

# Franet National contribution to the Fundamental Rights Report 2023

## ROMANIA

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## Policy and legal highlights 2022

Franet country study: policy and legal highlights 2022	
Issues in the fundamental rights institutional landscape	In November 2022, three laws concerning the justice system were adopted under a parliamentary emergency procedure and were promulgated by the President, failing to wait for the <a href="#">opinion of the Venice Commission</a> . The laws were criticised both by the Venice Commission as well as by <a href="#">legal think tanks</a> for their potential negative impact on the independence of the judiciary.
EU Charter of Fundamental Rights	No developments in 2022.
Equality and non-discrimination	The Anti-discrimination Law was <a href="#">amended in June</a> to increase the number of members of the steering board of the National Council for Combating Discrimination from nine to 11.
Racism, xenophobia & Roma Equality and Inclusion	<p>In June, a new version of Article 369 of the Criminal Code (on incitement to hate, violence or discrimination) entered into force, after a process of <a href="#">amendments</a> that began in 2021 and involved two constitutional reviews.</p> <p>In February, the Prime Minister issued a <a href="#">decision</a> establishing the committee mandated to monitor the implementation of the <i>National strategy on the prevention and combating of antisemitism, xenophobia, radicalisation and hate speech, for the period 2021-2023</i> and its plan of action. The <a href="#">first annual report</a> was published in May 2022.</p> <p>In April, the Government adopted the long-awaited <a href="#">Strategy of Inclusion of Romanian Citizens belonging to Roma Minority for the period 2022-2027</a>.</p>
Asylum & migration	<p>No developments in 2022 regarding the potential criminalisation of humanitarian assistance.</p> <p>A <a href="#">draft</a> Law on ensuring the national framework for interoperability between the information systems of the European Union in the field of borders and visas, police and judicial cooperation and asylum and migration was published by the Government in June 2022.</p>
Data protection and digital society	The Parliament adopted a <a href="#">Law on amending and supplementing normative acts in the field of electronic communications and on establishing measures to facilitate the development of electronic communications networks</a> implementing the European Electronic Communications Code. The Constitutional Court declared a part of the law <a href="#">unconstitutional</a> .

Rights of the child	<p>A <a href="#">National Strategy on Social Inclusion and Poverty Reduction</a> was adopted in March 2022, which included measures on children.</p> <p>The Government published in May, a <a href="#">draft</a> for the National strategy for the protection and promotion of children's rights.</p> <p>Several draft laws regarding the statute of limitation and additional procedural guarantees for crimes in which the victims are children are pending in the Parliament.</p>
Access to justice, including victims of crime	<p>A new National Mechanism for Preventing Crimes was established (to be operational by 2023).</p> <p>In August, the Government adopted a <a href="#">decision</a> allowing for the piloting of a new electronic monitoring system addressing violence against women.</p>
Convention on the Rights of Persons with Disability	<p>In April, the <a href="#">National Strategy on the Rights of Persons with Disabilities 'An equitable Romania', 2022-2027</a> and its operational plan were adopted.</p>

# 1 Equality and non-discrimination

## 1.1 Legal and policy developments or measures relevant to fostering equality and combating discrimination focusing on LGBTIQ people and combating discrimination on the grounds of socio-economic status, health status and physical appearance

On 28 June 2022, the Parliament adopted an amendment to the Anti-discrimination Law increasing the number of members of the steering committee of the National Council for Combating Discrimination from nine to 11, and providing that one member should be a representative of the Parliamentary Group of National Minorities from the Chamber of Representatives of the Romanian Parliament.<sup>1</sup> The justification for increasing the number of members and including a representative of national minorities was that “racism, xenophobia and antisemitism are a reality affecting several ethnic minorities in Romania”, along with the rise of antisemitic incidents, while the role and importance of the National Council for Combating Discrimination in preventing and combating all forms of discrimination is key.<sup>2</sup> At the time of the adoption of the bill, out of the nine members, there were two Roma and one Hungarian. At the time of writing this report, the Parliament has not voted to fill the new places in the steering committee.

On 20 April 2022, the Parliament adopted the amendment to Law 119/1996 on civil status documents, by joining together under one legal act, the general law, Law 119/1996, with Government Ordinance 41/2003 on obtaining and changing the name of individuals through administrative procedure.<sup>3</sup> The amendment included an important change for transgender persons accessing administrative procedures to change their first name. The previous legal provision required trans persons to present the population registry office with a court judgment ordering the change of sex in civil status documents and “a forensic-medical certificate

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<sup>1</sup> Romania, Law 193/2022 on the amendment of Art. 23 (2) of Government Ordinance No.137/2000 on preventing and combating all forms of discrimination (*Legea 193/2022 pentru modificarea art. 23 alin. (2) din Ordonanța Guvernului nr. 137/2000 privind prevenirea și sancționarea tuturor formelor de discriminare*), 28 June 2022, published in the Official Journal No. 643 of 29.06.2022.

<sup>2</sup> Romanian Parliament, [Statement of reasons](#) of [PL-x no.187/2022](#) of 13.04.2022.

<sup>3</sup> Romania, Law 105/2022 on the amendment of Law 119/1996 on civil status documents and for the repeal of Government Ordinance 41/2003 on obtaining and changing the name of individuals through administrative procedure (*Legea 105/2022 pentru modificarea și completarea Legii nr. 119/1996 cu privire la actele de stare civilă, precum și pentru abrogarea Ordonanței Guvernului nr. 41/2003 privind dobândirea și schimbarea pe cale administrativă a numelor persoanelor fizice*), 20 April 2022, published in the Official Journal No. 412 of 29.04.2022.

from the National Institute of Forensic Medicine confirming sex”, which meant a certificate confirming the existence of a gender reassignment surgery. After the European Court of Human Rights found Romania in violation of Article 8 of the European Convention for imposing the condition of gender reassignment surgery for legal gender recognition in court procedures,<sup>4</sup> this second requirement connected to surgery became clearly in violation of the ECtHR case law, and this is why the Government proposed the removal of this condition from the administrative procedure. However, at the time of writing this report, in Romania, there is still no specific legal framework for legal gender recognition and only a legal basis that does not stipulate any requirements, leaving them at the free discretion of the judge.

## **1.2 Findings and methodology of research, studies, or surveys on experiences of discrimination against LGBTIQ people and on the grounds of socio-economic status, health status and physical appearance**

In April 2022, the National Council for Combating Discrimination published its annual activity report for the year 2021. According to the report, in 2021, out of a total of 1,048 complaints of alleged discrimination filed before the National Council for Combating Discrimination: 13 complaints were on non-contagious disease, 2 on HIV status, 4 on disadvantaged group, 301 on social status, and there were 11 complaints on sexual orientation.<sup>5</sup> Of the 13 complaints on alleged discrimination on the basis of non-contagious disease, 2 cases were in the field of access to housing, 10 cases in the field of employment and profession and 1 case in access to public services. The complaints on the basis of disadvantaged group were related to discrimination in access to housing, access to education, and access to public services. The complaints on HIV status were in the fields of access to employment and profession and access to banking services. The largest majority of cases on social status were in the field of access to employment and profession (261 out of 301 complaints), as well as access to public services, access to education and the protection of personal dignity. All 11 complaints of alleged discrimination on the basis of sexual orientation consisted of discourse affecting personal dignity.<sup>6</sup>

On 10 November 2022, ACCEPT Association and the Euroregional Centre for Public Initiatives published a sociological and legal study, *The situation regarding*

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<sup>4</sup> European Court of Human Rights, [X and Y v. Romania](#), No. 20607/16, judgment of 19 January 2021.

<sup>5</sup> National Council for Combating Discrimination (2022) [Activity Report 2021, p.8.](#)

<sup>6</sup> National Council for Combating Discrimination (2022) [Activity Report 2021, p.10.](#)

*HIV/AIDS in Romania – Understanding challenges that persons living with HIV are facing in accessing health services: the legal framework and prevention programmes.* The study investigated the status quo with respect to information, education, prevention, and accessing healthcare services by persons who are: men who have sex with men, transgender persons, sex workers and persons living with HIV.<sup>7</sup> The research looked at needs and challenges, impact, perceptions and discriminatory experiences in the context of accessing healthcare, and the reflection of the legal framework in the everyday life of a person belonging to these groups. The quantitative sociological research consisted of an online survey questionnaire filled in by 139 persons from the vulnerable categories identified (LGB persons/MSM, persons living with HIV, commercial sex workers, transgender persons, homeless persons), a sample representative at the national level (24 out of 41 counties, 27 settlements) and covered all ages between 18 and 65 years old (good distribution, especially for the category 18-45 years old). The preset sampling cota was minimum 30% HIV and minimum 50% LGBT, in order to have a sample that is representative for the investigated topic and that reflects the target community under research – the results were: 60% LGB persons, 57% persons living with HIV, 11% trans persons, 11% heterosexual persons, 6% IUD users, 5% homeless persons, 2% sex work . The qualitative sociological research consisted of 13 in-depth interviews and two focus groups with persons living with HIV, HIV/AIDS activists, activists in the field of sexual and reproductive health and women’s rights, and persons working in the healthcare system.<sup>8</sup> The legal research identified and analysed the main legal provisions applicable in the field.<sup>9</sup>

The sociological research found that 84 % of the respondents living with HIV are afraid of social stigma associated with their HIV status and 79 % are afraid of discrimination.<sup>10</sup> According to the research, discrimination is a consequence of the intersectionality of different social identities (sexual identity, socio-professional status, ethnicity, etc.) and the person’s HIV positive status. Another conclusion of the research is that the respondents do not report the inconsistencies in the application of the law, discriminatory and other unlawful behaviours, because they consider existing mechanisms of control as inefficient in providing redress; instead 54 % of the respondents prefer to contact non-governmental organisations for help and guidance. As to the gaps in providing ARV (anti-retroviral) treatment,

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<sup>7</sup> ACCEPT Association (2022) [The situation regarding HIV/AIDS in Romania – Understanding challenges that persons living with HIV are facing in accessing health services, the legal framework and the prevention programmes](#) (*Situația HIV/SIDA în România. Înțelegerea provocărilor întâmpinate de persoanele care trăiesc cu HIV în accesarea serviciilor de sănătate, a cadrului juristic și a programelor de prevenire*), p.9.

<sup>8</sup> ACCEPT Association (2022) [The situation regarding HIV/AIDS in Romania – Understanding challenges that persons living with HIV are facing in accessing health services, the legal framework and the prevention programmes](#), p.10

<sup>9</sup> ACCEPT Association (2022) [The situation regarding HIV/AIDS in Romania – Understanding challenges that persons living with HIV are facing in accessing health services, the legal framework and the prevention programmes](#), p.12.

<sup>10</sup> ACCEPT Association (2022) [The situation regarding HIV/AIDS in Romania – Understanding challenges that persons living with HIV are facing in accessing health services, the legal framework and the prevention programmes](#), p.43.



the research identified a discrepancy between the attitudes and perceptions of the patients and those of the medical personnel.<sup>11</sup> The patients declare that there is a recurrent problem of lack of ARV treatment, which creates a lot of anxiety. The medical personnel declare that the stock shortages are due to insufficient financial resources and gaps in the logistical chain, which were under more stress due to the pandemic situation, although they are optimistic about the future. COVID-19 has destabilised the medical routines of patients who live with HIV, in terms of accessing medical services and the availability of ARV treatment.

The legal research revealed that the legal framework provides only formal protection of persons living with HIV.<sup>12</sup> For example, the right to have free access to ARV treatment is significantly affected in terms of continuity and quality of treatment, due to the lack of an adequate administrative and budgetary system and a national HIV/AIDS plan. Another example is that despite the fact that 79 % of respondents declare that they have been discriminated against, the National Council for Combating Discrimination (NCCD) did not apply administrative sanctions, because there were difficulties in proving the causal link between the differential treatment and the HIV status of the complainant. According to the research, during 2003-2021, the NCCD found 23 cases of discrimination on the ground of HIV status, which represents 26 % of the cases reported. The NCCD applied an administrative fine in only six cases, none of which was higher than € 1,000 (RON 5,000).<sup>13</sup>

As to discrimination based on physical appearance, on 8 November 2022, the European Court of Human Rights decided on a case regarding Romania, *Moraru v. Romania*.<sup>14</sup> The ECtHR found a violation of Article 14 of the European Convention on Human Rights in conjunction with Article 2 of Protocol 1 to the Convention regarding the right to education, because the State did not provide any objective and reasonable justification for a refusal to allow a woman, whose height and weight were below the required limits for female candidates, to sit the entrance examination to study military medicine. The ECtHR found that the applicant's size is "a genetic feature which represents a personal characteristic or 'status' that is capable of falling within the non-exhaustive list of prohibited grounds for discrimination set out in Article 14."<sup>15</sup> The ECtHR assessed whether there was any objective and reasonable justification for the difference in treatment that affected the applicant compared to other women, based on the application of domestic law. In this sense, the ECtHR found that the domestic courts "took for granted the

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<sup>11</sup> ACCEPT Association (2022) [The situation regarding HIV/AIDS in Romania – Understanding challenges that persons living with HIV are facing in accessing health services, the legal framework and the prevention programmes](#), p.44

<sup>12</sup> ACCEPT Association (2022) [The situation regarding HIV/AIDS in Romania – Understanding challenges that persons living with HIV are facing in accessing health services, the legal framework and the prevention programmes](#), pp.88-89.

<sup>13</sup> ACCEPT Association (2022) [The situation regarding HIV/AIDS in Romania – Understanding challenges that persons living with HIV are facing in accessing health services, the legal framework and the prevention programmes](#), p.72.

<sup>14</sup> ECtHR, [Moraru v Romania](#), No. 64480/19, 8.11.2022.

<sup>15</sup> ECtHR, [Moraru v Romania](#), No. 64480/19, 8.11.2022, para. 42.

MND's [Ministry of National Defence] assertions concerning the duties of a military physician",<sup>16</sup> they did not evaluate how the principle of interoperability advanced by the Government applies and the legal basis for it, they did not identify which of the duties would require physical strength,<sup>17</sup> and they did not rely on any studies for the justification that the candidate's size equates to strength.<sup>18</sup>

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<sup>16</sup> ECtHR, [Moraru v Romania](#), No. 64480/19, 8.11.2022, para.45.

<sup>17</sup> ECtHR, [Moraru v Romania](#), No. 64480/19, 8.11.2022, paras.48-49.

<sup>18</sup> ECtHR, [Moraru v Romania](#), No. 64480/19, 8.11.2022, paras.52-55.

## **2 Racism, xenophobia and related intolerance**

### **2.1 Data, research findings, studies, or surveys on experiences of ethnic discrimination, racism and hate crime**

The law enforcement authorities do not publish data about ethnic discrimination, racism and hate crime. This information is available to the extent that it is collected, only upon request, but the police, the prosecution service and the courts collect data at different stages of the criminal procedures, and this data is not comparable or traceable.

The National Council for Combating Discrimination (NCCD) is the only public institution that publishes data on the number of cases reported, in its annual activity report for the previous year. In April 2022, the NCCD reported that, out of a total of 1,048 complaints in 2021, there were 49 complaints on grounds of ethnic origin, 75 complaints on nationality, 1 complaint on race, 26 complaints on religion, 13 complaints on language, and 11 complaints on sexual orientation.<sup>19</sup> In its annual report for 2021, the NCCD also published examples of decisions finding discrimination, including a case involving ethnic discrimination against Roma children by their teacher, who addressed them with racist slurs during class, in front of other children, and moved them to sit in the last row, at the back of the class; the NCCD penalised the teacher with an administrative fine of € 400 (RON 2,000).<sup>20</sup> Other examples included discriminatory public discourse on TV or online using racist slurs directed against Roma community<sup>21</sup> and the Hungarian minority,<sup>22</sup> which the NCCD punished with administrative fines ranging from € 1,000 (RON 5,000) to € 1,600 (RON 8,000).

Until the end of 2021, the police did not record the number of cases reported under the aggravating circumstance provided in the Criminal Code for bias motivated crimes, only the number of cases reported under the criminal offence of "Incitement to hate, violence or discrimination" (Article 369 of the Criminal Code): 66 cases were reported in 2021, out of which the police carried out a criminal investigation (against two identified persons) in only two cases and five cases were referred to the prosecutor's office for investigations against another five persons. In May 2022, the General Inspectorate of the Romanian Police adopted a statistical matrix and methodology for data collection in the field of hate

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<sup>19</sup> National Council for Combating Discrimination (2022) [Activity Report 2021](#).

<sup>20</sup> National Council for Combating Discrimination, [Decision no. 824 of 17.11.2021](#).

<sup>21</sup> National Council for Combating Discrimination, [Decision No. 44 of 20.01.2021](#) and [Decision No. 802 of 03.11.2021](#).

<sup>22</sup> National Council for Combating Discrimination, [Decision No. 551 of 14.07.2021](#).

crimes.<sup>23</sup> These documents are not public and it is not known whether they contain a list of bias indicators that the police must evaluate, check and report data on. From the limited information available, the perception of the victim is not taken into account in the process of data collection. The results of the application of these new data collection rules, starting from 1 January 2022, are not yet available.<sup>24</sup>

Underreporting, which was noted by civil society organisations as a result of the reluctance of victims to report hate incidents to the police,<sup>25</sup> is not being addressed by the authorities. This was underlined in the European Commission against Racism and Intolerance (ECRI) 2021 Conclusions on Romania, published in March 2022.<sup>26</sup> ECRI raised concerns that the authorities had made no progress on the level of cooperation between impacted communities and law enforcement officials, which is indicated by the lack of specific measures on enhancing cooperation between the police and vulnerable groups, in particular Roma and LGBT communities, focused on improving the reporting of hate crimes.<sup>27</sup>

As to the data provided by the Ministry of Justice, in the period 2017-2021, there was no case convicted by courts with the aggravating circumstance stipulated by Article 77 (h) of the Criminal Code on any protected ground, no case convicted on "Abuse of office by limiting certain rights based on discrimination" (Article 297 (2) of the Criminal Code), and only five cases decided on "Incitement to hate, violence and discrimination" (Article 369 of the Criminal Code), which resulted in two persons being convicted, although there is no data available as to which protected grounds these convictions referred to.<sup>28</sup> From putting together statistical data and information from judgments available in online databases, it appears that in both cases the judges ordered sentences with imprisonment up to 1 year and 4 months and the execution of the sentence was either suspended<sup>29</sup> or postponed.<sup>30</sup> Data for 2022 is not yet available.

In the first case, the courts found incitement to hatred or discrimination against three individuals who posted several comments on Facebook in 2019 that allegedly incited violence against Hungarians who live in Romania and promoted a demonstration against this minority group at the International Cemetery of Heroes at Valea Uzului. The cemetery is a place that is disputed between local

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<sup>23</sup> General Inspectorate of the Romanian Police (2022) Response No. 511.468/07.07.2022.

<sup>24</sup> General Inspectorate of the Romanian Police (2022) Response No. 511.468/07.07.2022.

<sup>25</sup> European Commission against Racism and Intolerance (ECRI) (2022) Conclusions on the implementation of the recommendations in respect of Romania subject to interim follow-up, 3.03.2022, CRI(2022)04.

<sup>26</sup> ECRI (2022) Conclusions on the implementation of the recommendations in respect of Romania subject to interim follow-up, 3.03.2022, CRI(2022)04.

<sup>27</sup> ECRI (2022) Conclusions on the implementation of the recommendations in respect of Romania subject to interim follow-up, 3.03.2022, CRI(2022)04.

<sup>28</sup> Ministry of Justice, Response of 11 July 2022.

<sup>29</sup> First Instance Court Miercurea Ciuc, [Criminal Judgment No.723/2021, of 10.11.2021](#).

<sup>30</sup> Bucharest Court of Appeal, Decision No.17/2021, of 18.01.2021.

administrations of Harghita and Bacău counties, with the territorial and administrative tensions having nationalistic overtones.<sup>31</sup>

In the second case, involving a young man who published on his Facebook account several photographs depicting fascist symbols, including swastikas, messages of death to people of Roma ethnicity and derogatory messages regarding these people, the Court of Appeal of Bucharest lowered his prison sentence from four years to one year and four months and suspended its execution in favour of two years of supervision by the probation services. The decision was based on the personality of the perpetrator and gravity of the crimes he committed – the young man acknowledged himself as a Hitler fan and a supporter of everything connected to fascism.

In another case, which was decided on appeal on 21 April 2022, the courts found the defendant guilty of incitement to hatred or violence against women.<sup>32</sup> The case involved the publication on YouTube of a music video called “Curwa” (which is an intentional miss-spelling of the derogatory term in Romanian for a woman commercial sex worker), by singer Dani Mocanu. The video depicted women in submissive roles, as sex slaves, wearing a leash like a dog, and being subjected to physical violence by men, while the lyrics talked about women being inferior to men, saying that they should be subjected to violence. The first instance court ordered a punishment of 250 days of criminal fine, which is equivalent to about € 3,000 (RON 15,000), the seizure of USD 34,136, representing the income resulting from the YouTube traffic for the video, and a ban on the right to be elected or to hold public office for two years.

On 12 April 2022, the US State Department released its 2021 Human Rights Report on Romania.<sup>33</sup> The report describes an incident of racist violence against two Romani persons that took place on 3 May 2021, carried out by the police in Baia village, Tulcea county, and reported by RomaJust, the Association of Roma Lawyers. The media also reported on the case.<sup>34</sup> According to the State Department’s report, the police detained the men and took them to the police precinct, where they allegedly severely beat and humiliated them for several hours and used racial slurs against them. The forensic medical examination concluded that the victims’ injuries took two months to heal. According to RomaJust, which is legally representing the victims, the prosecutors started a preliminary investigation into the criminal complaints and<sup>35</sup> one year after the incident, the prosecutor dropped the case altogether on the ground that the allegations had not

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<sup>31</sup> First Instance Court Miercurea Ciuc, [Criminal Judgment No. 723/2021, of 10.11.2021](#). [The Court of Appeal Târgu Mureș](#) upheld this judgment.

<sup>32</sup> Court of Appeal Pitești, [Decision No. 397/2022 of 21.04.2022](#).

<sup>33</sup> US State Department (2022) [2021 Country Reports on Human Rights Practices](#), 12 April 2022.

<sup>34</sup> Libertatea (2021) “They beaten me until my flesh broke”. The Police from a village in Tulcea are being accused of torture, threatening and degrading treatment’ (“[M-au Bătut Până Mi-a Plesnit Carnea](#)”. [Politistii Dintr-o Comună Din Tulcea Sunt Acuzati De Tortură, Amenințări și Umilinte](#)”), of 13 May 2021, available at <https://www.libertatea.ro/stiri/politistii-dintr-o-comuna-din-tulcea-sunt-acuzati-de-tortura-amenintari-si-umilinte-3546334>.

