several reports by the Centre for Legal Resources (CRJ), a non-governmental organisation that conducts unannounced monitoring visits to such centres. During these monitoring visits, the organisation's experts observed multiple human rights violations:<sup>18</sup>

- Arbitrary deprivation of liberty and unlawful confinement;
- Lack of appropriate treatment for people with intellectual and psychosocial disabilities;

- Lack of access to justice - several people have complained, in writing, without receiving a response;
- Poor living conditions, lack of hygiene, bedbugs, and lack of access to personal care products.

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

At the request of the press and the CRJ, the Public Prosecutor's Office opened a criminal investigation, which confirmed the issues raised. In the summer of 2023, the authorities raided several centres in Ilfov. Patients were transferred to hospitals and 24 people involved in the scheme were arrested. The only person still denying knowledge of what was taking

16 <https://www.investigatiimedia.ro/investigatii/lagarele-cristinei>

17 <https://www.investigatiimedia.ro/investigatii/armonia-oamenilor-gabrielei-firea>

18 <https://www.crj.ro/dosarul-azilelor-din-ilfov-d-i-i-c-o-t-recunoaste-calitatea-procesuala-a-crj-in-apararea-drepturilor-si-intereselor-persoanelor-cu-dizabilitati-si-varstnice/>

place under his watch was the Minister of Labour.<sup>19</sup>

Evidence of the involvement of key political figures in this scheme to defraud public funds and torture people with special needs unable to defend themselves continued to emerge. This information revealed that a whole system of public institutions, whose responsibility it was to authorise the operation of these care centres, monitor them, and ensure that the rights of the persons in their care were protected, failed to uphold these duties, and were even defrauded by officials with ties to politicians. The scandal eventually led to the resignation of the Labour Minister, and the head of the Bucharest PSD and Minister for Family, Youth, and Equal Opportunities, Gabriela Firea. Her sister, her best friend and the driver were involved in managing these care centres.

Despite the scandal, the issue disappeared from public view in less than a few months, and by the end of 2023 there was no information on the progress of the investigation. The patients were released, and the accused politicians began to return to public life by distancing themselves from the scandal. In the aftermath of these events, a proposed legislative amendment was put forward by the Ministry of Labour to stop care homes making a profit.<sup>20</sup>

According to the Ministry of Labour, there are 745 homes for the elderly in Romania. Of these, more than 200 are limited liability

companies. Under the planned changes, these centres are to become social enterprises and the managers will be obliged to reinvest 90% of the profits in the development of the centre.

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19 <https://www.investigatiimedia.ro/stiri/toti-stiau-episodul-3-minciuna-lui-budai>

20 [https://mmuncii.ro/j33/index.php/ro/transparenta/proiecte-in-dezbatere/7027-20230908\\_proiect-lege-modific-completare-acte-normative-asistenta-sociala](https://mmuncii.ro/j33/index.php/ro/transparenta/proiecte-in-dezbatere/7027-20230908_proiect-lege-modific-completare-acte-normative-asistenta-sociala)

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*The Association for the Defense of Human Rights in Romania – the Helsinki Committee*

APADOR-CH is a non-governmental organization working to raise awareness on human rights issues and promote human rights standards and the rule of law in Romania and the region.

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### ***The Civil Liberties Union for Europe***

The Civil Liberties Union for Europe (Liberties) is a non-governmental organisation promoting the civil liberties of everyone in the European Union. We are headquartered in Berlin and have a presence in Brussels. Liberties is built on a network of 19 national civil liberties NGOs from across the EU.

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