<sup>35</sup> US State Department (2022) [Romania 2021 Human Rights Report](#), pp.27-28.

been confirmed,<sup>36</sup> a decision that was unsuccessfully appealed by the victims in front of the Chief Prosecutor of the Prosecutor's Office of Tulcea First Instance Court and it is currently reviewed by Tulcea Tribunal on procedural aspects related to court competence, after being declined<sup>37</sup> by Babadag First Instance Court.<sup>38</sup> The Ministry of Administration and Internal Affairs replied that the prosecutor carried out the preliminary investigation with respect to allegations of abusive behaviour and torture, without investigating potential racial bias or racial discrimination as an aggravating circumstance according to Article 77 (h) of the Criminal Code, and that the file was closed because the facts could not be established.<sup>39</sup> In the same reply, the Ministry of Administration and Internal Affairs reported that the two complainants are suspects in a criminal file concerning the theft of 100 sheep from a farm in Baia, which took place on 3 May 2021.<sup>40</sup> The police did not open any disciplinary procedures regarding the policemen, given that the criminal procedures were pending and they did not want to interfere with the activity of prosecutors, and that they did not find other deficiencies under disciplinary regulations.<sup>41</sup>

The latest review of the execution of the ECtHR judgment in *Lingurar and Others v. Romania*, by the Committee of Ministers of the Council of Europe took place in June 2021 and the Government had until 15 December 2021 to provide information to the Committee about the measures taken to address ethnic profiling, an obligation that the Government did not fulfil throughout 2022.<sup>42</sup> In this case, the Court found for the first time that discriminatory ethnic profiling of Roma communities by law enforcement agencies in Romania violates Article 3 in its substantive aspect alone and in conjunction with Article 14.<sup>43</sup> The case concerns the disproportionate use of force against the applicants during a police raid on a Roma community in 2011, along with racial bias displayed by the prosecutorial and judicial authorities and their failure to conduct effective investigations and proceedings into these events, including into the applicants' allegations of ethnic profiling and racially motivated ill-treatment by law enforcement, which amounted to a violation of Article 14 in conjunction with Article 3 in its procedural aspect. The execution of this judgment under the supervision of the Committee of Ministers of the Council of Europe revealed that the national authorities do not consider it necessary to take measures to address ethnic profiling.<sup>44</sup> This attitude led the Committee to recommend that the authorities carry out an objective and impartial review of the police and other enforcement agencies, including

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<sup>36</sup> Prosecutor's Office by Tulcea First Instance Court, Response No. 26/VIII-3/IP of 15.06.2022.

<sup>37</sup> Babdag First Instance Court, [Decision no.206/2022](#), of 15.11.2022, in File No. 1081/179/2022.

<sup>38</sup> Tulcea Tribunal, [File no. 1081/179/2022](#). See also Interview with Eugen Ghiță of RomaJust - Association of Roma Lawyers, of 26 May 2022, updated on 4 January 2023.

<sup>39</sup> Ministry of Administration and Internal Affairs, email response of 29 June 2022, point 1.

<sup>40</sup> Ministry of Administration and Internal Affairs, email response of 29 June 2022, point 1.

<sup>41</sup> Ministry of Administration and Internal Affairs, email response of 29 June 2022, point 2.

<sup>42</sup> Committee of Ministers of the Council of Europe (2021) 1406th DH meeting (07-09 June 2021) – Notes, [point 2](#).

<sup>43</sup> ECtHR, *Lingurar and others*, No.5886/15, 16 October 2018.

<sup>44</sup> Committee of Ministers of the Council of Europe (2021) 1406th DH meeting (07-09 June 2021) – Notes, [point 2](#).

disciplinary bodies.<sup>45</sup> Moreover, the Committee re-opened dialogue with the Government on racially motivated ill-treatment by law enforcement and the ineffective criminal justice response to allegations of such serious human rights violations such as those that the Committee had monitored in the past, in the context of the execution of the judgments in the group *Anghelescu Barbu* (No. 1),<sup>46</sup> upheld by the reviews carried out by the General Prosecutor's Office.<sup>47</sup> The Committee recommended "more targeted and comprehensive capacity building"<sup>48</sup> for the specialised prosecutors, including "training on the requirements for an effective response to allegations of abuse by State agents when there are indications or suspicions of discriminatory motives, on detecting bias motivation, including racist, and on handling hate crime",<sup>49</sup> the use of the Council of Europe's relevant expertise and technical cooperation programmes, and strengthening the cooperation of law enforcement with the national equality body.<sup>50</sup> The Committee also urged Romania to complete the envisaged upgrades to the relevant data collection system and to monitor closely the impact of existing strategies.<sup>51</sup>

In May 2021, the General Prosecutor's Office published a thematic assessment of the criminal investigations carried out between 2017-2020 into the criminal offence of incitement to hatred or discrimination (Article 369 of the Criminal Code) and the specific provisions of Emergency Ordinance 31/2002 on the prohibition of fascist, legionnaire, racist or xenophobic organisations, symbols and deeds and the promotion of the cult of persons guilty of genocide against humanity and war crimes. The assessment report recommended the following measures: introducing certain objectives regarding investigations into hate crimes in the programme of semester activities for each prosecutor's office; introducing topics regarding hate speech from the perspective of freedom of expression and the use of internet in the continuous professional education programme of prosecutors; discussion at the level of each prosecutor's office about the results of this review and the provisions of High Court of Cassation and Justice's decisions about recording criminal cases.<sup>52</sup>

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<sup>45</sup> Committee of Ministers of the Council of Europe (2021) 1406th DH meeting (07-09 June 2021) – Notes, point 5, information available at [https://hudoc.exec.coe.int/eng#%7B%22fulltext%22:\[%22lingurar%22\],%22EXECDocumentTypeCollection%22:\[%22CEC%22\],%22EXECIdentifier%22:\[%22004-51929%22\]}](https://hudoc.exec.coe.int/eng#%7B%22fulltext%22:[%22lingurar%22],%22EXECDocumentTypeCollection%22:[%22CEC%22],%22EXECIdentifier%22:[%22004-51929%22]}).

<sup>46</sup> Committee of Ministers of the Council of Europe (2016) Final Resolution [CM/ResDH\(2016\)150](#).

<sup>47</sup> Committee of Ministers of the Council of Europe (2021) 1406th DH meeting (07-09 June 2021) – Notes, [point 2](#).

<sup>48</sup> Committee of Ministers of the Council of Europe (2021) 1406th DH meeting (07-09 June 2021) – Notes, [point 3](#).

<sup>49</sup> Committee of Ministers of the Council of Europe (2021) 1406th DH meeting (07-09 June 2021) – Notes, [point 3](#).

<sup>50</sup> Committee of Ministers of the Council of Europe (2021) 1406th DH meeting (07-09 June 2021) – Notes, [point 2](#).

<sup>51</sup> Committee of Ministers of the Council of Europe (2021) 1406th DH meeting (07-09 June 2021) – Notes, [point 2](#).

<sup>52</sup> Superior Council of Magistracy (2021) Judicial Inspection, [Report on the review of the investigation of cases under the criminal offence stipulated by Article 369 of the Criminal Code and the criminal offences stipulated by Emergency Governmental Ordinance 31/2002, amended by Law 157/2018](#), 14.05.2021,.

Mass media and Aresel, a Roma rights non-governmental organisation, reported several incidents of racism and discrimination against refugees of Roma origin fleeing to Romania from the war in Ukraine. The testimonies of journalists or monitors working in the North Railway Station, Bucharest, one of the main entry points for refugees from Ukraine, indicate several cases when Roma refugees were treated worse than their non-Roma co-nationals because of a systematic discriminatory attitude against Roma in Romanian society. For example, in March 2022, Libertatea newspaper reported a case where the police did not allow an elderly Roma woman refugee to take food from a dining hall because she was speaking Romanian, although she was a Ukrainian citizen living in Ismail, which is on the border with Romania.<sup>53</sup> In another case from April 2022, in a video recorded by Aresel, a woman managing the dining hall operated by ADRA, (an NGO providing services for refugees in the North Railway Station), refused a group of 32 Roma refugees claiming that they were “eating too much”.<sup>54</sup> When asked to comment, the NGO replied that the dining hall was for women and children and that this group was allegedly predominantly male. It also said that the woman who made the statements was not working for ADRA, despite the fact that she was wearing clothing with the distinctive logo of the organisation.<sup>55</sup> The Bucharest Municipal Centre for Coordinating Emergency Situations (Centrul Municipal de Coordonare a Situațiilor de Urgență București) reported that support for refugees is provided without discrimination and that it has not received any complaints regarding discriminatory incidents at the Bucharest North Railway Station.<sup>56</sup> However, both incidents indicate a structural problem that authorities did not take into account, which, coupled with bias against Roma, leads to discrimination and degrading treatment: the lack of adequate assistance for big families with many dependent members – children, elderly people, persons with physical disabilities and pregnant women – with little resources and poor access to information, as is the case for some Roma families. The National Council for Combating Discrimination did not report on any complaint received or decision issued in the context of people fleeing Russian aggression in Ukraine.

## **2.2 Legal and policy developments or measures relating to the application of the Framework**

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<sup>53</sup> Libertatea (2022) [‘What happened to poor Roma refugees from Ukraine who were mixed up with Romanian Roma at the North Railway Station’](#) (‘Ce au pățit niște romi săraci din Ucraina când au fost confundați, în Gara de Nord, cu romi de la noi’), 9.03.2022.

<sup>54</sup> Aresel (2022) [Racism at the North Railway Station](#), 12.04.2022.

<sup>55</sup> Spotmedia (2022) [‘Roma refugees from Ukraine are discriminated against in Romania, Moldova and Czechia’](#): “This prison is your house now” (‘Refugiații romi din Ucraina sunt discriminați în România, Moldova și Cehia: „Această închisoare este casa ta acum”’), 8.08.2022.

<sup>56</sup> Spotmedia (2022) [‘Roma refugees from Ukraine are discriminated against in Romania, Moldova and Czechia’](#): “This prison is your house now” (‘Refugiații romi din Ucraina sunt discriminați în România, Moldova și Cehia: „Această închisoare este casa ta acum”’), 8.08.2022.



## Decision on Racism and Xenophobia and the Racial Equality Directive

In 2022, a new version of Article 369, “Incitement to hate, violence or discrimination”, finally entered into force, after a process of amendment that started in 2021 and involved two Constitutional Court reviews.<sup>57</sup> After the commencement of pre-infringement proceedings by the European Commission, on 30 October 2020, because the former article did not criminalise hate speech directed against an individual member of a protected group, only incitement to hate, violence or discrimination directed against a group,<sup>58</sup> the Government proposed an amendment to the text, which was adopted by the Parliament on 30 June 2021.<sup>59</sup> This first amendment was declared unconstitutional by the Constitutional Court, upon a review request by the President of Romania.<sup>60</sup> The President complained that the proposal did not explicitly enumerate the protected criteria against hate speech, which left room for arbitrariness and legal uncertainty, and instead used the ambiguous phrase, “belonging to a certain category of persons”. Further, the President submitted that the amendment was not in compliance with the Framework Decision, which aims to ease judicial cooperation among the Member States, making sure that there is incrimination for the same facts across the European Union, and clearly underlining the motive of the criminal offence, at least by explicitly mentioning racist and xenophobic motives. On 15 September 2021, the Constitutional Court decided unanimously that the amendment to Article 369 of the Criminal Code was unconstitutional, because it breached the principle of clarity and predictability of criminal law.<sup>61</sup> According to the Court, the general way in which the criminal provisions under review were drafted implies a high degree of unpredictability, raising concerns under Article 7 of the European Convention on Human Rights, as well as other fundamental requirements of the rule of law, because such drafting opens the way to “arbitrary/aleatory interpretations and applications”.<sup>62</sup> The Parliament revised the text and adopted a second version, which is currently in force, having passed a second constitutional review in 2022.<sup>63</sup> This version addresses the European

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<sup>57</sup> Romania, Law no. 170/2022 on the amendment of Article 369 of the Law no. 286/2009 on the Penal Code, 3 June 2022, published in the Official Journal No.548 of 6 June 2022. See also, Romania, Chamber of Representatives, [PL-x no.134/2021, Bill to amend Article 369 of the Law no.286/2009 on the Penal Code \(PL-x nr. 134/2021 Proiect de Lege pentru modificarea art.369 din Legea nr.286/2009 privind Codul penal\)](#). The entire legislative process is [available online](#).

<sup>58</sup> European Commission (2020) [Infringement decisions of 30 October 2020](#).

<sup>59</sup> Romanian Government, [Decision no.E13/18.02.2021](#), and the [bill L33/2021](#).

<sup>60</sup> Romanian President, [Complaint of unconstitutionality](#) regarding the Law for the amendment of Article 369 of the Law No. 286/2009 on the Criminal Code (*Sesizare de neconstituționalitate asupra Legii pentru modificarea art. 369 din Legea nr. 286/2009 privind Codul penal*).

<sup>61</sup> Constitutional Court of Romania, [Decision No. 561/2021](#) of 15 September 2021, published in the Official Journal No. 1076 of 10 November 2021.

<sup>62</sup> Constitutional Court of Romania, [Decision No. 561/2021](#) of 15 September 2021, para. 34, published in the Official Journal No. 1076 of 10 November 2021.

<sup>63</sup> Constitutional Court of Romania, [Decision No. 228/2022](#), of 28 April 2022, published in the Official Journal No. 532 of 31 May 2022.

Commission's concerns mentioned above, expanding the criminal offence to cover incitement against an individual belonging to the protected group and to cover incitement to violence along with incitement against hatred or discrimination.

This second constitutional review was filed by the People's Advocate, who complained that by including "political opinion and affiliation" among the criteria explicitly enumerated at Article 369 of the Criminal Code to identify the categories of persons protected against incitement to violence, hatred or discrimination, the provision violated freedom of expression. The Constitutional Court rejected the complaint, after balancing freedom of expression against non-discrimination and pluralism (applied to the field of political activities, due to the topic of the request). The Court found that the criterion "political opinion and affiliation" is constitutional because the definition of the criminal offence is very clear and predictable, due to the legislature's circumstantiating both *actus reus* and *mens rea* to the respective criterion, which must be considered by the perpetrator as the cause of inferiority of a person in relation to other persons and susceptible of determining a category of persons against which the criminal offence of incitement to violence, hatred or discrimination can be committed.<sup>64</sup> At the same time, the Constitutional Court highlighted that the Council Framework Decision allows Member States to expand the list of protected criteria, which the Romanian State chose to do.<sup>65</sup> The Romanian Constitutional Court found that the punishment of incitement to hatred based on political opinion does not breach freedom of expression because this freedom, like every human right must be exercised in good faith (Article 57 of the Constitution) and it is not an absolute right, but it is subject to explicit limitations stipulated at Article 30(6) and (7) of the Constitution, amongst which there are the fundamental values of national, racial, social and religious tolerance, and non-discrimination.<sup>66</sup> In particular, the Court qualifies these as "values inherent to the human being or values-principle in the Romanian State."<sup>67</sup> The Court also based its decision on political pluralism (Article 40 of the Constitution) and the principle of equality (Article 4 of the Constitution), which in its opinion would remain illusory if there were no effective protection against incitement to hatred based on political opinion and affiliation.<sup>68</sup>

At the level of implementation of the victims' rights, there are two initiatives by the Superior Council of Magistracy that indirectly address the needs of support and protection of victims of hate crime because they relate to Roma victims, vulnerable persons and their access to justice. The goal of these projects is to

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<sup>64</sup> Constitutional Court of Romania, [Decision No. 228/2022](#) of 28 April 2022, paras. 44-45, published in the Official Journal No. 532 of 31 May 2022.

<sup>65</sup> Constitutional Court of Romania, [Decision No. 228/2022](#) of 28 April 2022, para. 41, published in the Official Journal No. 532 of 31 May 2022.

<sup>66</sup> Constitutional Court of Romania, [Decision No. 228/2022](#) of 28 April 2022, paras. 53-54, published in the Official Journal No. 532 of 31 May 2022.

<sup>67</sup> Constitutional Court of Romania, [Decision No. 228/2022](#) of 28 April 2022, para. 55, published in the Official Journal No. 532 of 31 May 2022.

<sup>68</sup> Constitutional Court of Romania, [Decision No. 228/2022](#) of 28 April 2022, paras. 57-59, published in the Official Journal No. 532 of 31 May 2022

improve the level of trust in the judiciary and raise awareness about the rights of the petitioners, in particular the rights of the vulnerable groups:<sup>69</sup>

- The Superior Council of Magistracy has been implementing the first project, Transparency, accessibility and legal education through improving public communication at the level of the judiciary (TAE) since 2018. One part of the project consists in the update and publication of an informative package of information focusing on the rights of vulnerable groups, including the definition of vulnerability and vulnerable group, legal conditions to access legal aid, social services provided by local administration, anti-discrimination measures, protection against domestic violence and support for victims of domestic violence, the rights of persons with disabilities, including family relations, health and social security. Another project activity is a media campaign to disseminate information on TV, radio and outdoors, including a banner that will be displayed at different local and national institutions.<sup>70</sup>
- Under the second project, "Improving access to justice. An integrated approach focusing on Roma population and other vulnerable groups", the Superior Council of Magistracy will organise 130 training sessions for judges, prosecutors and other legal and non-legal professionals on access to justice by vulnerable groups. The Superior Council of Magistracy underlined that 10 of the training sessions will be on the execution of criminal law penalties, focusing on specific aspects related to the Roma population, including protection against torture, the rights of people in detention, preventing discrimination, and will be addressed to judges that supervise the respect of rights of persons in detention, prison personnel, including management, psychologists, etc. The project will also produce a guide covering the aspects mentioned above. The Superior Council of Magistracy will also organise nine workshops for 210 non-legal professionals (members of the mixed public policies for Roma working groups at the local level, health mediators, school mediators, NGO representatives, etc.) aimed at raising awareness on the challenges faced by Roma communities and other vulnerable groups and increasing the capacity to disseminate information about legal aid mechanisms available to these groups. In addition, the Superior Council of Magistracy will organise two conferences on access to justice of Roma population and vulnerable groups, gathering 100 judges, prosecutors and non-legal professionals like those who will participate in the workshops mentioned above; the goal of these conferences is to provide a space for debate among professionals from the judiciary and outside the judiciary on national and European legislation regarding access to justice for Roma population and vulnerable groups, with a focus on effective access to justice and a fair trial, based on ECtHR standards.<sup>71</sup>

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<sup>69</sup> Romania, Superior Council of Magistracy, Response No. 8622/2022 of 19 July 2022.

<sup>70</sup> Romania, Superior Council of Magistracy, Response No. 8622/2022 of 19 July 2022.

<sup>71</sup> Romania, Superior Council of Magistracy, Response No. 8622/2022 of 19 July 2022.

On 28 February 2022, the Prime Minister issued a decision<sup>72</sup> establishing a committee formed of representatives of various ministries,<sup>73</sup> under the coordination of a state secretary within the Chancellery of the Prime Minister, that will monitor the implementation of the *National Strategy on the prevention and combating of antisemitism, xenophobia, radicalisation and hate speech, for 2021-2023* and its action plan, adopted in 2021.<sup>74</sup> The strategy focuses on combating antisemitism, xenophobia, radicalisation and hate speech and the target groups are pupils, students, teachers, employees of public institutions, including police officers and police agents, and civil society in general. The main lines of intervention described in the strategy include: improving data collection; the assessment of the efficiency of the existing legislation; evaluating and updating the training programmes, including those for law enforcement and judges and prosecutors; evaluating and updating school curricula; developing pilot cultural programmes; and strengthening the efforts of Romania at the international level.<sup>75</sup> The action plan for the implementation of the strategy details a set of measures, including a cooperative project between the Romanian Police and the National Institute of Statistics to develop in the first year and a half of the plan a methodology for identifying hate crimes and collecting hate crime data (Action 1.2.1)<sup>76</sup> as well as a methodology for identifying and reporting, at the level of the National Agency for Roma, incidents associated with xenophobia, anti-Roma racism and hate speech targeting the Roma community (Action 1.2.3).

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<sup>72</sup> Prime Minister, Decision 173/2022 on establishing the Interministerial Committee for the monitoring of the implementation of the National strategy on the prevention and combating of antisemitism, xenophobia, radicalisation and hate speech, 2021-23 (*Decizia nr. 173/2022 privind înființarea Comitetului interministerial pentru monitorizarea implementării Strategiei naționale pentru prevenirea și combaterea antisemitismului, xenofobiei, radicalizării și discursului instigator la ură, aferentă perioadei 2021-2023*), of 28 February 2022, published in the Official Journal No. 198 of 28.02.2022.

<sup>73</sup> Chancellery of the Prime Minister, Ministry of Foreign Affairs, Ministry of Internal Affairs, Ministry of Justice, Ministry of Education, Ministry of Culture, Ministry of National Defense, Ministry of Sport, General Secretariat of the Government, the Elie Wiesel National Institute for the Study of Holocaust in Romania, National Agency for Roma. See Prime Minister, Decision 173/2022 on establishing the Interministerial Committee for the monitoring of the implementation of the National strategy on the prevention and combating of antisemitism, xenophobia, radicalisation and hate speech, 2021-23 of 28 February 2022, Annex, published in the Official Journal No. 198 of 28.02.2022.

<sup>74</sup> Romania (2021) [National strategy on the prevention and combating of antisemitism, xenophobia, radicalisation and hate speech, for the period 2021-2023](#), and its plan of action, adopted by Government Decision No. 539/2021 (*Hotararea Guvernului nr. 539/2021 privind aprobarea Strategiei naționale pentru prevenirea și combaterea antisemitismului, xenofobiei, radicalizării și discursului instigator la ură, aferentă perioadei 2021-2023 și a Planului de acțiune al Strategiei naționale pentru prevenirea și combaterea antisemitismului, xenofobiei, radicalizării și discursului instigator la ură, aferentă perioadei 2021-2023*), of 13 May 2021, published in the Official Journal No. 517 of 19.05.2021.

<sup>75</sup> Romania (2021) [National strategy on the prevention and combating of antisemitism, xenophobia, radicalisation and hate speech, for the period 2021-2023](#), and its plan of action, adopted by Government Decision No. 539/2021 of 13 May 2021, published in the Official Journal No. 517 of 19.05.2021.

<sup>76</sup> Romania (2021) [National strategy on the prevention and combating of antisemitism, xenophobia, radicalisation and hate speech, for the period 2021-2023](#), and its plan of action, adopted by Government Decision No. 539/2021, of 13 May 2021, published in the Official Journal No. 517 of 19.05.2021.

A first annual report on the progress on these actions was published in May 2022 and mentions:<sup>77</sup>

- The establishment of the Working Group on Antisemitism aimed at evaluating the level of threat of antisemitism, xenophobia, radicalisation and hate speech against certain vulnerable groups. The only meeting of the group took place on 7 April 2022. A few conclusions of the working group stand out: (1) the need to enhance administrative sanctioning of antisemitic, xenophobic behaviours and incitement to hatred to address underreporting, which is connected to lack of trust in public institutions for not enforcing the law; (2) the need for psychological preparation and evaluation of police officers and agents that are involved in combating such behaviours; (3) currently, only isolated extremist and xenophobic incidents have been registered in Romania, which do not reach the level of a “phenomenon”; (4) there is a need to discuss certain aspects related to evaluating risks connected to antisemitism, xenophobia, radicalisation and incitement to hatred in a limited format at the level of the Ministry of Internal Affairs and other competent structures, due to the sensitive nature of the information in the field of national security.<sup>78</sup>
- Action 1.2.1. has been implemented successfully and in May 2022, the General Inspectorate of the Romanian Police adopted and put into practice a statistical matrix for data collection regarding the activity of the police to combat hate crimes and a methodology for its implementation into the national statistical system, after five rounds of consultation with national institutions competent in the field.<sup>79</sup> The first set of data was collected from 1 January 2022, but the information will only be available in 2023.
- Action 1.2.3 has been partially implemented. The National Agency for Roma is cooperating with the Department for Inter-Ethnic Relations to develop the methodology for the Agency to identify and report incidents associated with xenophobia, anti-Roma racism and hate speech targeting the Roma community. So far, the National Agency for Roma has put together an internal procedure for monitoring online media, which will serve as a basis for establishing the main lines of the methodology.<sup>80</sup>

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<sup>77</sup> Romanian Government (2022) [Annual Report on the progress in the implementation of the National strategy on the prevention and combating of antisemitism, xenophobia, radicalisation and hate speech, for the period 2021-2023](#) (*Raportul anual cu privire la progresul înregistrat în implementarea Strategiei naționale pentru prevenirea și combaterea antisemitismului, xenofobiei, radicalizării și discursului instigator la ură, aferentă perioadei 2021-2023*), May 2022.

<sup>78</sup> Romanian Government (2022) [Annual Report on the progress in the implementation of the National strategy on the prevention and combating of antisemitism, xenophobia, radicalisation and hate speech, for the period 2021-2023](#), May 2022, pp.17-20.

<sup>79</sup> Romanian Government (2022) [Annual Report on the progress in the implementation of the National strategy on the prevention and combating of antisemitism, xenophobia, radicalisation and hate speech, for the period 2021-2023](#), May 2022, pp.22-23.

<sup>80</sup> Romanian Government (2022) [Annual Report on the progress in the implementation of the National Strategy on the prevention and combating of antisemitism, xenophobia, radicalisation and hate speech, for the period 2021-2023](#), May 2022, pp.25-26.

- Action 1.3.1. on the evaluation of training programmes for the police is only at the beginning and will continue in 2022-2023.<sup>81</sup>

Every year, the authorities reserve a certain number of places in the police schools for ethnic minorities as affirmative measures. For example, for admission into Police Academy in the year 2021-2022, there were 480 places for police officers, border police and gendarmes working in the field of public order and security and 27 additional places for candidates with a minority ethnic background (11 Roma, nine Hungarians and seven other minorities).<sup>82</sup> The candidates having a minority ethnic background can opt to compete between themselves on the specific number of places allocated for that minority, which is added to the number of places available to everybody – this means that if candidates from a particular minority are doing very well in the admission tests, they could succeed with higher scores than the general admission scores. Candidates provide a statement of honour that they belong to the ethnic group and they must present a certificate from an ethnic NGO stating that they have a minority ethnic background.<sup>83</sup>

In 2022, one year after the setting up of the Bureau for the investigation of hate crimes and the introduction of police officers specialised in the investigation of hate crimes at the level of each territorial police unit, there has been no public report or assessment of their activities.<sup>84</sup> The only information available is that, throughout 2021-2022, 51 police officers participated in online continuous education sessions, totalling 44 hours, which were provided by the Norwegian National Police and Oslo District Police, who invited experts and members of NGOs from the EU and the United Kingdom.

On 5 May April 2022, the Government of Romania's *Strategy of inclusion of Romanian citizens belonging to Roma minority for 2022-2027*<sup>85</sup> entered into force. The strategy focuses on the inclusion of Romanian citizens belonging to the Roma minority. It acknowledges that persistent discrimination and hate crimes against people belonging to the Roma minority in Romania continue to be an obstacle for their inclusion, by referencing the latest Fundamental Rights Agency reports and

<sup>81</sup> Romanian Government (2022) [Annual Report on the progress in the implementation of the National Strategy on the prevention and combating of antisemitism, xenophobia, radicalisation and hate speech, for the period 2021-2023](#), May 2022, pp.30-31.

<sup>82</sup> Minister of Internal Affairs, [Number of places at Police Academy "Alexandru Ioan Cuza" for the university year 2021-2022 \(Numărul de locuri la Academia de Poliție "Alexandru Ioan Cuza" în anul universitar 2021-2022\)](#).

<sup>83</sup> See Alba24.ro (2021) [Admission Ministry of Internal Affairs 2021: Registrations to schools of police agents, gendarmes, and firefighters. Places, calendar, conditions](#) ('Admitere MAI 2021: Înscrieri la școlile de agenți de poliție și subofițeri jandarmi, pompieri. Locuri, calendar, condiții') 27.02.2021.

<sup>84</sup> Romania, Order of the Ministry of Internal Affairs No. I/1823/26.04.2021, entering into force on 15.05.2021. See General Inspectorate of the Romanian Police, Response No.511.468/07.07.2022, point 43.

<sup>85</sup> Romania (2022) [Government of Romania's strategy of inclusion of Romanian citizens belonging to Roma minority for the period 2022-2027](#) (*Strategia Guvernului României de incluziune a cetățenilor români aparținând minorității rome pentru perioada 2022-2027*), approved by Government Decision No. 560 of 28 April 2022, published in the Official Journal No. 450bis of 5 May 2022.

using the term “antigypsyism”, as defined by the Alliance against Antigypsyism.<sup>86</sup> The strategy focuses on housing, infrastructure, education, employment, and health and establishes an horizontal objective: “improving the existing legislative and normative framework in the field of combating discrimination, and anti-Gypsy attitudes and discourse leading to hate speech and hate crimes”.<sup>87</sup> The action plan to implement this objective includes activities such as monitoring the application of criminal law provisions penalising incitement to hatred and hate crime against Roma and the public discourse that consists of incitement to racial hatred, organising awareness-raising campaigns on the danger of online hate speech, and analysing the case law to consider the dissuasiveness of the punishments applied.<sup>88</sup> The action plan also focuses on continuous education of law enforcement to understand the phenomenon of anti-Gypsyism and of civil servants and employers on combating discrimination and anti-Gypsyism.<sup>89</sup> It aims to include these principles in internal documents and procedures at the level of public and private employers, as well as disseminating good practice by employees in combating racial, multiple and intersectional discrimination.<sup>90</sup>

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<sup>86</sup> Romania (2022) [Government of Romania’s strategy of inclusion of Romanian citizens belonging to Roma minority for the period 2022-2027](#), approved by Government Decision No. 560 of 28 April 2022, published in the Official Journal No. 450*bis* of 5 May 2022, pp.10, 18-20.

<sup>87</sup> Romania (2022) [Government of Romania’s strategy of inclusion of Romanian citizens belonging to Roma minority for the period 2022-2027](#), approved by Government Decision No. 560 of 28 April 2022, published in the Official Journal No. 450*bis* of 5 May 2022, p.29 .

<sup>88</sup> Romania (2022) [Government of Romania’s strategy of inclusion of Romanian citizens belonging to Roma minority for the period 2022-2027](#), approved by Government Decision No. 560 of 28 April 2022, published in the Official Journal No. 450*bis* of 5 May 2022, Annex 6.

<sup>89</sup> Romania (2022) [Government of Romania’s strategy of inclusion of Romanian citizens belonging to Roma minority for the period 2022-2027](#), approved by Government Decision No. 560 of 28 April 2022, published in the Official Journal No. 450*bis* of 5 May 2022, Annex 6.

<sup>90</sup> Romania (2022) [Government of Romania’s strategy of inclusion of Romanian citizens belonging to Roma minority for the period 2022-2027](#), approved by Government Decision No. 560 of 28 April 2022, published in the Official Journal No. 450*bis* of 5 May 2022, Annex 6.

### 3 Roma equality and inclusion

#### 3.1 Policy developments in regards to the implementation of national action plans

Development regarding the implementation of the action plans	
<p>Has the Member State adopted one or several action plan(s) for the implementation of the strategy (separately from the strategic framework)? If yes, please provide a hyperlink</p>	<p>Yes. The Romanian Government's strategy for the inclusion of Romanian citizens belonging to the Roma minority for the period 2022-2027 (<a href="#">Strategia Guvernului României de incluziune a cetățenilor români aparținând minorității rome pentru perioada 2022-2027</a>) was adopted together with its six action plans: Annex 1 – Plan of measures related to Specific Objective 1 – Improvement of conditions of housing of members of vulnerable Roma communities Annex 2 – The plan of measures related to Specific Objective 2 – Ensuring access of Romanian citizens of Roma ethnicity to a quality inclusive education system Annex 3 – The plan of measures related to Specific Objective 3 – Increasing the degree of employment of Roma in accordance with market requirements in terms of their professional development Annex 4 – The plan of measures related to Specific Objective 4 – Improving the health status of members of vulnerable Roma communities Annex 5 – The plan of measures related to Specific Objective 5 – Supporting the research, conservation and promotion of Roma cultural heritage and Roma cultural identity Annex 6 – The plan of measures related to Specific Objective 6 – Specific measures: Combating anti-Roma discrimination, speech and attitudes that generate hate speech or hate crimes</p>
<p>How were Roma and Traveller civil society organizations consulted for the</p>	<p>On page 8 of the Romanian Government's <i>Strategy for the inclusion of Romanian citizens belonging to the Roma minority for 2022-2027</i> (<a href="#">Strategia Guvernului</a></p>



<p>development of the action plan (please check with the competent national authorities and the most significant Roma organizations)?</p>	<p><a href="#">României de incluziune a cetățenilor români aparținând minorității rome pentru perioada 2022-2027</a>) there is this specification:</p> <p>“Appreciating the importance of the existence of a partnership framework, the National Agency for Roma (Agenția Națională pentru Romi, ANR), with active participation and in close collaboration with:</p> <ul style="list-style-type: none"> <li>• The National Contact Point for Roma (Punctul Național de Contact pentru Romi, PNCR), within the Ministry of European Investments and Projects (Ministerul Investițiilor și Proiectelor Europene, MIPE) MIPE;</li> <li>• The relevant authorities involved at national/county/local level;</li> <li>• Advisory Council of the National Agency for Roma (Consiliul Consultativ al Agenției Naționale pentru Romi);</li> <li>• Civil society;</li> <li>• Formal and informal leaders of Roma communities in Romania;</li> </ul> <p>initiates this Strategy of the Romanian Government for the inclusion of Romanian citizens belonging to the Roma minority for the period 2022-2027.”</p> <p>On the Romanian Government website there is an information from <a href="#">February 26, 2019</a> that presents the meeting dedicated to the debate on the situation of the Roma attended by the representative of the Romanian Government (State Counsellor, the Secretary General of the Government, and the president of the National Agency for Roma) and representatives of Together Community Development Agency Foundation (Fundația Agenția de Dezvoltare Comunitară “Împreună”), the Resource Centre for Social Inclusion Cris (Centrul de resurse pentru incluziune socială Cris) and the Amare Rromentza Roma Centre (Centrul</p>
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Rromilor "Amare Rromentza"), STAR MED ROM Association, Pro Life Nations, Romani CRISS, Nevo Parudimos, Pakiv Romania, the National Union of Roma Communities (Uniunea Națională a Comunităților de Romi), the Civic Union of Young Roma from Romania (Uniunea Civică a Tinerilor Romi din România) and of the Alliance for Roma Unity (Alianța pentru Unitatea Romilor).

The meeting was presented as the first of a series of consultations that will take place, including at the local level, regarding the realisation of a new strategy for improving the situation of Roma in Romania.

The representatives of Together Community Development Agency Foundation (*Fundația Agenția de Dezvoltare Comunitară "Împreună"*) submitted a memorandum prepared together with many Roma and pro-Roma NGOs.

In February 2020, a coalition of Roma and pro-Roma NGOs presented to the Government the [Public policy recommendation in the field of social inclusion of members of Roma communities in Romania for the period 2021-2027](#), published on the National Roma Agency website (Agenția Națională pentru Romi – ANR). From the outset, the ANR states that in "the process of drafting this public policy recommendation in the field of Roma inclusion, the National Agency for Roma took into account the views of the members of the Advisory Council of the ANR, the recommendations of non-governmental organisations that made recommendations to the ANR for the revision of the action directions of HG18/2015, the interventions of experts from the County Offices for Roma within the Prefectures, representatives of the County Councils, representatives of the deconcentrated institutions with attributions in the implementation process of the measures contained in Governmental Decision 18/2015 - sectoral areas, representatives of Roma and non-Roma civil society at local/county/regional level, formal and informal Roma leaders, workers for the benefit of Roma communities (health mediators, school mediators, local experts,

	<p>s. a.), as well as the views of academic representatives who interacted with members of the ANR team.”</p> <p>As mentioned in a 2022 monitoring report,<sup>91</sup> the draft strategy, the public policy recommendation, was “differently structured compared to the previous strategy, with a new approach to the Strategy's core priorities and, above all, to funding sources”. The Ministry of European Funds, in its communication, “<a href="#">Status of measures needed to meet the enabling conditions 2021-2027</a>” (not dated), stated that the document did not comply with the format, content and procedure for drafting a strategy as regulated by the internal regulatory framework.</p> <p>The work on the new Roma Strategy began in 2017 when ANR decided to reconfigure its Advisory Council by launching a public call for interest. More than 70 NGOs responded, expressing their interest in being part of the ANR Advisory Council. During 2017, 2018 and 2019 many of these NGOs actively participated in the structuring of the public policy recommendation on Roma inclusion together with representatives from the field (both at county and local level) from local public authorities, county authorities, civil society and the Roma community. According to Daniel Rădulescu (then president of the ANR), interviewed by Florin Moisa for the report, the data collected during the events organised by the ANR and attended by representatives of this Advisory Council represent the starting point for the strategy.</p> <p>After the document was presented to the Government, the involvement of NGOs decreased, partly due to the COVID-19 pandemic but also because it was the</p>
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<sup>91</sup> Moisa, F (coord.) (2023) “Civil society monitoring report on the quality of the national strategic framework for Roma equality, inclusion and participation in Romania” (to be published). The report is part of the initiative, Preparatory Action – Roma Civil Monitoring – Strengthening capacity and involvement of Roma and pro-Roma civil society in policy monitoring and review, implemented by a consortium led by the Democracy Institute of Central European University (DI/CEU), including the European Roma Grassroots Organisations Network (ERGO Network), the Fundación Secretariado Gitano (FSG) and the European Roma Rights Centre (ERRC). The initiative is funded by the European Commission’s Directorate-General Justice and Consumers (DG Just) within service contract JUST/2020/RPAA/PR/EQUA/0095.

	<p>turn of central national authorities to work on the document. Between April and June 2020, the Ministry of European Funds facilitated a number of consultations with ministries and central public authorities. Between 23 August and 3 September 2020, the ANR organised eight regional meetings, with the participation of 320 people involved in the implementation of the Strategy for the inclusion of Romanian citizens belonging to the Roma minority 2015-2020 (<a href="#">Strategia Guvernului României de incluziune a cetățenilor români aparținând H.G. 18/2015</a>). The draft strategy was launched for public consultation, in accordance with Law No. 52/2003 on transparency in decision making in public administration, from 6 to 23 November 2020, with contributions from 19 institutions and organisations, including six civil society, non-governmental organisations with a predominantly Roma membership. The text of the strategy was adopted on 28 April 2022 and published in the Official Journal on 5 May 2022 (the date of its entry into force).</p> <p>As noted by the leaders of significant Roma organisations (conclusions of the report mentioned above and phone interviews made with the president of the Resource Centre for Roma Communities, and the executive manager of Community Development Agency “Împreună”, it is clear that key civil society organisations were not involved after 2021.</p> <p>The Roma Civil Monitoring mentions that `overall, Roma organizations and experts were heavily involved in the drafting and development of the Strategy.`<sup>92</sup></p>
<p>Was the Equality Body and the NHRI and the Ombuds institution in your country consulted in the development of the action plan (please check with the competent</p>	<p>On 30 August, requests for public information were sent to the following institutions with specific questions in this regard: the People's Advocate (Avocatul Poporului), the Romanian Institute for Human Rights (Institutul Român pentru Drepturile Omului – IRDO), and the National Council for</p>

<sup>92</sup> Roma Civil Monitor, [Roma in Romania](#) (2022).

<p>national authority, the Equality body, NHRI and Ombuds institution)?</p>	<p>Combating Discrimination (Consiliul Național pentru Combaterea Discriminării – CNCD).</p> <p>We received a reply from IRDO on 5 September. According to IRDO, it was not consulted in the process of developing the strategy's action plans.</p> <p>The People's Advocate (Avocatul Poporului) did not respond to the request for public information.</p> <p>The CNCD responded that it has been consulted in the process of developing the strategy's action plans. The National Council for Combating Discrimination is responsible for the implementation and monitoring of the strategy, as it is represented on the Interministerial Committee for the Implementation, Monitoring and Evaluation of the Strategy.</p> <p>According to the CNCD answer dated 9 September 2022, the National Agency for Roma (ANR) held a series of meetings with representatives of the ministries at the Government's headquarters in order to prepare the first meeting of the Interministerial Committee for the Implementation, Monitoring and Evaluation of the Strategy. So far, ANR has not asked to meet CNCD to discuss specific issues in order to prepare for the first meeting of the Committee or the thematic working group.</p>
<p>Does the national strategic framework and the action plan foresee a regular monitoring and review? If yes, who will conduct this.</p>	<p>There is some relevant information which we could not define as legal or policy and did not include in the updated version. We would appreciate your feedback/ ok to include in the text data which was released on the new census. However we do not know where to squeeze it. Briefly, on December 30, 2022, the National Institute of Statistics (Institutul Național de Statistică) has published the preliminary results of the Population and Housing Census conducted in 2022.</p> <p>The results of Roma registration are included. If in 2011 the number of self-declared Roma was 621,573, which represents 3.3% of Romania's self-declared ethnicity, in 2022 the number drops to 569,500 (3.4% of Romania's self-declared ethnicity). Since the 2002 census it has been discussed that the</p>

number of Roma in Romania is not correctly reflected in the census data. The European Commission, in its [EU Framework for National Roma Integration Strategies up to 2020](#), estimates the number of Roma in Romania at a minimum of 1.2 million people. As a result, in order to better reflect the number of ethnic Roma in Romania, in 2010 campaigns were carried out to convince ethnic Roma to declare their ethnicity to the census taker. The results of the 2011 census show the results of these campaigns, so that more than 85,000 people declared that they are Roma.

The 2022 census (which was supposed to take place in 2021 but was postponed due to the Covid pandemic to 2022) failed to maintain the upward trend achieved in 2011. Efforts have been made to improve the census questionnaire to allow better ethnicity registration to overcome barriers caused by fear and discrimination. Two proposals were submitted, one aimed at registering Roma ethnicity and the second proposed to use the Hungarian census model with two questions on ethnicity. The first option was preferred despite the proven results of the 2002 and 2011 Hungarian censuses.

The results of the 2022 census strongly contradict scientific estimates made in 1998 (Research Institute for Quality of Life) and 2015 (Institute for the Study on National Minority Issues), as well as those of Roma organizations. The Romanian Government's strategy for the inclusion of Romanian citizens belonging to the Roma minority for the period 2022-2027 ([Strategia Guvernului României de incluziune a cetățenilor români aparținând minorității rome pentru perioada 2022-2027](#)) also states that the number of Roma is estimated to be between 1.5 and 2 million persons. This failure of non-registration will provide further arguments to further discriminate against the Roma and to make undersized public policies.

	Census Year	Number	percentage of Roma in the total number who declared their ethnicity
	1930	242656	1,7
	1956	104216	0,6
	1966	64197	0,37
	1977	227398	1,05
	1992	409723	1,76
	2011	621573	3,3
	2022	569500	3,4
	<b>Implications of the war in Ukraine on the situation of Roma</b>		
Have Roma from Ukraine entered your country?	Yes		
If Roma from Ukraine entered your country how was this communicated in the media?	Yes A short search on the topic reveals two categories of media reports: positive news about Roma (Roma helping Roma, Roma protesting against the war, Roma are protecting their country from the invasion); and news about the discrimination that Roma fleeing the war in Ukraine are facing in Romania, Czech Republic, Republic of Moldova, Hungary and Germany.		
Is there any evidence (articles, reports, analyses) of the impact of the economic implications of the war (inflation, food or	No such analysis could be identified, not only in regards of the impact on Roma but also on the impact on the population in general.		

energy prices etc.) on Roma? If yes, provide reference	
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### **3.2 Legal and policy developments or measures directly or indirectly addressing Roma/Travellers equality and inclusion**

On December 30, 2022, the National Institute of Statistics (Institutul Național de Statistică) has published the preliminary results of the Population and Housing Census conducted in 2022.<sup>93</sup> The results of Roma registration are included. If in 2011 the number of self-declared Roma was 621,573, which represents 3.3% of Romania's self-declared ethnicity, in 2022 the number drops to 569,500 (3.4% of Romania's self-declared ethnicity). Since the 2002 census it has been discussed that the number of Roma in Romania is not correctly reflected in the census data. The European Commission, in its [EU Framework for National Roma Integration Strategies up to 2020](#), estimates the number of Roma in Romania at a minimum of 1.2 million people. As a result, in order to better reflect the number of Roma in Romania, in 2010 campaigns were carried out to convince ethnic Roma to declare their ethnicity to the census taker. The results of the 2011 census show the results of these campaigns, so that more than 85,000 people declared that they are Roma.

The 2022 census (which was supposed to take place in 2021 but was postponed due to the Covid pandemic to 2022) failed to maintain the upward trend achieved in 2011. Efforts have been made to improve the census questionnaire to allow better ethnicity registration to overcome barriers caused by fear and discrimination. Two proposals were submitted, one aimed at registering Roma ethnicity and the second proposed to use the Hungarian census model with two questions on ethnicity. The first option was preferred despite the proven encouraging results of the 2002 and 2011 Hungarian censuses.

The results of the 2022 census strongly contradict scientific estimates made in 1998 (Research Institute for Quality of Life) and 2015 (Institute for the Study on National Minority Issues), as well as those of Roma organisations. The Romanian Government's Strategy for the inclusion of Romanian citizens belonging to the Roma minority for the period 2022-2027 also states that the number of Roma is estimated to be between 1.5 and 2 million persons. This failure of non-registration will provide further arguments to further discriminate against the Roma and to make undersized public policies.

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<sup>93</sup> Hotnews, Dan Popa, First results of the census ([Primele rezultate ale Recensământului 2022](#)), 30 December 2022.



<b>Evolution of the percentage of Roma population by year</b>		
Census Year	Number	percentage of Roma in the total number who declared their ethnicity
1930	242656	1,7
1956	104216	0,6
1966	64197	0,37
1977	227398	1,05
1992	409723	1,76
2011	621573	3,3
2022	569500	3,4

No other policy developments or measures directly or indirectly addressing Roma/Travellers equality and inclusion were identified.

The Roma Civil Monitor published its most recent updates on Romania highlighting that `governmental public policy in Romania has put all the Roma in a stereotyped box named "vulnerable social group" ...During the last 20 years, public policy targeting Roma has addressed the social needs of the Roma community, ignoring their culture and identity and the need to increase the

group's self-esteem and improve perception by the majority population...during the last 20 years, public policy targeting Roma has addressed the social needs of the Roma community, ignoring their culture and identity and the need to increase the group's self-esteem and improve perception by the majority population. <sup>94</sup>

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<sup>94</sup> Roma Civil Monitor, [Roma in Romania](#) (2022).

## 4 Asylum, borders, visas, migration and integration

### 4.1 National legal framework on criminalisation of 'humanitarian assistance' and domestic transposition of sanctions

EUMS	Implementation of Article 3 of <a href="#">Directive 2002/90/EC</a>	
Romania	<p><b>How has your EUMS implemented Article 3 of Directive 2002/90/EU</b></p>	<p><b>Hyperlinked legal provision in EN and national language</b></p> <p>Criminal Code of 17 July 2009 (Law No. 286/2009), Official Journal No. 510 of 24 July 2009 - <i>Codul Penal din 17 iulie 2009</i> (<a href="#">Legea nr. 286/2009</a>), <i>Monitorul Oficial nr. 510 din 24 iulie 2009</i>,  <a href="https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww.just.ro%2Fwp-content%2Fuploads%2F2021%2F11%2FNoul-cod-penal-EN.doc&amp;wdOrigin=BROWSELINK">https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww.just.ro%2Fwp-content%2Fuploads%2F2021%2F11%2FNoul-cod-penal-EN.doc&amp;wdOrigin=BROWSELINK</a> (in English),  <a href="https://legislatie.just.ro/Public/DetaliiDocument/109855">https://legislatie.just.ro/Public/DetaliiDocument/109855</a> (in Romanian).</p> <p>Note: The initial transposition of the Directive was done through Government Emergency Ordinance No. 194/2002 of 12 December 2002 on the regime of foreigners in Romania, Official Journal No. 421 of 2 June 2008 - <i>Ordonanța de Urgență a Guvernului nr. 194 din 12 decembrie 2002 privind regimul străinilor în România</i>, <i>Monitorul Oficial nr. 421 din 5 iunie 2008</i>, <a href="https://www.refworld.org/docid/544676df4.html">https://www.refworld.org/docid/544676df4.html</a> (in English), <a href="https://legislatie.just.ro/Public/DetaliiDocument/93712">https://legislatie.just.ro/Public/DetaliiDocument/93712</a> (in Romanian).            From 1 February 2014, the articles transposing the Directive were transferred to the Criminal Code through Law No. 187/2012 on the</p>

		implementation of Law No. 286/2009 Criminal Code, published in the Official Journal No. 757 of 12 November 2012 - <i>Lege nr. 187 din 24 octombrie 2012 pentru punerea în aplicare a Legii nr. 286/2009 privind Codul penal</i> , available at <a href="https://legislatie.just.ro/Public/DetaliiDocumentAfis/142722#id_artA1127">https://legislatie.just.ro/Public/DetaliiDocumentAfis/142722#id_artA1127</a> (in Romanian).
	<b>Cases [incident numbers] of criminalisation of humanitarian assistance</b>	
	<b>Number of cases recorded by the police in 2022</b>	<b>Number and details of cases (if available)</b> No cases registered (recorded) of criminalising humanitarian assistance by the General Inspectorate of Border Police <sup>95</sup>
	<b>Number of investigations initiated in 2022</b>	<b>Number and details of cases (if available)</b> No cases registered (recorded) of criminalising humanitarian assistance by the General Inspectorate of Border Police <sup>96</sup>
	<b>Number of court decisions taken in 2022</b>	<ul style="list-style-type: none"> <li>• <b>Number and type of court decisions, information if decision is final.</b></li> <li>• <b>Type of penalties imposed according to Article 1 <a href="#">2002/946/JHA: Council framework Decision of 28 November 2002 on the strengthening of the penal framework to prevent the facilitation of unauthorised entry, transit and residence</a></b></li> </ul>

<sup>95</sup> Romania, General Inspectorate of Border Police, written response provided on 06.10.2022.

<sup>96</sup> Romania, General Inspectorate of Border Police, written response provided on 06.10.2022.

		<ul style="list-style-type: none"> <li>• <b>Describe in max three-four sentences the key court decisions in 2022 and add hyperlink to decision (if available)</b></li> </ul> <p>No developments in 2022. According to research conducted in the national jurisprudence database of the Ministry of Justice, there were no court decisions issued on this specific topic in 2022.</p> <p>No cases were registered at the level of the Directorate for the Investigation of Organised Crime and Terrorism<sup>97</sup></p>
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## 4.2 Use of the large-scale IT systems in the area of asylum, migration and border control

Several legislative acts have been adopted or are still in the legislative process:

1. On 24 June 2022, the Ministry of Internal Affairs published in the legislative transparency procedure the draft Law on ensuring the national framework for interoperability between the information systems of the European Union in the field of borders and visas, police and judicial cooperation and asylum and migration.<sup>98</sup> With regard to the impact on fundamental human rights and freedoms, the *reasoning of the draft law* mentioned that the application of the norms contained in the

<sup>97</sup> Romania, Directorate for the Investigation of Organised Crime and Terrorism within the Prosecutor Office of the High Court of Cassation and Justice, written response provided on 21.09.2022.

<sup>98</sup> Romania, Draft Law on ensuring the national framework for interoperability between the information systems of the European Union in the field of borders and visas, police and judicial cooperation and asylum and migration ([Proiectul Legii privind asigurarea cadrului național pentru interoperabilitatea dintre sistemele de informații ale Uniunii Europene în domeniul frontierelor și vizelor, al cooperării polițienesci și judiciare și al azilului și migrației](#)), published on 24.06.2022, (only in Romanian).

regulations will contribute to the protection of the right to life and the fight against slavery and forced labour, will support actions to detect missing children or children who are the subject of human trafficking, by facilitating quick and specific actions. An easy identification of persons will also contribute to an effective observance of the right to asylum and the ban on return. Interoperability will prevent situations where asylum seekers are unlawfully detained or unjustifiably expelled. In addition, with the help of interoperability, identity fraud will be easier to identify. Moreover, it will reduce the need to exchange data and information with third countries about asylum seekers (especially the country of origin) to establish the identity of the person and to obtain travel documents, which could pose a danger to the person concerned.

The draft is still in the legislative process.

2. On 2 November 2022, the Government approved the draft Law on the organisation and operation of the National Signalling Information System and Romania's participation in the Schengen Information System.<sup>99</sup> Its aim is to ensure the national legal framework necessary for the exchange of data with the Member States of the Schengen Area, contributing to strengthening the cooperation between the competent Romanian authorities and those of the Member States, according to the provisions contained in the three regulations forming the new European legal basis of the Schengen Information System (SIS) on return, borders and cooperation. The Law establishes the competent national authorities with the right to access, provide or consult data in SINS, proposes the establishment of an operational committee to analyse and solve operational problems. Also, the draft law provides for the extension of the right of access to the National Reporting Information System for several national authorities, includes vulnerable persons in the category of missing persons reports and introduces a series of new procedural regulations regarding the confidentiality of border controls and the protection of personal data.

The draft is still in the legislative process.

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<sup>99</sup> Romania, Draft Law on the organisation and operation of the National Signaling Information System and Romania's participation in the Schengen Information System, as well as for the amendment and completion of some normative acts ([\*Proiect lege privind organizarea și funcționarea Sistemului Informatic Național de Semnalări și participarea României la Sistemul de Informații Schengen, precum și pentru modificarea și completarea unor acte normative\*](#)), (only in Romanian).

3. On 31 October 2022, the Chamber of Deputies adopted the draft Law on implementing the centralised system for determining the Member States that hold information on the convictions of third-country nationals and stateless persons, as well as for the amendment and completion of Law No. 290/2004 regarding criminal records.<sup>100</sup>

It provides for:

- a) the designation of the General Inspectorate of the Romanian Police (GIRP) as the *central authority* body responsible for ensuring, developing, operating and maintaining computerised judicial and dactyloscopic records for the purpose of connecting them to the national central access point and the Department of Criminal Records, Statistics and Operative Records;
- b) GIRP establishes and periodically updates the list of its own personnel authorised to record, modify, delete or consult data from the centralised system for determining the Member States that hold information on the convictions of third-country nationals and stateless persons (ECRIS-TCN central system);
- c) the processing of personal data within the ECRIS-TCN central system is monitored and subject to the control of the National Supervisory Authority for Personal Data Processing, as the *supervisory authority*,
- d) the GIRP provides all the information requested by the supervisory authority, grants access to its own records and allows at any time access to all premises used for the purpose of processing data from the central system ECRIS-TCN,
- e) the abusive use of data from the ECRIS-TCN system, their processing or the exchange of information that contravenes the EU Regulation, ascertained as a result of investigations carried out by the staff of the supervisory authority with powers for this purpose, will be punished according to the law.

The draft law also regulates a number of aspects necessary for the transposition of Directive (EU) 2019/884, as follows:

- when a Member State citizen applies for a criminal record certificate to one of the police units, within three days, a copy of the request is sent to the Department of Criminal Records, Statistics and Operational Records of the GIRP.
- the extract from the criminal record sent by the Member State is attached to the one issued by the Romanian authorities and is given to the applicant by the police unit, within 10 days from the date of its receipt;
- when a TCN applies for a criminal record certificate to one of the police units, within three days, a copy of the request is sent to the Department of Criminal Records, Statistics and Operational Records from the GIRP. The determination of

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<sup>100</sup> Romania, Draft Law on the establishment of the organisational framework for the purpose of operationalizing at national level the centralised system for determining the Member States that hold information on the convictions of third-country nationals and stateless persons, as well as for the amendment and completion of Law No. 290/2004 regarding the criminal record ([Proiect lege privind stabilirea cadrului organizatoric în scopul operaționalizării la nivel național a sistemului centralizat pentru determinarea statelor membre care detin informații privind condamnările resortisanților țărilor terțe și ale apatrizilor, precum și pentru modificarea și completarea Legii nr. 290/2004 privind cazierul judiciar](#)), PL-x nr. 438/2022, (only in Romanian)

the State or Member States that hold information on the applicant's criminal record is carried out by using, in accordance with the law, the centralised system, ECRIS-TCN.

The draft is still in the legislative process at the Senate.

4. On 31 October, the Chamber of Deputies adopted the draft law regarding the automated search in the automated system for the identification of dactyloscopic data.<sup>101</sup>

This draft law provides for inclusion in the automatic data exchange of all categories of dactyloscopic data obtained from natural persons for whom fingerprinting was ordered according to the Criminal Procedure Code.<sup>102</sup> It also takes into consideration the fact that both Decision 2008/615/JAI of the Council of 23 June 2008 (Article 8),<sup>103</sup> and the Agreement between the Government of Romania and the Government of the United States of America regarding the intensification of cooperation in the prevention and combating of serious crimes, signed on 5 October 2015 in Washington D.C. (Article 3),<sup>104</sup> covers both availability of reference data from the file for the national automated fingerprint identification systems established in order to investigate crimes, and the access to/availability of those established in order to prevent crimes.

The draft is still in the legislative process before the Senate.

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<sup>101</sup> Romania, Draft Law for the amendment of some normative acts regarding the automated search in the automated system for the identification of dactyloscopic data ([Proiectul legii pentru modificarea unor acte normative referitoare la căutarea automatizată în sistemul automatizat pentru identificarea datelor dactiloscopice](#)) PL-x nr. 448/2022, (only in Romanian).

<sup>102</sup> Romania, Law No. 135/2010 on the [Criminal Procedure Code](#) (*Legea 135/2010 privind Codul de procedura penala*) published in the Official Journal No. 486 of 15 July 2010; an older version in English is available [online](#) but needs to be correlated with the [updated version in Romanian](#) .

<sup>103</sup> Romania, Government Ordinance No. 10 of 25 July 2012 for the setting up of the legal framework necessary for the automated search of reference data in relation to the Member States of the European Union and for ensuring the recognition of laboratory activities related to dactyloscopic data ([Ordonanța Guvernului nr. 10 din 25 iulie 2012 pentru crearea cadrului legal necesar căutării automatizate a datelor de referință în relația cu statele membre ale Uniunii Europene și asigurării recunoașterii activităților de laborator referitoare la datele dactiloscopice](#)), published in the Official Journal No. 536 of 1 August 2012, (only in Romanian).

<sup>104</sup> Romania, Law No. 158/2019 for the establishment of measures to implement the Agreement between the Government of Romania and the Government of the United States of America regarding the intensification of cooperation in the prevention and combating of serious crimes, signed on 5 October 2015 in Washington 6 D.C., (*Legea nr. 158/2019 pentru stabilirea unor măsuri de punere în aplicare a Acordului dintre Guvernul României și Guvernul Statelor Unite ale Americii privind intensificarea cooperării în prevenirea și combaterea infracțiunilor grave, semnat la 5 octombrie 2015 la Washington D.C.*), published in the Official Journal No. 633 of 30 July 2019, (only in Romanian).



5. On 17 November 2022, the law on establishing the organisational framework for the national operationalisation of the Entry/Exit System and the European Travel Information and Authorisation System was adopted.<sup>105</sup>

The parliamentary discussions modified the initial draft law by asking for a reasoned request to consult data in the EES/ETIAS systems, while the concept of serious crimes should be understood as referring to a custodial sentence of at least three years.<sup>106</sup>

Following the specific requests addressed before competent authorities the following answers were provided:

The General Directorate for Communications and Information Technology mentioned that, at the national level, the national components of the European information systems EES, ETIAS and ECRIS-TCN have been implemented and the VIS, Eurodac and SIS systems are updated in accordance with the EU Regulations governing their implementation and operationalization. The national stages of the implementation of the technical and operational components are aligned according to the European implementation calendar of the new European information systems architecture. All subsequent activities will take place in accordance with European legislation regarding the protection of personal data and in accordance with the provisions of the Information Systems Regulations which have explicit provisions regarding the protection of personal data and the information of data subjects. Like any other Member State, Romania will use biometric data verification and retrieval technologies in specific operational activities, according to the requirements established by the COM Regulations and by the technical implementations of the European central systems.<sup>107</sup>

The National Supervisory Authority for the Processing of Personal Data mentioned that ex-officio investigations were initiated at the Ministry of Internal Affairs (National SIS Centre) and the Ministry of Foreign Affairs (National Visa Center (CNV)) in

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<sup>105</sup>Romania, Law No. 300/15.11.2022 on establishing the organisational framework for the national operationalisation of the Entry/Exit System and the European Travel Information and Authorisation System ([Lege privind stabilirea cadrului organizatoric în scopul operationalizării la nivel național a Sistemului de intrare/ieșire și a Sistemului european de informații și de autorizare privind călătoriile](#)), published in the Official Journal No. 1109 of 17 November 2022, (only in Romanian)

<sup>106</sup> The documents published in the Parliamentary procedure are available [online](#) only in Romanian.

<sup>107</sup> Romania, General Directorate for Communications and Information Technology within the Ministry of Internal Affairs, written response from 5.10.2022.

relation to the information society, privacy and data protection, without providing details in this regard. However, there were no complaints submitted concerning this subject.<sup>108</sup>

According to the People's Advocate, no issues have been reported so far on use of the large-scale IT systems in the area of asylum, migration and border control, based on the research conducted by the NPM and army, justice, police and prison internal structures.<sup>109</sup>

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<sup>108</sup> Romania, National Supervisory Authority for Personal Data Processing, written response from 17.10.2022.

<sup>109</sup> Romania, People's Advocate, written response from 29.09.2022.

## 5 Information society, privacy and data protection

### 5.1 Initiatives in the use of artificial intelligence in both private and public sectors

Actor	Type	Description	Are Human Rights issues mentioned? (yes/no)	Reference
Competition Council (Consiliul Concurenței)	Report	Competition Council issued a draft rapport on ride-hailing sector, which also analysed the use of algorithms during the usage of these services.	No  Incidentally, the report acknowledges that the sector might affect the right to social security and this would be the European Commission's main concern (p. 28)	Competition Council (Consiliul Concurenței) press information in English from May 2022 <a href="http://www.consiliulconcurentei.ro/wp-content/uploads/2022/05/Raport-transport-alternativ-mai-2022-English.pdf">http://www.consiliulconcurentei.ro/wp-content/uploads/2022/05/Raport-transport-alternativ-mai-2022-English.pdf</a> Preliminary report on Ride-Hailing (Raportul preliminar privind segmentul serviciilor de transport alternativ) in Romanian available at <a href="http://www.consiliulconcurentei.ro/wp-content/uploads/2022/05/Raport-Preliminar-Ride-Hailing.pdf">http://www.consiliulconcurentei.ro/wp-content/uploads/2022/05/Raport-Preliminar-Ride-Hailing.pdf</a>
Authority for Digitalisation	Other (Public)	ADR organized four public consultation events on an AI strategy, titled	No	Authority for <i>Digitalisation</i> Romania (Autoritatea pentru Digitalizarea

<p>n Romania (ADR) (Autoritate a pentru Digitalizare a României)</p>	<p>consultation)</p>	<p>“Romanian’s Strategic Framework on AI”. The events took place in Cluj in April and May 2022 in collaboration with the Technical University of Cluj-Napoca (UTCN), one in Bucharest (with public authorities) on 21 October and one on November (with the academic sector).</p> <p>ADR is drafting an AI strategy for Romania, as part of activities in an EU-funded project (SIPOCA 704), implemented together with Technical University of Cluj-Napoca (UTCN).</p>		<p>României, ADR), press releases from 5.04.2022 and 20.05.2022, 21.10.2022, available in Romanian at: <a href="https://www.adr.gov.ro/adr-si-utcn-au-organizat-o-consultare-publica-in-cadrul-demersului-de-elaborare-a-primei-strategii-nationale-de-inteligenta-artificiala/">https://www.adr.gov.ro/adr-si-utcn-au-organizat-o-consultare-publica-in-cadrul-demersului-de-elaborare-a-primei-strategii-nationale-de-inteligenta-artificiala/</a> and <a href="https://www.adr.gov.ro/adr-si-utcn-au-organizat-cea-de-a-doua-runda-de-consultari-publice-in-cadrul-demersului-de-elaborare-a-primei-strategii-nationale-de-inteligenta-artificiala/">https://www.adr.gov.ro/adr-si-utcn-au-organizat-cea-de-a-doua-runda-de-consultari-publice-in-cadrul-demersului-de-elaborare-a-primei-strategii-nationale-de-inteligenta-artificiala/</a> and <a href="https://www.adr.gov.ro/adr-si-utcn-au-organizat-cea-de-a-treia-runda-de-consultari-pentru-realizarea-cadrului-strategic-privind-utilizarea-inteligentei-artificiale/">https://www.adr.gov.ro/adr-si-utcn-au-organizat-ultima-runda-de-consultari-pentru-</a></p>
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				<p>realizarea-cadrului-strategic-privind-utilizarea-inteligentei-artificiale/</p> <p>Authority for <i>Digitalisation</i> Romania (Autoritatea pentru Digitalizarea României, ADR) public information on their website about EU-funded project SIPOCA 704 <a href="https://www.adr.gov.ro/ca-dru-strategic-pentru-adoptarea-si-utilizarea-de-tehnologii-inovative-in-administratia-publica-2021-2027-solutii-pentru-eficientizarea-activitatii-cod-sipoca-704/">https://www.adr.gov.ro/ca-dru-strategic-pentru-adoptarea-si-utilizarea-de-tehnologii-inovative-in-administratia-publica-2021-2027-solutii-pentru-eficientizarea-activitatii-cod-sipoca-704/</a></p>
Romanian Government and Ministry of Research, Innovation and Digitisation (MCID)		The Romanian Government announced that, in its meeting on 11 November 2022, it adopted a memorandum on the establishment of the Romanian Committee for Artificial Intelligence and Artificial Intelligence	No. However, this will include a “Scientific and Ethics Council in Artificial Intelligence” and other working groups that have not been identified in the MoU.	Ministry of Research, Innovation and Digitisation (Ministerul Cercetării, Inovării și Digitalizării, MCID), press release from 11 November 2022, available in Romanian <a href="https://www.research.gov.ro/ro/articol/6048/comunicare-br-mass-media-se-infiin-eaza-comitetul-">https://www.research.gov.ro/ro/articol/6048/comunicare-br-mass-media-se-infiin-eaza-comitetul-</a>

		<p>Initiatives. The Committee will be established under the patronage of the Prime Minister of Romania, with the MCID providing the technical secretariat. The Committee aims to be an “umbrella entity” for all AI initiative in Romania, coordinating different informal councils and working groups.</p>		<p><a href="#">roman-pentru-inteligen-a-artificiala</a></p>
Romanian Senate	Decision	<p>The Romanian Senate adopted on 28 November 2022 a decision supporting the EU draft directive on adapting non-contractual civil liability rules to artificial intelligence (AI Liability Directive)</p>	No	<p>Decision no. 166 of 28 November 2022 on the proposal for a Directive of the European Parliament and of the Council on the adaptation of the rules on non-contractual civil liability to artificial intelligence (AI Liability Directive, published in the Official Monitor no. 1162 from 5 December 2022, available in Romanian at <a href="https://legislatie.just.ro/Public/DetaliiDocument/262167">https://legislatie.just.ro/Public/DetaliiDocument/262167</a></p>

## 5.2 Legal and policy initiatives on data protection and private life

In February–March 2022 the Romanian Senate continued to debate and then adopted a draft law<sup>110</sup> implementing the European Electronic Communications Code,<sup>111</sup> including provisions that expand the legal intercept obligations to:

- new categories of providers (“hosting providers based on IP”, as defined in the text), not only electronic communications providers
- new obligations for providers (to create infrastructure for legal intercept at their own expense)
- provide “encrypted content” , if requested
- provide traffic data, including browsing history
- allow access to their own computer systems for data copying or extractions.

These new provisions were challenged before the Constitutional Court by a group of MPs<sup>112</sup> and, separately, by the People’s Advocate<sup>113</sup> on several grounds, including of breaching the right to privacy and other rights. In May 2022, the Constitutional Court ruled<sup>114</sup> that the only part of the new provisions that is not constitutional, as it breaches the right to privacy, is the text

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<sup>110</sup> Romania, Draft Law on amending and supplementing normative acts in the field of electronic communications and on establishing measures to facilitate the development of electronic communications networks PL-x nr. 428/2021 ([PL-x nr. 428/2021- Proiect de Lege pentru modificarea și completarea unor acte normative în domeniul comunicațiilor electronice și pentru stabilirea unor măsuri de facilitare a dezvoltării rețelelor de comunicații electronice](#)).

<sup>111</sup> Directive (EU) 2018/1972 of 11 December 2018 of the European Parliament and of the Council establishing the [European Electronic Communications Code](#).

<sup>112</sup> Romania, Unconstitutionality complaint from USR Party on PL-x nr. 428/2021 from 7.03.2022 ([Sesizare de neconstituționalitate USR cu privire la PL-x nr. 428/2021](#)).

<sup>113</sup> Romania, Unconstitutionality complaint from the People’s Advocate on PL-x nr. 428/2021 from 9.03.2022 ([Sesizare de neconstituționalitate Avocatul Poporului cu privire la PL-x nr. 428/2021](#)).

<sup>114</sup> Romania, Constitutional Court of Romania, Decision No. 295 of 18.05.2022, published in the Official Journal No. 568 of 10.06.2022 (*Curtea Constituțională, Decizia 295/18.05.2022*).

related to providing “traffic data, including browsing history”; this was based on the previous decisions against data retention made by the Constitutional Court. The ruling explains that the text is not compatible with fundamental rights, as mandatory data retention is not explicitly included in the Romanian legislation and the text might leave the impression that this would be regulated by secondary legislation, without any proper guarantees. After this Constitutional Court decision, in June 2022 the Romanian Parliament adopted the amendments that just deleted the articles declared unconstitutional and the law<sup>115</sup> is now in force (as of 11 July 2022).

A new Emergency Ordinance was adopted by the Romanian Government on the cloud services<sup>116</sup> provided by the Romanian public authorities, as a new law that details the setting up, management and development of a public cloud by the Romanian Government, as planned in the Romania’s Resilience Plan, which should be used by all public institutions in Romania. The text has been criticised by Romanian civil society<sup>117</sup> for several grounds relating to the right of privacy and data protection, including:

- involvement of the intelligence services (Romanian Information Service (SRI) and Special Telecommunications Service (STS)) in the governance of the public cloud, as “security providers”, despite the fact that some of them – SRI – have only legal obligations to “gather information”
- lack of clear regulations on personal data processing within the cloud services and the lack of a data protection impact assessment, which is mandatory according to GDPR
- its adoption via a Government emergency procedure rather than following a regular adoption process for a law, and for claiming that there is an emergency, although no such emergency exists.

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<sup>115</sup> Romania, Law No. 198/2022 on amending and completing certain normative acts in the field of electronic communications and on setting measures for facilitating the development of the electronic communications networks ([Legea 198/2022 pentru modificarea și completarea unor acte normative în domeniul comunicațiilor electronice și pentru stabilirea unor măsuri de facilitare a dezvoltării rețelelor de comunicații electronice](#)), published in the Official Journal on 7 July 2022.

<sup>116</sup> Romania, Emergency Ordinance No. 89 of 27 June 2022 regarding the establishment, administration and development of cloud infrastructures and IT services used by public authorities and bodies ([Ordonanța de Urgență nr. 89 din 27 iunie 2022 privind înființarea, administrarea și dezvoltarea infrastructurilor și serviciilor informatice de tip cloud utilizate de autoritățile și instituțiile publice](#)).

<sup>117</sup> NGOs for Citizens (2022) ‘We request the Peoples Advocate to evaluate the constitutionality of the GEO regarding the Government Cloud’ ([Solicităm Avocatului Poporului să evalueze constitutionalitatea OUG-ului privind Cloud-ul guvernamental](#)) 30 June 2022.



A new law on interoperability<sup>118</sup> of data between computer systems has been adopted by the Romanian Parliament with the aim of creating a framework for access and interoperability of data held by the public sector, including the creation of a national platform for interoperability. According to NGOs<sup>119</sup> specialised in data protection, the new law fails to provide even basic safeguards for processing personal data and fails to distinguish between public non-personal data, personal data or sensitive personal data. In addition, despite the fact that the law would be basis of interoperability of all personal data processed by any public entity, there was no data protection impact assessment, which is mandatory according to GDPR. The only reference to personal data protection is that all entities would respect the applicable legislation in this domain.

A new law on cybersecurity was adopted by the Parliament on 21 December 2022<sup>120</sup> following an exceedingly fast procedure- the project was first made public on 4 November 2022 by the Ministry of Research, Innovation and Digitization<sup>121</sup>, adopted by the Government on 8 December and then adopted by both chambers of the Parliament in just 9 days with no relevant public debate. The project raised a number of serious concerns from both private sector, civil society and the opposition, which formed the basis of two constitutionality complaints registered on 22 and 27 December 2022 by the opposition parties (USR and Forța Dreptei)<sup>122</sup> and, respectively, by the People’s Advocate<sup>123</sup> (the latter reacting to a collective petition from 13 NGOs).The law is not in force now as the Constitutional Court will hear the case on 15 February 2023. This law was planned to define the roles and responsibilities of the state bodies in the field of cybersecurity and it was part of the EU recovery and

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<sup>118</sup> Romania, Law No. 242 of 20 July 2022 regarding the exchange of data between IT systems and the creation of the National Interoperability Platform ([Lege nr. 242 din 20 iulie 2022 privind schimbul de date între sisteme informatice și crearea Platformei naționale de interoperabilitate](#)).

<sup>119</sup> ApTI (2022), ‘Interoperability: To be easy, but with personal data protected’ ([Interoperabilitatea: Sa fie ușor, dar cu datele personale protejate](#)), 28.03.2022 .

<sup>120</sup> Romania, Romanian Senate L828/2022 - Draft law on the cybersecurity and cyber defence of Romania, as well as for the modification and completion of some normative acts ([Proiect de lege privind securitatea și apărarea cibernetică a României, precum și pentru modificarea și completarea unor acte normative](#)).

<sup>121</sup> Romania, Ministry of Research, Innovation and Digitization - Draft law on the cybersecurity and cyber defence of Romania, as well as for the modification and completion of some normative acts ([Proiect de lege privind securitatea și apărarea cibernetică a României, precum și pentru modificarea și completarea unor acte normative](#)) 8.11.2022.

<sup>122</sup> Romania, USR and Forța Dreptei – Unconstitutionality complaint Draft law on the cybersecurity and cyber defence of Romania, as well as for the modification and completion of some normative acts [Sesizare de neconstituționalitate Proiect de lege privind securitatea și apărarea cibernetică a României, precum și pentru modificarea și completarea unor acte normative](#) , 23.12.2022.

<sup>123</sup> Romania, People’s Advocate – Unconstitutionality complaint Draft law on the cybersecurity and cyber defence of Romania, as well as for the modification and completion of some normative acts [Sesizare de neconstituționalitate Proiect de lege privind securitatea și apărarea cibernetică a României, precum și pentru modificarea și completarea unor acte normative](#) , 27.12.2022.

resilience plan for Romania.<sup>124</sup> However, the planned and adopted text included several provisions which went much further than the initial plan or the obligations deriving from EU Directives NIS1 and NIS2, such as:

- creating cybersecurity obligations, including the obligation to report cybersecurity incidents in 48 hours or having a supply chain security assessment, to the IT infrastructure of any natural and legal persons that “provide public services or services of a public interest”. Without a proper definition on specific type of activities that would be in these categories, despite the calls from the private sector and the civil society, the text could be easily interpreted that any type of online service (including online media) is a public service, irrespective if the service is provided by a natural person and/or has only 2 users. The sanctions for any breach of the law start with a fine of €1000 and may rise up to 3% of the turnover, for a second breach of the law.<sup>125</sup>
- creating an obligation for “all cybersecurity providers” to provide to 12 different public institutions (including all intelligence services), with different attributions on cybersecurity, any “data and information” regarding incidents, threats, risks and vulnerabilities in a period from 48 hours to 5 days. Despite the fact that the data may not contain personal data or “content data”, the obligation must be performed only based on a “proper request” from any of these 12 different institutions, with no appeal process or judicial oversight.<sup>126</sup>

A series of data breaches from public institutions in 2022, with no reactions from public authorities or the Data Protection Authority shows that the real implementation of the GDPR in public sector is lacking, especially in the context of the Romanian legislation implementing the GDPR, which has created a major liability loophole for public authorities, who must receive first a warning and a “remediation plan” from the Data Protection Authority on any legal breach of data protection. In the Romanian Census (March-July 2022), the Romanian Statistical Institute used improper security measures, despite claiming “100 %

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<sup>124</sup> [Recovery and resilience plan for Romania](#).

<sup>125</sup> Romania, Art 3 (1) c), Art. 21, 24, 37, 41 and Art 48-49 Draft law on the cybersecurity and cyber defence of Romania, as well as for the modification and completion of some normative acts (*‘Proiect de lege privind securitatea și apărarea cibernetică a României, precum și pentru modificarea și completarea unor acte normative’*).

<sup>126</sup> Romania, Art 25 Draft law on the cybersecurity and cyber defence of Romania, as well as for the modification and completion of some normative acts (*‘Proiect de lege privind securitatea și apărarea cibernetică a României, precum și pentru modificarea și completarea unor acte normative’*).

security of data". A security researcher showed<sup>127</sup> that the security is extremely weak by using a simple spreadsheet formula to undo the "protection" of the national unique ID number. In July 2022, a journalistic investigation showed<sup>128</sup> that a public health institution revealed diseases of over 130,000 Romanians (including persons diagnosed with HIV or cancer) on the internet. The public institution asked the journalists how to delete the data and they only managed to do it after 48 hours (during the working week), claiming a lack of staff. In August 2022, the Romanian public broadcaster showed in an investigation<sup>129</sup> that personal data of millions of Romanians (more than 3 million) who were infected with COVID or tested were available to any doctor that had access to the database Coronaforms (more than 10,000 people had access to that database). The Ministry of Health, which was the data controller, claimed that it "respects all personal data legislation and continuously improves its security."

In its public activity report from 2021 (made public on 25 July 2022) the Romanian Data Protection Authority notes that only one third of its current positions are occupied and the total budget of the institution has remained at almost the same level since 2018.<sup>130</sup>

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<sup>127</sup> Europa Liberă (2022) 'Census 2022. How secure are the personal data collected by the INS. Specialist: "The method does not provide data protection"' ([Recensământ 2022. Cât de sigure sunt datele personale colectate de INS. Specialist: „Metoda nu oferă protecția datelor”](#)) 25.04.2022.

<sup>128</sup> Recorder (2022), 'The biggest data leak in the Romanian medical system: a state institution accidentally discloses the illnesses of over 130,000 patients' ([Cea mai mare scurgere de date din sistemul medical românesc: o instituție a statului divulgă, din greșeală, bolile a peste 130.000 de pacienți](#)) 21.07.2022.

<sup>129</sup> TVR (2022) 'Personal data on millions of Romanians can be easily viewed in the Coronaforms platform. The representatives of patients and doctors demand urgent measures, the Ministry of Health says it respects all legal provisions' ([Date personale privind milioane de români pot fi văzute ușor în platforma Coronaforms. Reprezentanții pacienților și medicilor cer măsuri urgente, Ministerul Sănătății spune că respectă toate prevederile legale](#)) 23.08.2022.

<sup>130</sup> Romania, ANSPDCP (2022) Activity report 2021, ([Raport de activitate anual ANSPDCP 2021](#)) 25.07.2022, specifically pp. 116 and 118.

## 6 Rights of the child

### 6.1 Measures addressing vulnerabilities of children living in poverty and developments regarding the national implementation of the EU Child Guarantee

In the EU one in five children is socially excluded. This rate is higher in Romania, where about a third of all children (1.38 million) are at risk of social exclusion or poverty, especially after the pandemic.<sup>131</sup> In 2020, 40 % of children suffered from material and social deprivation in the year, an increase of 3.3 points compared to 2019. The level was almost three times higher than that recorded in the EU-27 (2020 countries).<sup>132</sup>

<b>Legislative changes</b>	The legislation regulating the programmes referred to below, in the section related to other initiatives and measures, has been updated in order for such services to be provided further in 2022 and 2023. <sup>133</sup>
<b>Policy changes</b>	<b>National Strategy on Social Inclusion and Poverty Reduction<sup>134</sup></b>

<sup>131</sup> Pislaru, D. (2021), 'Child Guarantee – Explanatory note and technical data' ([Garanția pentru Copii](#) – Expunere de motive și date tehnice), Press briefing, 21 April 2021.

<sup>132</sup> Romania (2022) The National strategy for the protection and promotion of children's rights "Protected Children, Safe Romania" 2022-2027 ([Strategia pentru protecția și promovarea drepturilor copilului 2022-2027 "Copii protejați, România sigură"](#)), p. 9.

<sup>133</sup> See Emergency Ordinance No. 9/2020 regarding the approval of the pilot programme for granting food support for preschoolers and students from 150 state pre-university education units ([Ordonanța de urgență nr. 9/2020 privind aprobarea Programului-pilot de acordare a unui suport alimentar pentru preșcolarii și elevii din 150 de unități de învățământ preuniversitar de stat](#)).

<sup>134</sup> Romania (2022) [The National strategy on social inclusion and poverty reduction for the period 2022–2027](#) (*Strategia națională privind incluziunea socială și reducerea sărăciei pentru perioada 2022–2027*).

This strategy was adopted on 30 March 2022.<sup>135</sup> The strategy focuses on children in several areas. The implementation of its specific objective on social investments to promote cohesion includes stimulating participation in early childhood care and education, especially among disadvantaged groups. The specific objective to improve administrative capacity for national policy coordination in agreement with European requirements mentions streamlining the process of participation of children, adolescents and young people in adoption of the decisions that concern them.

### **National Strategy for the Protection and Promotion of Children's Rights**

On 6 May 2022,<sup>136</sup> the Ministry of Family, Youth and Equal Opportunities launched for public debate the draft of the Government Decision on the approval of the National strategy for the Protection and Promotion of Children's Rights "Protected Children, Safe Romania" 2022-2027<sup>137</sup> and the operational plan for the implementation of this strategy.<sup>138</sup> The adoption process is still ongoing.

The draft strategy includes measures related to the general directions of the Recommendation to establish a European Child Guarantee, the objective of which is to prevent and combat social exclusion by guaranteeing children in difficulty access to essential services. It addresses the essential services proposed by the Guarantee, which are early education and care, free education, free healthcare, adequate nutrition and adequate living conditions.

According to the draft strategy the food assistance programmes in Romania fail to meet the needs of children living in poverty and have some unintended consequences. The nutrition-related initiatives and measures, as described below, are found to be based on a series of normative acts dating from 2008, with standards that have not been updated and that do not meet WHO

<sup>135</sup> Romania (2022) [The National strategy on social inclusion and poverty reduction for the period 2022–2027](#).

<sup>136</sup> Juridice.ro (2022) 'The National strategy for the protection and promotion of children's rights "Protected Children, Safe Romania" 2022-2027 -Draft' ([Strategia pentru protectia si promovarea drepturilor copilului 2022-2027 "Copii protejati, România sigură" -Proiect](#)), 9 May 2022 .

<sup>137</sup> Romania (2022) The National strategy for the protection and promotion of children's rights "Protected Children, Safe Romania" 2022-2027 ([Strategia pentru protectia si promovarea drepturilor copilului 2022-2027 "Copii protejati, România sigură"](#)).

<sup>138</sup> Romania (2022) Operational plan for the implementation of the National strategy for the protection and promotion of children's rights "Protected Children, Safe Romania" 2022-2027 ([Plan operațional pentru implementarea Strategiei naționale pentru protectia și promovarea drepturilor copilului 2022-2027 "Copii protejati, România sigură"](#)).

nutritional standards.<sup>139</sup> For example, the estimated average values for caloric consumption among children in Romania are significantly higher than those in other countries with a long tradition of implementing nutritional programmes.

It is further underlined that children from rural areas are more exposed to the risk of social exclusion, which is significant given that 47 % of Romanian children live in rural areas. The National Strategy for Inclusion and Poverty Reduction for 2021-2027 shows that three quarters of social aid beneficiaries are in counties with a low level of economic development, and over 80 % of them are from rural areas. Of the children living in rural areas, 10 % go to bed hungry, with 7 % going to bed hungry sometimes, and 3 % always going to bed hungry. The situation of these children has not seen significant progress in recent years. Access to medical services, social assistance or education is problematic for a significant proportion of children from rural areas, the situation having worsened during the pandemic.

The draft strategy also underlines that the rights of many children with disabilities are violated, including the right to a decent living. Many of these children slip through the net of the system for the early identification of a disability: the screening system only includes a small number of conditions that can lead to disability, without there being a systematic mechanism of subsequent identification, either in the health system or in the educational system. Thus, the needs of these children, cannot be addressed. Many children with disabilities do not have the resources to go to school, so they leave the system early with a low educational level, of little relevance to the labour market.

The draft strategy adds that Roma children face major challenges compared to other children in terms of equality of opportunities, living conditions and access to public services. Moreover, children from migrant families face vulnerabilities related to lack of continuity of care and access to services. Given the lack of sufficient data about the migration phenomenon, the planning of support services remains extremely difficult. These are children with one or both parents working abroad, children who accompany their parents to work abroad for short periods of time, and

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<sup>139</sup> Romania (2022) [The National strategy for the protection and promotion of children's rights "Protected Children, Safe Romania" 2022-2027](#), p. 11.

children from families who have migrated and who are returning to the country. Data shows that, at the end of 2020, there were 75,136 children in Romania with one or both parents working abroad, with the figures being most likely being underestimates.

The draft strategy includes an extensive description of the gaps and challenges existing at the national level. At the end, it provides a series of general and specific objectives. Among its general principles, the draft strategy includes promoting a welfare society model centred on ensuring the best life for children and ensuring inclusion and social cohesion. The targets to be reached by 2027 include: lowering the number of children affected by poverty and social exclusion by 400,000 compared to the 2019 reference value of 1,323,000 children, contributing to the European objective of decreasing by 5 million the number of children affected by this multi-dimensional phenomenon; prioritising children in difficulty and their families to benefit from social housing and eligibility for housing benefits; ensuring that children affected by poverty benefit from a need-based food support programme; improving the early education enrolment rate so that it is at least 22 % for children aged 0-3 years and at least 95 % for those aged 4-6 years; and to reduce the early school leaving rate by 4.5 percentage points from the level of 15.3 % recorded in 2019.

### **The Child Guarantee National Action Plan<sup>140</sup>**

The draft of the Child Guarantee National Action Plan was published on 3 November 2022. On 10 November civil society and other interested stakeholders were invited to provide input until 16 November 2022.<sup>141</sup> The adoption process is ongoing.

The following relevant draft law is currently under debate:

<sup>140</sup> Romania (2022) The Child Guarantee National Action Plan (*Planul Național de Acțiune pentru implementarea Garanției pentru Copii*), available in Romanian at [Plan-Garantie-pentru-Copii.pdf \(gov.ro\)](#)

<sup>141</sup> Edupedu (2022) '[Analysis - The Children's Guarantee Action Plan has 59 measures fully copied from the Operational Plan of the National Strategy "Protected Children, Safe Romania" 2022-2027, put up for public debate on May 6 by the Ministry of Family, Youth and Equal Opportunities, according to MEP Dragoș Pîslaru](#)' (*Analiză- Planul de Acțiune Garanția pentru Copii are 59 de măsuri preluate integral din Planul operațional al Strategiei Naționale „Copii protejați, România sigură” 2022-2027, pusă în dezbatere publică pe 6 mai de către Ministerul Familiei, Tineretului și Egalității de Șanse, potrivit europarlamentarului Dragoș Pîslaru*).

	- Law on the activity of preventing the separation of the child from the family. <sup>142</sup>
<b>Other measures or initiatives</b>	<p><b>Romania's Programme for Schools (<i>Programul pentru școli al României</i>)<sup>143</sup></b></p> <p>This programme is mentioned in the draft strategy for the protection and promotion of children's rights as contributing to the implementation of the EU Child Guarantee. The programme was created to run from 2017 to 2023. It is meant to create healthy eating habits and encourage the consumption of local products among children. It is built around two components: the distribution of fruits, fresh vegetables, drinking milk and dairy products without the addition of milk powder, and bakery products, as well as the application of related educational measures, such as: visits to fruit/vegetable farms, dairy farms, research stations, exhibitions, fairs; thematic contests, tasting, organisation of gardening activities at the school level; thematic days dedicated to the consumption of fruits, vegetables, milk and dairy products, use of didactic/educational materials).</p> <p>It includes the weekly distribution of two portions of fruit and/or vegetables, two portions of milk, one portion of dairy products and five portions of bakery products.</p> <p>The budget allocated for the implementation of this programme for the 2022-2023 school year was adopted on 11 August 2022.<sup>144</sup> This budget was slightly increased in November 2022 (by almost 3 %) given the increases in the prices of certain products offered through the programme.<sup>145</sup> The budget is therefore currently RON 578,258 (€ 117,794), intended for 1,885,225 children, with 2,648 children from Ukraine among the programme's beneficiaries. The funds come from the state budget, with support from the EU.</p>

<sup>142</sup> Romania, Draft Law on the activity of preventing the separation of the child from the family (*Lege privind activitatea de prevenire a separării copilului de familie*), available in Romanian at [proiect-lege-prevenirea-separarii-copilului-de-familie-08.08.pdf \(gov.ro\)](https://www.madr.ro/comunicare/7666-a-fost-aprobat-bugetul-pentru-programul-pentru-scoli-al-romaniei.html).

<sup>143</sup> See: <https://www.madr.ro/comunicare/7666-a-fost-aprobat-bugetul-pentru-programul-pentru-scoli-al-romaniei.html>.

<sup>144</sup> Romania, Decision No. 1007/2022 regarding the establishment of the budget for the implementation of the Romanian School Programme for the 2017-2023 period concerning the 2022-2023 school year (*Hotărârea nr. 1007/2022 privind stabilirea bugetului pentru implementarea Programului pentru școli al României în perioada 2017-2023 pentru anul școlar 2022-2023*).

<sup>145</sup> Romania, Decision on the modification of Decision No. 1007/2022 regarding the establishment of the budget for the implementation of the Romanian School Programme for the 2017-2023 period concerning the 2022-2023 school year (*Hotărâre pentru modificarea Hotărârii nr. 1007/2022 privind stabilirea bugetului pentru implementarea Programului pentru școli al României în perioada 2017-2023 pentru anul școlar 2022-2023*).



	<p>According to European regulations, by March 2023 Romania must submit to the Commission an evaluation report of the programme for the period 2017-2022.</p> <p><b>The Hot Meal Programme<sup>146</sup></b></p> <p>This programme was initiated in 2016 and aims to provide the most vulnerable children who go to school with a hot meal.<sup>147</sup> It initially targeted 60 schools; this number has been increased over the years, reaching 350 schools in 2022.<sup>148</sup> The value of the hot meal is currently of RON 15 (€ 3), having been increased from the RON 10 (€ 2) that was allocated last year. It has been reported that, where the schools do not have cooking facilities and no adequate service providers are identified, instead of a hot meal, students receive a cold meal (e.g. a sandwich).</p> <p><b>The School After School Programme<sup>149</sup></b></p> <p>The overall objective of this programme is to prevent school dropout and early school leaving, increasing school performance, remedial learning, accelerating learning through educational, recreational and leisure activities, personal development and social integration, as well as keeping students in a safe space as an alternative to spending time freely in environments with the potential to develop deviant behaviour.</p> <p>In accordance with Article 2, para. 1 of the Methodological Norms for the application of the Programme, approved by Order of the Ministry of Education No. 3300/2021, as amended and supplemented, those who are eligible to participate in this national pilot programme are:</p>
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<sup>146</sup> Romanian Government (2022) '[The methodological norms for applying the provisions of the Government Emergency Ordinance no. 105/2022 regarding the approval of the continuation of the pilot program for granting food support for preschoolers and pupils from 350 state pre-university education units, from 16.09.2022](#)' (*Normele metodologice de aplicare a prevederilor Ordonanței de urgență a Guvernului nr. 105/2022 privind aprobarea continuării Programului-pilot de acordare a unui suport alimentar pentru preșcolarii și elevii din 350 de unități de învățământ preuniversitar de stat, din 16.09.2022*).

<sup>147</sup> Romania (2022) [The National strategy for the protection and promotion of children's rights "Protected Children, Safe Romania" 2022-2027](#).

<sup>148</sup> See Romania, Emergency Ordinance No. 9/2020 regarding the approval of the pilot programme for granting food support for preschoolers and students from 150 state pre-university education units (*Ordonanța de urgență nr. 9/2020 privind aprobarea Programului-pilot de acordare a unui suport alimentar pentru preșcolarii și elevii din 150 de unități de învățământ preuniversitar de stat*).

<sup>149</sup> Ministry of Investments and European Projects, [The School After School Programme](#).

- students up to and including the 8th grade, at risk of early school leaving and/or at risk or in a situation of school failure, especially students who did not have access or had poor access to educational activities carried out through technology and the internet

- students belonging to vulnerable groups, such as Roma students, students from rural areas, students with disabilities and students from economically disadvantaged communities, who meet the eligibility criteria.

### **Increasing state child allowances<sup>150</sup>**

Starting from January 2022, the amount of the state allowance was RON 600 (€ 120) for children aged up to 2 years, or children aged up to 3 years, if they have a disability. RON 243 (€ 41) is granted to children aged 2-18 years and young people who have reached the age of 18 years and attend high school or vocational education classes. The same amount is granted to youths with disabilities attending pre-university classes. Children with disabilities aged 3-18 years receive RON 600 (€ 120).

The programme granting educational incentives to children enrolled in the preschool education system, and who are from disadvantaged backgrounds, was revised from 1 January 2021. All children are granted educational incentives (social voucher) amounting to RON 100 (€ 20) per month for each child enrolled in kindergarten from the family entitled to the family support allowance.

Children living in families whose income is up to the minimum guaranteed income and who attend a form of public preschool education and pupils enrolled in primary or secondary education (full-time classes) benefit from e-vouchers for educational support. The establishment of the national support scheme for the most disadvantaged students should help to reduce the risk of extreme poverty among this group.

Increasing inflation and rising prices of goods and services had a negative impact on the purchasing power of certain vulnerable groups. To reduce the risk of poverty and social exclusion, children

<sup>150</sup> Romania (2022) *National Reform Programme 2022*, April 2022, pp. 63-64, available at [PNR 2017 \(europa.eu\)](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32022R0001).

	with disabilities benefited from a compensatory indemnity granted only once in January 2022. Some politicians have announced that, starting in January 2023, all state children’s allowances will be indexed to the inflation rate, as required by law, thus being increased by 5.1 %. <sup>151</sup>
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## 6.2 Legal and policy developments or measures in relation to child-friendly procedures for children as victims, witnesses or suspects/accused in criminal proceedings.

<b>Legislative changes</b>	<p><b>Modifying the statute of limitation for crimes where the victims are children</b></p> <p>In 2021, the Criminal Code was modified to eliminate a statute of limitation for the crimes of slavery (Article 209 of the Criminal Code), human trafficking (Article 210 of the Criminal Code), child trafficking (Article 211 of the Criminal Code), pimping (Article 213 of the Criminal Code), rape (Article 218 of the Criminal Code), sexual assault (Article 219 of the Criminal Code), sexual act with a minor (Article 220 of the Criminal Code) and torture (Article 282 of the Criminal Code).<sup>152</sup></p> <p>On 9 June 2022, a draft law<sup>153</sup> was proposed to add child pornography to the list of crimes for which the statute of limitation does not apply. For other crimes of trafficking and for sexual offences against children (except those mentioned before), it is proposed that the prescription starts when the child victim turns 18 years of age. Currently, the prescription starts when the</p>
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<sup>151</sup> Digi24 (2022) '[Child allowances will increase from January 1 by 5.1%. Those between the ages of 2 and 18 will receive an additional 12 RON](#)' (*Alocațiile copiilor cresc de la 1 ianuarie cu 5,1%. Cei cu vârste între 2 și 18 ani vor primi 12 lei în plus*), 22 November 2022.

<sup>152</sup> Romania, Law No. 186/2021 for the amendment and completion of Law No. 286/2009 regarding the Criminal Code which entered into force on 5 July 2021 ([Legea nr. 186/2021 pentru modificarea și completarea Legii nr. 286/2009 privind Codul penal](#)).

<sup>153</sup> Romania, Draft law for the amendment and completion of Law No. 286/2009 regarding the Criminal Code and for the modification and completion of Law No. 135/2010 regarding the Criminal Procedure Code ([Proiect de lege pentru modificarea și completarea Legii nr. 286/2009 privind Codul Penal și pentru modificarea și completarea Legii nr. 135/2010 privind Codul de procedură penală](#)).

crime is committed. The same draft law proposes increases of penalties for the use of child prostitution. It introduces the crimes of rape of a child, sexual assault of a child and determination or facilitation of sexual relations between children. The proposed crimes are based on the absolute presumption that children under 15 years of age cannot express valid consent to sexual activities. The Senate adopted the draft on 27 June 2022 and the legislative process continues in the Chamber of Deputies.<sup>154</sup>

### **Inviting parents and social workers during the hearings of children aged 16 to 18**

Article 505(1) of the Criminal Procedural Code currently provides that when the suspect or defendant is a minor younger than 16, at any hearing or confrontation with them, the criminal investigation body orders the summoning of the parents/guardians as well as of the general direction of assistance social and child protection. In June 2022, a draft law was proposed to extend this provision to children aged 16 to 18. The proposal is still pending.<sup>155</sup>

### **Hearings of children who are victims**

On 2 June 2022 a draft law<sup>156</sup> was introduced proposing for hearings of children under 14 who are victims of crimes to be done similarly to that of witness under 14 years of age, in the presence of parent or other legal representative. The draft was adopted by the Senate on 29 June 2022 and the legislative procedure continues in the Chamber of Deputies.

Another draft law<sup>157</sup> proposed making the recording of hearings of children victims of crime compulsory, without any derogation. If video recording is not possible, an audio recording should be used. Currently recording is mandatory, but the law provides that, if it is not possible, this should be mentioned in the declaration of the person (Article 111(8) of the Criminal Procedural Code). Practice shows that in most cases these hearings are not currently recorded; therefore, if adopted, this amendment could have a significant impact.

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<sup>154</sup> The procedure can be followed at [PL-x nr. 457/2022 \(cdep.ro\)](https://cdep.ro/pl-x/457/2022)

<sup>155</sup> The legislative procedure can be followed at [PL-x nr. 457/2022 \(cdep.ro\)](https://cdep.ro/pl-x/457/2022).

<sup>156</sup> The legislative procedure can be followed at [PL-x nr. 456/2022 \(cdep.ro\)](https://cdep.ro/pl-x/456/2022).

<sup>157</sup> The legislative procedure can be followed at [PL-x nr. 457/2022 \(cdep.ro\)](https://cdep.ro/pl-x/457/2022).

	<p>Other relevant draft laws propose that court hearings cannot be public when the victim is a child and the crime committed is ill-treatment of a child by a parent or caregiver, domestic violence, harassment, slavery, child trafficking, and sexual offences.<sup>158</sup> It is also proposed that where children are victims of sexual offences, a psychological evaluation report should be compulsory.<sup>159</sup></p>
<p><b>Policy developments</b></p>	<p><b>National Strategy for the Protection and Promotion of Children's Rights</b></p> <p>On 6 May 2022,<sup>160</sup> the Ministry of Family, Youth and Equal Opportunities launched for public debate the draft of the Government Decision on the approval of the National strategy for the protection and promotion of children's rights "Protected Children, Safe Romania" 2022-2027<sup>161</sup> and the operational plan for the implementation of this strategy.<sup>162</sup> The adoption process is still ongoing.</p> <p>Among its 20 main targets, the strategy includes the following:</p> <ul style="list-style-type: none"> <li>- that specialists who work with children in criminal, civil and administrative procedures (prosecutors, judges, police officers, social workers, psychologists, etc.) have the knowledge and skills to ensure a child-friendly and accessible justice system, as a result of their initial or continuing education</li> <li>- filing complaints, investigating and judging cases involving children as victims, suspects or, as the case may be, defendants or witnesses are carried out in adequate conditions, created on the basis of unitary standards and implemented through dedicated procedures.</li> </ul>

<sup>158</sup> The legislative procedure can be followed at [PL-x nr. 457/2022 \(cdep.ro\)](#) and [Draft-law no. L477/2022](#).

<sup>159</sup> Romania, [Draft-law no. L477/2022](#).

<sup>160</sup> Juridice.ro (2022) 'The National Strategy for the Protection and Promotion of Children's Rights "Protected Children, Safe Romania" 2022-2027 -Draft' ([Strategia pentru protecția și promovarea drepturilor copilului 2022-2027 "Copii protejați, România sigură" -Proiect](#)), 9 May 2022; Romania (2022) [The National strategy for the protection and promotion of children's rights "Protected Children, Safe Romania" 2022-2027](#).

<sup>161</sup> Romania (2022) [The National strategy for the protection and promotion of children's rights "Protected Children, Safe Romania" 2022-2027](#).

<sup>162</sup> Romania (2022) [Operational plan for the implementation of the National strategy for the protection and promotion of children's rights "Protected Children, Safe Romania" 2022-2027](#).

	In addition, one of its eight general objectives is the creation of a child-friendly justice system.
<p><b>Other measures or initiatives</b></p>	<p><b>Training of police officers</b></p> <p>The Romanian General Police Inspectorate and the Ministry of Internal Affairs reported<sup>163</sup> that from 2017 to 2022, it carried out the following relevant training:</p> <ul style="list-style-type: none"> <li>- Preventing and combating crimes involving children and vulnerable people – online training sessions, lasting for 16 hours, provided to 124 police officers.</li> <li>- Investigating crimes against sexual freedom and integrity against minors – training sessions lasting 15 hours, provided to 60 police officers.</li> <li>- Multidisciplinary training course on topics specific to combating human trafficking – training sessions including a two-hour course on interviewing children provided to 72 police officers.</li> <li>- Specific aspects of the relationship with minors in the police activity – 10 days of online training, organised by the Initial and Continuous Training Centre of the Ministry of Internal Affairs – Orăștie, in partnership with the Bucharest Romanian Public Policy Centre; Terre des hommes Foundation Romania and the General Inspectorate of Romanian Police; 85 officers participated in the six separate training programmes organised from 2020 to 2022.</li> </ul> <p>It was also stated that from 2017 to 2022, the Romanian Police sent 16 police officers to international training events relevant for investigations involving children.</p> <p><b>Training judges and prosecutors</b></p> <p>The National Institute of Magistracy (Institutul Național al Magistraturii -INM) reported<sup>164</sup> that, in regard to the initial professional training of judges and prosecutors, in autumn 2022 it introduced a specific activity module entitled “Hearing of minors”. The module is structured in courses (two) and seminars (three), in which teams of magistrates and psychologists, specialised in hearing minors, participate as trainers. Practical knowledge is acquired regarding</p>

<sup>163</sup> General Inspectorate of Romanian Police response to request for information from 12 July 2022.

<sup>164</sup> National Institute of Magistracy response to request for information from 8 July 2022.

the techniques of hearing people both in the civil process and in the criminal process, particularly the specifics of the hearing of minors. During the seminars, through recorded practical exercises, hearing activities carried out by judicial auditors are simulated, guided by trainers and evaluated in interactive discussions.

There are specific courses in the National Institute for Magistracy programme for continuing professional development that use the "National Institute of Child Health and Human Development (NICHD) Protocol: Interview Guide". The most relevant course is "Techniques for hearing minors", which has an emphasis on the specifics of the Roma population and involves a series of 15 seminars to be held between 2020 and 2023. The seminars are being carried out as part of the judicial system professional training and capacity building project, which is financed under the Norwegian Financial Mechanism (MFN) 2014-2021, and led by the Superior Council of Magistracy, in partnership with the National Institute of Magistracy, the National School of Clerks and the Administration of the Courts of Norway. The project also involves the creation of a guide on the topic, an exchange mission to Norway and the creation of specialised hearing rooms. Three courses were carried out in 2020 and six in 2022; all the courses were organised in Bucharest; 205 professionals attended, including judges, prosecutors, police officers, probation advisers and advisers of social services. The remaining six seminars are to be held in 2023; the courses are two days long, eight hours per day and participation is on a voluntary basis.

### **Hearing rooms for children**

In 2021, the Ministry of Justice gathered data in relation to the hearing rooms set up at the headquarters of the courts in Romania, requesting information from the Courts of Appeal. It found that in August 2021 there were 25 spaces intended for the hearing of minors at the headquarters of the courts. Three such rooms were in the process of being created.<sup>165</sup>

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<sup>165</sup> Ministry of Justice, response to request for information.

	<p>One of the most recently created and adequately equipped such rooms is the special hearing room for children, victims of sexual abuse, installed at the Prosecutor's Office of the Bucharest Tribunal. The room is equipped with the latest technology for transcription and audio-video recording, where minors, witnesses or victims of sexual abuse are interviewed in a friendly environment, without having contact with the other parties involved.</p> <p>The room was created at the initiative of the Association for Victims of Sexual Crimes, with € 20,000 in funding, collected from donations and sponsorships.<sup>166</sup> This Association has created several such rooms in Romania.<sup>167</sup></p>
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<sup>166</sup> Adevarul.ro (2022) '[Special chamber for hearing child victims of sexual abuse inaugurated at the Bucharest Prosecutor's Office](#)', 12 September 2022,.

<sup>167</sup> Information about the Association of Victims of Sexual Crimes can be found on its Facebook [page](#).



## **7 Access to justice – Victims’ Rights and Judicial Independence**

### **7.1 Legal and policy developments or measures relevant to the implementation of the Victims’ Rights Directive and the EU strategy for Victims’ Rights 2020-2025**

A new National Mechanism for Preventing Crimes was established (to be operational by 2023), under the National Agency for the Management of Seized Assets, which is intended, among other things, to facilitate access to funds for victims of crimes and for services for victims of crimes.<sup>168</sup> The mechanism will distribute money obtained from funds confiscated during criminal procedures or from the selling of goods confiscated during criminal procedures.

These funds will be distributed as follows:<sup>169</sup>

- a) 20 % to the Ministry of Education;
- b) 20 % to the Ministry of Health;
- c) 15 % to the Ministry of Internal Affairs;
- d) 15 % to the General Prosecutor’s office;
- e) 15 % to the Ministry of Justice;

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<sup>168</sup> Romania, Law No. 230/2022 amending Law No. 318/2015 for the establishment, organisation and operation of the National Agency for the Administration of Unavailable Assets and to amend some normative acts, as well as for the amendment and completion of Law No. 135/2010 regarding the Criminal Procedure Code ([Lege nr. 230 din 19 iulie 2022 privind modificarea și completarea Legii nr. 318/2015 pentru înființarea, organizarea și funcționarea Agenției Naționale de Administrare a Bunurilor Indisponibilizate și pentru modificarea și completarea unor acte normative, precum și pentru modificarea și completarea Legii nr. 135/2010 privind Codul de procedură penală](#)) 19 July 2022, Art. 37<sup>^</sup>1.

<sup>169</sup> Romania, Law No. 230/2022 amending Law No. 318/2015 for the establishment, organisation and operation of the National Agency for the Administration of Unavailable Assets and to amend some normative acts, as well as for the amendment and completion of Law No. 135/2010 regarding the Criminal Procedure Code, [Art. 37<sup>^</sup>2](#).

- f) 15% to the National Agency for the Management of Seized Assets to be distributed to NGOs that provide services to victims of crimes.

This mechanism also allows for victims of crimes to seek compensation for moral damages and for material damages.<sup>170</sup> This possibility also exists currently: victims need to submit a claim for compensation to the court (*tribunal*) seeking compensation. The judge would review the request and grant it if the victims meet a set of criteria.<sup>171</sup>

For urgent needs victims can also seek advance financial compensation in the form of vouchers for the equivalent of up to five annual gross minimum salaries, to be used to cover costs relating to food, housing, transport, medicine and personal hygiene products.<sup>172</sup>

There is a law proposal in the Senate that would introduce a series of procedural safeguards for victims of sexual crimes who are younger than 18, including:

- making it mandatory to question them in special rooms, adapted for children, in the presence or through a psychologist and for them to be questioned by the same person in the event that they are questioned a second time;
- all questioning of minors should be done by officers specialised in working with minors and should always be recorded;
- mandatory psychological expertise report should be drawn up when dealing with child victims of sexual offences;
- court cases concerning sexual offences against children will be secret (held without the public being present).<sup>173</sup>

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<sup>170</sup> Romania, Law No. 230/2022 amending Law No. 318/2015 for the establishment, organisation and operation of the National Agency for the Administration of Unavailable Assets and to amend some normative acts, as well as for the amendment and completion of Law No. 135/2010 regarding the Criminal Procedure Code, [Art. 37^14](#).

<sup>171</sup> Romania, Law No. 211/2004 on providing information and support to victims of crimes (Lege nr. 211 din 27 mai 2004 privind unele măsuri pentru asigurarea informării, sprijinirii și protecției victimelor infracțiunilor) 27 May 2004, [Art. 28](#).

<sup>172</sup> Romania, Law No. 230/2022 amending Law No. 318/2015 for the establishment, organisation and operation of the National Agency for the Administration of Unavailable Assets and to amend some normative acts, as well as for the amendment and completion of Law No. 135/2010 regarding the Criminal Procedure Code, [Art. 37^15](#).

<sup>173</sup> Romania, Law proposal L477/2022 to amend and supplement Law No. 135/2010 on the Code of Criminal Procedure ([Propunere legislativă pentru modificarea și completarea Legii nr.135/2010 privind Codul de procedură penală](#)).

Currently these rights exist but it is up to the prosecutor to decide whether or not to apply them in practice and the proposed modifications would make it mandatory to apply them in all cases concerning children.

## 7.2 Measures addressing violence against women

In August 2022, the Romanian Ministry of Family, Youth and Equality of Chances put forward for public debate a proposed Ministerial order setting up mandatory minimum standards for case management of social services for victims of domestic violence.<sup>174</sup> The proposed order would apply to all providers of social services for adult victims of domestic violence, providing for minimum qualifications needed for people who work with victims and for detailed procedures on the case management of victims of domestic violence including how to identify a victim, initial and detailed evaluation of the victim, drawing up an intervention plan, offering support, assistance and counselling and how to close a case.

In August 2022 Romania adopted legislation providing for the piloting of a new electronic monitoring system.<sup>175</sup> The system will be piloted in cases of domestic violence to survey compliance with restraining orders. In the first phase from 2022 to 2023, it will be tested in Bucharest and three counties (Iasi, Mures, Vrancea), and it will then be gradually applied in other counties.<sup>176</sup>

The system started being tested on 1 October 2022. It will be a completely automated system: the perpetrator has a bracelet<sup>177</sup> that emits a signal when they do not respect the obligations imposed by a restraining order.

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<sup>174</sup> Ministry of Family, Youth and Equality of Chances (2022) [Ordin pentru aprobarea standardelor minime obligatorii privind aplicarea managementului de caz în cadrul serviciilor sociale destinate victimelor violentei domestice](#).

<sup>175</sup> Romania, Government Decision No. 1.025 on establishing technical and organisational aspects for piloting and making operational the electronic monitoring system ([Hotărâre nr. 1.025 din 10 august 2022 pentru stabilirea aspectelor tehnice și organizatorice privind funcționarea în sistem-pilot, precum și a celor privind operaționalizarea Sistemului informatic de monitorizare electronică](#)), 10 August 2022.

<sup>176</sup> Romania, Government Decision No. 1.025 on [establishing technical and organisational aspects for piloting and making operational the electronic monitoring system](#), 10 August 2022, Art. 5.

<sup>177</sup> As explained in a [press release](#) issued by the General Inspectorate of Romanian Police (Inspectoratul General al Poliției Române) on 1 October 2022.

The Romanian Police Department (IGPR) (Inspectoratul General al Poliției Române) announced that in the first eight months of 2022, 7,331 protection orders were issued by the courts, and there were 2,166 complaints reported relating to non-compliance with the restraining order, which is 19.7 % (+356) more than in the first eight months of 2021.<sup>178</sup>

The Ministry of Justice (Ministerul Justiției) proposed a draft law on restraining orders.<sup>179</sup> Currently restraining orders are only used in domestic violence cases. Such orders are regulated by Law No. 217 of 22 May 2003 on domestic violence. Restraining orders are the same as emergency barring orders, as they are defined in Art. 52 of the Council of Europe Convention on preventing and combating violence against women and domestic violence. They can be ordered by the police for up to five days and by the courts for up to six months.

The proposed draft would be a special norm just on the use of the restraining order and it would expand the applicability of the restraining order to other types of aggression, beyond domestic violence, including to any case of violence, including sexual violence and any harassment including online harassment.

Women's rights groups have shown that an increasing number of women do not have access to abortion services.<sup>180</sup> They have reported that an increasing number of counties do not provide such medical services, that an increasing number of doctors refuse to perform abortions invoking religious reasons and that most women need to go to private hospitals to obtain an abortion. Because of this, more than 250 NGOs have asked the Romanian Government to ensure that women have access to planned parenthood services, including abortion and that abortion is covered by the health insurance.

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<sup>178</sup> General Inspectorate of Romanian Police (Inspectoratul General al Poliției Române) (2022) 'The computer system of electronic monitoring is functional in the city of Bucharest and the counties of Iași, Mureș and Vrancea', [press release](#) on 1 October 2022.

<sup>179</sup> Ministry of Justice (2022) 'The Ministry of Justice strengthens the protection of victims of acts of violence by promoting the Protection Order Law', press release, 29 October 2022, available in Romanian at:.

<sup>180</sup> FILIA Centre (2022) 'More than 250 Romanian and international civil society organisations are asking the Minister of Health and CNAS to settle the abortion-on-demand procedure', [press release](#), 16 November 2022.

## **8 Developments in the implementation of the Convention on the Rights of Persons with Disabilities**

### **8.1 CRPD policy and legal developments & implementation of the European Accessibility Act**

The National strategy on the rights of persons with disabilities: 'An equitable Romania' 2022-2027,<sup>181</sup> and its operational plan, were adopted in April 2022,<sup>182</sup> providing eight priority domains: accessibility and mobility; effective protection of the rights of persons with disabilities; employment; social protection; independent living and integration in the community, including access to public services; education; health; and political and public participation.

Although it ratified the UN CRPD on 31 January 2011, Romania only made its first submission on 3 March 2022 (the report had been due since 3 March 2013);<sup>183</sup> the first UN CRPD Committee response to Romania is yet to be scheduled.

### **8.2 The guardianship system**

As emphasised in our previous report, in 2020 the Romanian Constitutional Court declared unconstitutional the norm regulating the deprivation of legal capacity of people with disabilities (Article 164(1) of the Civil Code).<sup>184</sup> In August 2022 the law reforming the guardianship system entered into force.<sup>185</sup>

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<sup>181</sup> Romania (2022) [The National strategy on the rights of persons with disabilities: 'An equitable Romania', 2022-2027](#).

<sup>182</sup> Romania, Government Decision No. 490/2022, of 6 April 2022, for the approval of the National Strategy on the Rights of Persons with Disabilities "[An equitable Romania" 2022-2027](#).

<sup>183</sup> Government of Romania (2021) *Report on the implementation of the Convention of the Rights of Persons with Disabilities*, [Treaty bodies Download \(ohchr.org\)](#).

<sup>184</sup> Decision of the Constitutional Court No. 601/2020 on the exception of unconstitutionality of the provisions of Article 164 para. (1) of Law No. 287/2009 on the Civil Code.

<sup>185</sup> Romania, Law No. 140 of 17 May 2022 regarding some protection measures for people with intellectual and psychosocial disabilities and the modification and completion of some normative acts ([Lege nr. 140 din 17 mai 2022 privind unele măsuri de ocrotire pentru persoanele cu dizabilități intelectuale și psihosociale și modificarea și completarea unor acte normative](#)).

This law does not prohibit full deprivation of legal capacity. It does, however, introduce the possibility of obtaining support, which does not impair the beneficiary's legal capacity: the assistance for concluding legal documents. It also introduces the possibility of a representative agreement (a mandate of protection), through which an individual who has yet to be deprived of legal capacity can nominate, for the future and if the case arises, the person they want to be appointed as their guardian. It is also claimed that the law introduced more safeguards in order to ensure that full or partial deprivation of legal capacity will only be ordered in exceptional circumstances, with any such measures being individualised and time limited.

This law could therefore ensure that the number of people with disabilities deprived of legal capacity who are also deprived of their right to work, is reduced significantly. Its impact at this stage is difficult to assess. However, it is certain that supported decision making has become, for the first time, regulated in Romanian legislation.

### **8.3 Deinstitutionalisation**

The recently adopted National Strategy on the Rights of Persons with Disabilities notes that, in order to move forward with deinstitutionalisation, it is necessary to develop deinstitutionalisation guidelines and an intensive training programme for the stakeholders involved in the process; as well as providing constant guidance and monitoring of the deinstitutionalisation process and sustained funding.

The Operational Arrangements between the European Commission and Romania<sup>186</sup> make reference to the reform of the protection system for adults with disabilities. The first milestones, that were to be achieved by the end of 2022, were the entry into force of a guide to accelerating the deinstitutionalisation process and of a strategy for the prevention of institutionalisation.

On 19 December 2022, the Romanian Government adopted the National Strategy on the prevention of the institutionalisation of adults with disabilities and the acceleration of the deinstitutionalisation process 2022-2030.<sup>187</sup> This Strategy aims to establish a specific regulatory framework necessary to prevent the institutionalisation and support the deinstitutionalisation process of adults with disabilities.

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<sup>186</sup> [Operational Arrangements between the Commission and Romania | European Commission \(europa.eu\)](#).

<sup>187</sup> The 2022-2030 National strategy on the prevention of the institutionalization of adults with disabilities and the acceleration of the deinstitutionalization process ([Strategia națională privind prevenirea instituționalizării persoanelor adulte cu dizabilități și accelerarea procesului de dezinstituționalizare, 2022-2030](#)).

Romania has undertaken, within the National Plan for Recovery and Resilience, that in the period 2022-2026, it will accelerate the deinstitutionalisation process started in 2015, through two important legislative acts: the government decision for the approval of the national strategy regarding the prevention of the institutionalisation of adults with disabilities and the law to support the deinstitutionalisation process. The latter law has yet to be adopted. Through these commitments, Romania aims to reduce the number of 16,911 institutionalised adults with disabilities in 2020, to 11,500 by 30 June 2026 and to 10,349 institutionalised by the end of 2030. Moreover, 8,455 people are to receive personalised support by 30 June 2026.

The strategy includes six directions of action, aiming for the the provision of social services to be oriented towards the community and not towards residential institutions:

1. the coordination of the process of deinstitutionalisation at national, county and local level and the integration of adults with disabilities into the community;
2. ensuring a person-centered approach to the transition to independent life and integration into the community;
3. development of services in the community for the independent life of adults with disabilities, including for the prevention of institutionalisation;
4. the training and motivation of the staff working with and for these people;
5. ensuring support for the family in order to support independent life in the community;
6. awareness of society in order to support the independent life in the community of people with disabilities.

In addition, the Strategy provides an Action Plan for the implementation of the strategy,<sup>188</sup> which contains a set of specific measures to prevent the institutionalisation and support the deinstitutionalisation of adults with disabilities.

The strategy also contains a Guide for accelerating the deinstitutionalisation process,<sup>189</sup> which proposes activities at the level of the centers, such as planning the individual plan of independent living and integration into the community together with the the person with disabilities: training activities, awareness campaigns and activities of identifying the best support measures in the community. The guide also presents the stages of developing the deinstitutionalisation plan at the level of the residential

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<sup>188</sup> Available [in Romanian] at [https://mmuncii.ro/j33/images/Documente/MMSS/Transparenta\\_decizionala/Strategia\\_SNDI\\_05102022.pdf](https://mmuncii.ro/j33/images/Documente/MMSS/Transparenta_decizionala/Strategia_SNDI_05102022.pdf)

<sup>189</sup> Available [in Romanian] at [https://mmuncii.ro/j33/images/Documente/MMSS/Transparenta\\_decizionala/Anexa\\_2\\_Ghid\\_SNDI\\_05102022.pdf](https://mmuncii.ro/j33/images/Documente/MMSS/Transparenta_decizionala/Anexa_2_Ghid_SNDI_05102022.pdf)

center, from the elements related to preparation and implementation, to the stages of evaluation and monitoring of the process.

The implementation, monitoring and evaluation of the Deinstitutionalisation Strategy is carried out by the National Authority for the Protection of the Rights of Persons with Disabilities, with the support of central and local public authorities and institutions. Also, the Authority will publish annual progress monitoring reports on the implementation of the Deinstitutionalisation Strategy, and the impact of all measures will be analyzed through an interim evaluation in the first semester of 2026 and a final evaluation in the last semester of 2030.

The main financial resource of the Strategy is the non-reimbursable external fundings, provided by the National Recovery and Resilience Plan and the Inclusion and Social Dignity Operational Program.

While the adoption of this Strategy is to be commended, its main objective is not sufficiently ambitious. Despite a long assumed commitment to finalise the deinstitutionalisation process as soon as possible,<sup>190</sup> this Strategy only aims now to reduce the number of adults living with disabilities with only 38,80 % over the next 8 years (from 16,911 in 2020, to 10,349 institutionalised by the end of 2030). In the past five years this number has only decreased marginally (with 8.74%): from 18,038 in December 2018<sup>191</sup> to 16,460 in September 2022.<sup>192</sup> Therefore 1,91 % of people with disabilities still live in residential public institutions.<sup>193</sup> Although the average number of those living in large-scale centres has fallen, there has been a slight increase in the number of large residential care centres (those with more than 50 users, as well as those with 100 users or more).<sup>194</sup>

The number of public social assistance institutions for adults with disabilities, as of 30 September 2022 is of 546 (compared to 510 in March 2021 and 500 in March 2020), of which: 490 are residential settings (compared to 455 in March 2021, 444 in

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<sup>190</sup> Romania, [European semester national reform](#) programme.

<sup>191</sup> Romania, National Authority for the Rights of Persons with Disabilities, Children and Adoptions (ANDPDCA) (2022), [Statistical Bulletin](#).

<sup>192</sup> With 17,908 in December 2018, 17,562 in December 2019, 16,911 in December 2020 and 16,607 in December 2021 (see [Statistici – Autoritatea Națională pentru Protecția Drepturilor Persoanelor cu Dizabilități \(gov.ro\)](#)).

<sup>193</sup> Ministry of Labour and Social Protection. National Authority for the Rights of Persons with Disabilities, Children and Adoptions (*Ministerul Muncii și Protecției Sociale. Autoritatea Națională pentru Drepturile Persoanelor cu Dizabilități, Copii și Adopții*), (2022), Statistical data ([Date statistice](#)), 30 June 2022.

<sup>194</sup> World Bank (2021) [Diagnosis of the situation of persons with disabilities in Romania](#).



March 2020) and 56 are full-time non-residential settings (compared to 55 in March 2021 and 56 in March 2020). About 1,091 people with disabilities live in so-called sheltered housing.<sup>195</sup>

Of the 490 residential settings for adults with disabilities, 63 have more than 50 residents, and accommodate 6,421 people (compared to 79 settings in March 2021). According to the authorities, all these centres are in the process of restructuring.<sup>196</sup> Settings with fewer than 50 residents, while representing institutions according to the UN CRPD, are not, for now, targeted by policies aimed at restructuring them.

Besides these, there are also 277 residential services (265 public residential services and 12 private residential services) for children with disabilities. These services included 176 family houses, 44 apartments, 33 classic placement centres, 21 modulated placement centres and three other services. They accommodate 3,717 children in total (compared to 3,848 in March 2021 and 4,366 in March 2020).<sup>197</sup> None of these services is considered an institution, with authorities reporting that the process of deinstitutionalisation of children has been finalised.<sup>198</sup>

The Operational Arrangements between the European Commission and Romania<sup>199</sup> make reference to the reform of the protection system for adults with disabilities. The first milestones, to be achieved by the end of 2022, are the entry into force of the Guide to Accelerating the Deinstitutionalisation Process and of the national strategy for the prevention of institutionalisation. Neither of these milestones has been achieved.

The other targets, to be achieved by 2026 are to reduce the total number of institutionalised persons with disabilities and to ensure institutionalised persons with disabilities receive personalised support to deinstitutionalise and implement their “independent living pathway”. The goal is to reduce the number of institutionalised adults to 11,500 and for 8,455 people to receive personalised support.<sup>200</sup> These targets are not very ambitious, given that in the 2021 National Reform Plan, there was a commitment to finalise the deinstitutionalisation process by the end of 2022.<sup>201</sup>

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<sup>195</sup> [Statistici – Autoritatea Națională pentru Protecția Drepturilor Persoanelor cu Dizabilități \(gov.ro\)](#).

<sup>196</sup> Ministry of Labour and Social Protection, National Authority for the Rights of Persons with Disabilities, Children and Adoptions (Ministerul Muncii și Protecției Sociale. Autoritatea Națională pentru Drepturile Persoanelor cu Dizabilități, Copii și Adopții), (2021), ‘Statistical data’ ([Date statistice](#)), 31 March 2021.

<sup>197</sup> [Buletin statistic în domeniul muncii și protecției sociale în trimestrul I 2022 \(mmuncii.ro\)](#).

<sup>198</sup> [Romania](#), National Authority for the Rights of Persons with Disabilities, Children and Adoptions (ANDPDCA) (2022), [Statistical Bulletin, trimester I](#).

<sup>199</sup> European Commission (2022) [Operational Arrangements between the Commission and Romania | European Commission \(europa.eu\)](#).

<sup>200</sup> European Commission (2022) [Operational Arrangements between the Commission and Romania | European Commission \(europa.eu\)](#), pp. 407-408.

<sup>201</sup> Romanian Government (2021) [National Reform Programme 2021](#), Bucharest June 2021.

## **8.4 Observations regarding COVID-19**

The National Authority for the Rights of Persons with Disabilities, Children and Adoptions (ANDPDCA) provided, until November 2021, information regarding the number of COVID-19 infections registered in residential institutions, as well as information related to the vaccination rates in such centres.<sup>202</sup> No information appears to have been gathered in relation to people with disabilities living in the community.

## **8.5 The European Accessibility Act**

The recently adopted National Strategy on the Rights of Persons with Disabilities includes accessibility and mobility as one of its eight priorities. It underlines that the main problems related to accessibility are determined by several elements, including: (i) no comprehensive accessibility strategy at national level; (ii) a lack of continuity in accessible routes; (iii) the rules on adapting civil buildings and urban space to the individual needs of persons with disabilities are not respected; (iv) the powers of licensing, inspecting and sanctioning non-compliance with the accessibility criteria are not exercised adequately; and (v) most public institutions do not have a phased accessibility plan.

Regarding access to information and communications services, the difficulties lie in the fact that the existing legislation and rules do not include standards regarding the criteria for accessibility of goods and services, the implementation of the provisions on sign language by television channels is minimal and the implementation of legislative provisions on the accessibility of public institutions' websites is extremely limited. There are also problems in the organisation of emergency response systems; for example, the hazard and risk maps are incomplete and out of date and the staff involved are not prepared to meet the needs of persons with disabilities.

Following the approval of Directive (EU) 2019/882 of the European Parliament and of the Council of 17 April 2019 on the accessibility requirements for products and services, Member States were required to transpose its provisions into national law by 28 June 2022 and to enforce them by 28 June 2025. Given this obligation, Romania adopted Law No. 232 of 19 July 2022

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<sup>202</sup> National Authority for the Rights of Persons with Disabilities, Children and Adoptions (ANDPDCA) (2022) 'The deadline for submitting projects for the establishment of 150 day care centres extended until February 9', [press release](#) 22 December 2022.

regarding accessibility requirements applicable to products and services,<sup>203</sup> which is intended to transpose the Directive. The law was adopted on 19 July 2022, and will enter into force on 28 June 2025.

In relation to the reception and integration of displaced persons with disabilities fleeing Ukraine, on 29 June 2022 Romania adopted a set of measures aimed at the protection and inclusion of these persons.<sup>204</sup> This guarantees the access of displaced people with disabilities to the daycare and residential services for people with disabilities available in Romania. It also offers service providers the possibility to create new services addressed specifically to this group of people, providing that the assessment and approval of such services needs to be done speedily.

## 8.6 CRPD monitoring at national level

The Council for Monitoring the Implementation of the UN CRPD established by law in 2016 conducts monitoring visits, takes measures in relation to its findings and publishes information about its activities.<sup>205</sup> In 2022, the Council published 116 individual reports about the visits that it had carried out in different types of institutions and alternative housing provided to people with disabilities. It also publishes the replies that it receives in relation to its recommendations from different authorities.

Contact points have been established for the implementation of the Convention in the following ministries: the Ministry of National Education and Scientific Research/ Ministry of Education, the Ministry of Justice, the Ministry of Health, the Ministry of Communications and Information Society/Ministry of Research, Innovation and Digitisation and the Ministry of European Union Funds/Ministry of Investment and European Projects.<sup>206</sup>

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<sup>203</sup> Romania, [Law No. 232 of 19 July 2022 regarding accessibility requirements applicable to products and services](#), Official Journal No. 743 of 25 July 2022.

<sup>204</sup> Romania, [Emergency Ordinance No. 100 of 29 June 2022 regarding the approval and implementation of the National plan of measures regarding the protection and inclusion of displaced persons from Ukraine, beneficiaries of temporary protection in Romania, as well as for the modification and completion of some normative acts](#), Official Journal No. 653 of 30 June 2022.

<sup>205</sup> Monitoring Council of the implementation of the UN Convention On The Rights Of Persons With Disabilities, [2022 reports](#) available on its website in Romanian.

<sup>206</sup> According to Law No. 8/2016, in order to implement the provisions of [Art. 33](#) from the Convention; see Romanian Government (2022) [Report on the implementation of the Convention of the Rights of Persons with Disabilities](#), submitted by Romania before the UN CRPD Committee on 3 March 2022.

The People's Advocate also carries out monitoring that aims to protect the rights and freedoms of individuals in their dealings with public authorities, acting in five areas, including "rights of persons with disabilities"<sup>207</sup> and "prevention of torture in places of detention". This institution regularly monitors the treatment of persons in places of deprivation of liberty. In 2021 the People's Advocate visited one residential centre for people with disabilities and 12 residential centres for adults with disabilities, publishing its findings.<sup>208</sup>

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<sup>207</sup> People's Advocate, (Avocatul Poporului), General competencies ([Competente generale](#)).

<sup>208</sup> [People's Advocate](#), (Avocatul Poporului) (2022) Activity report for 2021 ([Raport de activitate pentru anul 2021](#)).

## Annex 1 – Promising Practices

<b>Thematic area</b>	<b>EQUALITY AND NON-DISCRIMINATION</b> Please provide one example of a promising practice to tackle discrimination against LGBTIQ people or discrimination on the grounds of socio-economic status, health status and physical appearance, such as awareness raising campaigns or training for relevant professionals. Where no such examples are available, please provide an example of an awareness raising campaign held in your country in 2022 relevant to equality and non-discrimination of LGBTIQ people or on the other above-mentioned grounds, preferably one conducted by a national equality body.
<b>Title (original language)</b>	No promising practice has been identified for this thematic area.

<b>Thematic area</b>	<b>RACISM, XENOPHOBIA AND RELATED INTOLERANCE</b> Please provide one example of a promising practice to address racism and xenophobia. Please give preference to a promising practice about participation and engagement of Equality bodies and CSOs in addressing racism and hate crime. Where no such practice exists, please provide one example of a promising practice related more generally to combating racism, xenophobia, and related intolerances.
<b>Title (original language)</b>	No promising practice has been identified for this thematic area.

<b>Thematic area</b>	<b>ROMA EQUALITY AND INCLUSION</b> Please provide one example of promising practice in relation to the two topics addressed in the chapter: regarding the implementation of national action plans and regarding the legal or policy developments addressing Roma/Travellers equality and inclusion.
<b>Title (original language)</b>	'Combaterea discriminării în clasă – ghid pentru profesori' – ProfsAgainstDiscrimination
<b>Title (EN)</b>	'Combating Discrimination in the Classroom - A Guide for Teachers' – Profs against discrimination

<b>Organisation (original language)</b>	Consiliul Național pentru Combaterea Discriminării (CNCD) și <a href="#">Asociația Institutul pentru Politici Publice</a> (IPP)
<b>Organisation (EN)</b>	National Council for Combating Discrimination and <a href="#">Institute for Public Policy</a>
<b>Government / Civil society</b>	CNCD is a Government body, while IPP is an NGO
<b>Funding body</b>	European Commission through the REC programme, REC-RDIS-DISC-AG-2020, under Agreement No. 963306
<b>Reference (incl. URL, where available)</b>	<a href="https://www.ipp.ro/ghid-practic-pentru-profesori-pentru-combaterea-discriminarii-in-clasa/">https://www.ipp.ro/ghid-practic-pentru-profesori-pentru-combaterea-discriminarii-in-clasa/</a> <a href="http://www.ipp.ro/profsagainstdiscrimination/">http://www.ipp.ro/profsagainstdiscrimination/</a> Documents available only in Romanian
<b>Indicate the start date of the promising practice and the finishing date if it has ceased to exist</b>	1 December 2020 The project has a 24-month duration.
<b>Type of initiative</b>	Combating discrimination in schools through awareness raising and training
<b>Main target group</b>	200 teachers trained to increase their awareness and capacity to identify, combat and report cases of discrimination in schools
<b>Indicate level of implementation: Local/Regional/National</b>	National
<b>Brief description (max. 1000 chars)</b>	The project aims to increase awareness and the capacity to identify, combat and report cases of discrimination in schools, at national level, through training sessions provided for 200 teachers and the production of a practical guide on combating discrimination in the classroom as well as increasing the level of data and statistics on the knowledge and application of anti-discrimination legislation and tools that can be used to combat this phenomenon. Multiple activities are carried out in the project including: - analysis of the legislation at national level regarding the implementation of the principle of non-discrimination and three nationwide surveys among teachers, parents and County School Inspectorates on the existence of the phenomenon of discrimination

	<ul style="list-style-type: none"> <li>- national surveys among teachers, parents and County School Inspectorates</li> <li>- raising awareness and the capacity to identify, combat and report cases of discrimination in schools at national level through training sessions for 200 teachers and the production of a practical guide to combating discrimination in the classroom as well as a study on perceptions and effectiveness of anti-discrimination instruments in education</li> <li>- increasing the level of data and statistics on the knowledge and application of anti-discrimination legislation and the instruments that could be used to combat this phenomenon, perceptions and attitudes on discrimination in schools</li> <li>- addressing gaps in legislation and practice through a series of concrete and specific public policy recommendations resulting from the Discrimination Perception Study 2021.</li> </ul> <p>The results of the project and the public policy recommendations will be presented at the final conference.</p>
<b>Highlight any element of the actions that is transferable (max. 500 chars)</b>	All the research carried out in the context of the project will provide valuable information regarding discrimination in schools. The practical guide to combating discrimination in the classroom is an important tool that should be used by the Ministry of Education.
<b>Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')</b>	The practical guide to combating discrimination in the classroom was accepted and recognised by the Ministry of Education as an important tool that will be used in combating discrimination in schools across the country. The guide is addressed to teachers in primary and secondary schools to help them with the identification of discrimination and bullying as well as to school leadership and county inspectorates to support them with monitoring and intervention. The guide includes basic information, recommendations, activities and case studies and self-assessment questions
<b>Give reasons why you consider the practice as having concrete measurable impact</b>	Two hundred teachers were trained to be more aware of and capable of identifying, combating and reporting cases of discrimination in schools.
<b>Give reasons why you consider the practice as transferable to other settings and/or Member States?</b>	The initiative could be easily replicated by other Member States. The survey instrument, the analysis of the legal framework and the guide to combating discrimination in the classroom could be replicated and adapted to the realities of other Member States. Discrimination in education is not a problem that applies only to Romania.

<p><b>Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.</b></p>	<p>Not enough information has been provided to assess the involvement of beneficiaries and stakeholders.</p>
<p><b>Explain, if applicable, how the practice provides for review and assessment.</b></p>	<p>No information has been provided in relation to review and assessment.</p>

<p><b>Thematic area</b></p>	<p><b>INFORMATION SOCIETY, PRIVACY AND DATA PROTECTION</b>  Please, provide one example of a promising practice related to the topics addressed in the chapter, i.e., in relation to data protection, and/or artificial intelligence systems.</p>
<p><b>Title (original language)</b></p>	<p>No promising practice has been identified for this thematic area.</p>



<b>Thematic area</b>	<b>RIGHTS OF THE CHILD</b> <b>Please provide a promising practice for the related topics addressed in the chapter (i.e., the impact of poverty and exclusion on children and children and justice).</b>
<b>Title (original language)</b>	Programul național de suport pentru copii în contextul pandemiei de COVID – 19 – „Din grijă pentru copii”
<b>Title (EN)</b>	The National Support Programme for Children in the Context of the COVID-19 Pandemic- “Caring for Children”
<b>Organisation (original language)</b>	Guvernul României
<b>Organisation (EN)</b>	Romanian Government
<b>Government / Civil society</b>	Government and civil society
<b>Funding body</b>	Financing is provided from the state budget, including from external refundable and non-refundable funds, through the budget of the Ministry of Education.
<b>Reference (incl. URL, where available)</b>	<a href="http://www.dingrijapentru copii.gov.ro">www.dingrijapentru copii.gov.ro</a>
<b>Indicate the start date of the promising practice and the finishing date if it has ceased to exist</b>	The initiation of the programme was approved on 24 September 2021; <sup>209</sup> the programme is supposed to run for two years.
<b>Type of initiative</b>	The programme is carried out with the support of the Ministry of Education, the Ministry of Internal Affairs, the Ministry of Health, the Ministry of Labour, the General Inspectorate of Romanian Police, the Romanian College of Psychologists, the Romanian College of Social Workers, the Federation of Parents’ Associations, the National Council of Students and partner non-governmental organisations.
<b>Main target group</b>	Children

<sup>209</sup> <https://legislatie.just.ro/Public/DetaliiDocumentAfis/246646>.

<b>Indicate level of implementation: Local/Regional/National</b>	National											
<b>Brief description (max. 1000 chars)</b>	<p>The priorities of the programme are:</p> <p>a) protecting the psycho-emotional integrity of children by creating assessment and intervention mechanisms to ensure their psycho-emotional and mental health during the COVID-19 pandemic and post-pandemic period;</p> <p>b) improving the prevention and multidisciplinary and network intervention mechanism for situations of violence against children, especially for situations of physical, sexual and emotional violence in the family, institutional, community and online settings.</p> <p>The specific measures to be taken are the following <sup>210</sup>:</p> <table border="1" data-bbox="524 727 1805 1177"> <tr> <td data-bbox="524 727 595 908">1.</td> <td data-bbox="602 727 1485 908">Establishing a unique national number for emergencies related to children: <b>119 – National helpline to report cases of child abuse</b><sup>211</sup></td> <td data-bbox="1491 727 1805 908">100 % achieved</td> </tr> <tr> <td data-bbox="524 912 595 1062">2.</td> <td data-bbox="602 912 1485 1062">Development of the resource platform <a href="http://dingrijapentru copii.gov.ro">dingrijapentru copii.gov.ro</a> dedicated to children, specialists and parents</td> <td data-bbox="1491 912 1805 1062">100 % achieved</td> </tr> <tr> <td data-bbox="524 1067 595 1177">3.</td> <td data-bbox="602 1067 1485 1177">Implementation of a real-time alert mechanism for missing children - RoALERT – MISSING CHILD</td> <td data-bbox="1491 1067 1805 1177">95 % achieved</td> </tr> </table>			1.	Establishing a unique national number for emergencies related to children: <b>119 – National helpline to report cases of child abuse</b> <sup>211</sup>	100 % achieved	2.	Development of the resource platform <a href="http://dingrijapentru copii.gov.ro">dingrijapentru copii.gov.ro</a> dedicated to children, specialists and parents	100 % achieved	3.	Implementation of a real-time alert mechanism for missing children - RoALERT – MISSING CHILD	95 % achieved
1.	Establishing a unique national number for emergencies related to children: <b>119 – National helpline to report cases of child abuse</b> <sup>211</sup>	100 % achieved										
2.	Development of the resource platform <a href="http://dingrijapentru copii.gov.ro">dingrijapentru copii.gov.ro</a> dedicated to children, specialists and parents	100 % achieved										
3.	Implementation of a real-time alert mechanism for missing children - RoALERT – MISSING CHILD	95 % achieved										

<sup>210</sup> Evaluation meeting of the first six months of the implementation of the Government's National Program of support for children, in the context of the COVID-19 pandemic – Caring for Children, 18 February 2022, available [in Romanian] at <https://gov.ro/ro/stiri/reuniune-de-evaluare-a-primelor-ase-luni-de-implementare-a-programului-national-al-guvernului-de-suport-pentru-copii-in-contextul-pandemiei-de-covid-19-din-grija-pentru-copii&page=2>.

<sup>211</sup> Special telecommunications service – Romania: 119 - unique national telephone number for cases of abuse against children, available [in Romanian] at <https://www.sts.ro/ro/comunicate-de-presa/119-numar-unic-de-telefon-la-nivel-national-pentru-cazurile-de-abuz-impotriva-copiiilor> and

	4.	Developing an integrated IT system to combat child pornography and the exploitation and abuse of minors online	75 % achieved	
	5.	Establishment of hearing rooms for child victims of crimes in each county	30 % achieved	
	6.	70,000 hours of free psychological counselling and psychotherapy for children with psycho-emotional disorders generated by the COVID-19 pandemic	70 % achieved	
	7.	Topics of psycho-emotional education, emotion management and online safety in the school curriculum	15 % achieved	
	8.	Training of at least 7,000 specialists (teachers, social workers, police officers) in the field of emotion management and relationships, identification methods and intervention in psycho-emotional disruptive situations	10 % achieved	
	9.	The introduction of a training module of skills in the psycho-emotional field for teachers at the didactic master's level	5 % achieved	
	10.	The creation of departments dedicated to inclusion management and psycho-pedagogical support in schools	50 % achieved	
<b>Highlight any element of the actions that is transferable (max. 500 chars)</b>	This programme takes specific measures to address the impact of the COVID-19 pandemic on children; it has been developed by taking into consideration the assessments and lessons learned so far, at the national and international level. Although its development has been coordinated by different governmental bodies, civil society and other relevant actors, such as the College of Psychologists, the College of Social Workers, UNICEF Romania and Save the Children have also been involved.			

<p><b>Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')</b></p>	<p>Although the programme has not yet been published, its initiators claim it has funding ensured for two years and that there are already discussions with the Ministry of European Investment and Projects to identify ways to ensure its sustainability and complementarity.</p>
<p><b>Give reasons why you consider the practice as having concrete measurable impact</b></p>	<p>The proposed measures include specific outcomes, such as:</p> <ul style="list-style-type: none"> <li>- the introduction of "emotion management and emotional intelligence" in schools</li> <li>- teacher training</li> <li>- development of intervention guidelines adapted to the pandemic context</li> <li>- facilitating access to psychological and psychotherapeutic therapies for children with difficulties</li> <li>- creating resources on online and domestic security to identify the dangers and signs of various forms of violence and abuse</li> <li>- implemented action plans for reporting and assisting identified cases of child abuse and violence</li> <li>- creating an online resource platform for parents, children and teachers, whose impact will be measurable.</li> </ul>
<p><b>Give reasons why you consider the practice as transferable to other settings and/or Member States?</b></p>	<p>All Member States have been and are currently dealing with the COVID-19 pandemic and its consequences, which have impacted children in many ways; bringing a variety of actors together, assessing what has happened and creating a plan for the near future in order to support children is imperative.</p>
<p><b>Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.</b></p>	<p>The programme was created by variety of governmental bodies, in collaboration with several other stakeholders, including the College of Psychologists, the College of Social Workers, UNICEF Romania and the NGO Save the Children.</p>

<b>Explain, if applicable, how the practice provides for review and assessment.</b>	The Department for Community Social Responsibility and Vulnerable Groups was created as a unit subordinated to the Prime Minister, financed from the state budget through the budget of the General Secretariat of the Government. Its objective is to ensure the coordination, monitoring and evaluation of the implementation of the programme. A public evaluation meeting was held on 18 February 2022; partners were brought together and the achievements and the progress of the programme were discussed, with details about the targets achieved and what remains to be done. <sup>212</sup>
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<b>Thematic area</b>	<b>ACCESS TO JUSTICE – Victim’s Rights and Judicial Independence</b> <b>Please provide one example of a promising practice in relation to the topic address in the chapter: i.e. Victim’s Rights Directive, the EU Strategy for Victim’s Rights and violence against women.</b>
<b>Title (original language)</b>	VioGen RoJust
<b>Title (EN)</b>	VioGen RoJust
<b>Organisation (original language)</b>	Agenția Națională pentru Egalitatea de Șanse între Femei și Bărbați
<b>Organisation (EN)</b>	National Agency for Equality between Men and Women
<b>Government / Civil society</b>	Government in partnership with NGOs
<b>Funding body</b>	EEA and Norway Grants
<b>Reference (incl. URL, where available)</b>	<a href="https://anes.gov.ro/lansarea-proiectul-viogen-rojust-actiune-strategica-in-scopul-implementarii-efective-a-standardelor-consiliului-europei-privind-drepturile-omului-2/">https://anes.gov.ro/lansarea-proiectul-viogen-rojust-actiune-strategica-in-scopul-implementarii-efective-a-standardelor-consiliului-europei-privind-drepturile-omului-2/</a> .
<b>Indicate the start date of the promising practice and the finishing</b>	December 2021

<sup>212</sup> <https://gov.ro/ro/stiri/reuniune-de-evaluare-a-primelor-ase-luni-de-implementare-a-programului-national-al-guvernului-de-suport-pentru-copii-in-contextul-pandemiei-de-covid-19-din-grija-pentru-copii&page=2>

<b>date if it has ceased to exist</b>	
<b>Type of initiative</b>	Project
<b>Main target group</b>	The main target groups are lawyers, judges, prosecutors and police officers who deal with cases of domestic violence
<b>Indicate level of implementation: Local/Regional/National</b>	National
<b>Brief description (max. 1000 chars)</b>	<p>The project aims to improve protection measures against domestic violence through a series of activities consisting of:</p> <ul style="list-style-type: none"> <li>- carrying out a study on relevant ECHR decisions on domestic violence</li> <li>- developing a mechanism by which to ensure that ECHR domestic violence decisions and other relevant recommendations are implemented</li> <li>- organising 15 working group events with the legal professions across Romania on implementing domestic violence standards</li> <li>- training legal professionals who deal with domestic violence – judges, prosecutors, lawyers and police officers</li> <li>- national communication campaign on domestic violence to educate people on what domestic violence is and how to sanction it</li> <li>- setting up a network of specialists on domestic violence that can be consulted by their peers.</li> </ul>
<b>Highlight any element of the actions that is transferable (max. 500 chars)</b>	The ECHR has a consistent body of jurisprudence on domestic violence. Romania is one of the countries with most cases before the ECHR so any study on relevant jurisprudence done in Romania has relevance throughout the CoE states, because it evokes principles applicable to all of these states.
<b>Give reasons why you consider the practice as sustainable (as</b>	The project is a good example of cooperation between Government institutions and NGOs. It builds on existing cooperation and draws on the expertise and resources of both governmental and non-governmental organisations. This gives it sustainability and continuity, both in building on existing structures and in using state institutions to carry out and pick up the work done in the project.

<b>opposed to 'one off activities')</b>	
<b>Give reasons why you consider the practice as having concrete measurable impact</b>	The project has several very concrete, deliverables such as a study on ECHR jurisprudence, training of legal professionals and the production of training material. This translates into concrete measurable impacts.
<b>Give reasons why you consider the practice as transferable to other settings and/or Member States?</b>	After years of successful litigation on women's rights and gender-based violence, Romania has a significant body of jurisprudence on the issue and it is important to also focus on implementing this existing jurisprudence and make sure it translates into practice. This work is relevant in all countries.
<b>Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.</b>	<p>The training modules for legal professions are done in cooperation with representatives of their professional bodies.</p> <p>The project also involves NGOs and institutions that work directly with victims of domestic violence and it builds on this experience and expertise.</p>
<b>Explain, if applicable, how the practice provides for review and assessment.</b>	The training participants have feedback forms which are interpreted and used to continuously adapt the training material.

<b>Thematic area</b>	<b>Developments in the implementation of the Convention on the Rights of Persons with Disabilities (CRPD)</b> Please provide one example of a promising practice of national monitoring bodies (e.g., a well-run outreach campaign, an inclusive survey, a successful effort or initiative to improve legislation, etc.) in relation to projects or programmes implementing the CRPD or promoting the rights of persons with disabilities. Where no such practice exists, please provide one example of a promising practice in relation to projects or programmes implementing the CRPD or promoting the rights of persons with disabilities, focussing on projects and programmes implemented with EU funding.
<b>Title (original language)</b>	Persoane cu dizabilități - tranziția de la servicii rezidențiale la servicii în comunitate
<b>Title (EN)</b>	People with disabilities - transition from residential to community services
<b>Organisation (original language)</b>	Autoritatea Națională pentru Drepturile Persoanelor cu Dizabilități, Adopții și Copii
<b>Organisation (EN)</b>	National Authority for the Rights of Persons with Disabilities, Adoptions and Children
<b>Government / Civil society</b>	Government agency
<b>Funding body</b>	Total value of the project: RON 15,013,626.47 (EUR 3,034,220.50) The amount of European Union co-financing: RON 12,609,023.52 (EUR 2,548,255.60) The rest is provided from the state budget
<b>Reference (incl. URL, where available)</b>	<a href="#">Persoane cu dizabilități – tranziția de la servicii rezidențiale la servicii în comunitate – Autoritatea Națională pentru Protecția Drepturilor Persoanelor cu Dizabilități (gov.ro)</a>
<b>Indicate the start date of the promising practice and the finishing date if it has ceased to exist</b>	The project was initiated on 6 August 2019. It was supposed to be finalised by 6 July 2022. Its duration was prolonged to April 2023.
<b>Type of initiative</b>	Initiated by the National Authority for the Rights of Persons with Disabilities, Adoptions and Children
<b>Main target group</b>	Institutionalised adults with disabilities



<b>Indicate level of implementation: Local/Regional/National</b>	National
<b>Brief description (max. 1000 chars)</b>	<p>The general objective of the project is to accelerate the process of deinstitutionalisation of adults with disabilities by designing public policy and working tools for the development of alternative support for independent living and community integration and the prevention of (re)institutionalisation.</p> <p>The specific objectives of the project are:</p> <ul style="list-style-type: none"> <li>- creation of a public policy proposal for the development of support alternatives for independent living and community integration and the prevention of (re)institutionalisation, based on evidence obtained from the ex-ante evaluation</li> <li>- to design work tools in the field of social services for adults with disabilities</li> <li>- coordination at the inter-institutional level to avoid overlapping initiatives and avoid double funding.</li> </ul> <p>Expected results following the implementation of the project:</p> <ul style="list-style-type: none"> <li>- a proposal of public policies to prevent institutionalisation</li> <li>- tools for monitoring and controlling standards in the field of social services for adults with disabilities.</li> </ul>
<b>Highlight any element of the actions that is transferable (max. 500 chars)</b>	<p>A deinstitutionalisation process should always include the development of tools such as those to be created within this project. The institutionalisation of people with disabilities continues to be a problem across Europe. While initiated with an important delay in comparison to the commitments assumed by the Romanian Government, they do constitute an example of promising practice.</p>
<b>Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')</b>	<p>The project will lead to the development of policy proposals and working tools that could be used during the deinstitutionalisation process, which will most likely take place over at least five years, thus also preventing further institutionalisation.</p>
<b>Give reasons why you consider the practice as having concrete measurable impact</b>	<p>The project should result in the creation of a proposal of public policies to prevent institutionalisation and tools for monitoring and controlling standards in the field of social services for adults with disabilities.</p>
<b>Give reasons why you consider the</b>	<p>A deinstitutionalisation process should always include developments of tools such as those to be created within this project. The institutionalisation of people with disabilities continues to be a problem across</p>

<p><b>practice as transferable to other settings and/or Member States?</b></p>	<p>Europe. While initiated with an important delay in comparison to the commitments assumed by the Romanian Government, they do constitute an example of promising practice.</p>
<p><b>Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.</b></p>	<p>No information available.</p>
<p><b>Explain, if applicable, how the practice provides for review and assessment.</b></p>	<p>The deliverables of the projects are guides and tools, which are clearly indicated. Thus far, the following instruments have been created:</p> <ul style="list-style-type: none"> <li>- methodology for data collection in order to carry out a complex diagnosis of the situation of public social assistance residential institutions for adults with disabilities (June 2020)<sup>213</sup></li> <li>- methodology for data collection in order to carry out the complex diagnosis of services for adults with disabilities at the community level (April 2021)<sup>214</sup></li> <li>- complex diagnosis of the situation of public residential institutions of social assistance for adults with disabilities, Volume 1 (February 2022)<sup>215</sup></li> <li>- methodology for evaluating county strategies for the development of social services and a set of indicators for evaluating county strategies (February 2022)<sup>216</sup></li> <li>- the first monitoring report on the implementation of the reorganisation and restructuring of residential centres (February 2022).<sup>217</sup></li> </ul>

<sup>213</sup> <http://anpd.gov.ro/web/wp-content/uploads/2022/03/10-Livrabil-subactivitatea-A1.1-Metodologia-pentru-colectare-date.pdf>

<sup>214</sup> [http://anpd.gov.ro/web/wp-content/uploads/2022/03/Livrabil-A-2.1-Cerere-rambursare\\_RO.pdf](http://anpd.gov.ro/web/wp-content/uploads/2022/03/Livrabil-A-2.1-Cerere-rambursare_RO.pdf)

<sup>215</sup> [http://anpd.gov.ro/web/wp-content/uploads/2022/03/Livrabil\\_A-1.2-Cerere-rambursare\\_RO.pdf](http://anpd.gov.ro/web/wp-content/uploads/2022/03/Livrabil_A-1.2-Cerere-rambursare_RO.pdf)

<sup>216</sup> [http://anpd.gov.ro/web/wp-content/uploads/2022/03/Livrabil\\_A-4.1-Cerere-de-rambursare\\_RO.pdf](http://anpd.gov.ro/web/wp-content/uploads/2022/03/Livrabil_A-4.1-Cerere-de-rambursare_RO.pdf)

<sup>217</sup> [http://anpd.gov.ro/web/wp-content/uploads/2022/03/Livrabil-A-6.1-Cerere-de-rambursare\\_RO.pdf](http://anpd.gov.ro/web/wp-content/uploads/2022/03/Livrabil-A-6.1-Cerere-de-rambursare_RO.pdf)

## Annex 2 – Case Law

<b>Thematic area</b>	<b>EQUALITY AND NON-DISCRIMINATION</b> Please provide one high court decision addressing discrimination against LGBTIQ people or on the grounds of socio-economic status, health status and physical appearance (not related to health or disability or to other grounds like ethnic origin, religion). Where relevant, always highlight any relevance or reference to multiple or intersectional discrimination in the case you report.
<b>Decision date</b>	No case law has been identified for this thematic area

<b>Thematic area</b>	<b>RACISM, XENOPHOBIA AND RELATED INTOLERANCE</b> Please provide the most relevant <u>high court</u> decision concerning the application of <u>either</u> the Racial Equality Directive or the Framework Decision on racism and xenophobia, addressing racism, xenophobia, and other forms of intolerance more generally.
<b>Decision date</b>	28 April 2022
<b>Reference details</b>	Constitutional Court of Romania, Decision No. 228/2022 of 28 April 2022, published in the Official Journal No. 532 of 31 May 2022, available at <a href="https://www.ccr.ro/wp-content/uploads/2022/06/Decizie_228_2022.pdf">https://www.ccr.ro/wp-content/uploads/2022/06/Decizie_228_2022.pdf</a>
<b>Key facts of the case (max. 500 chars)</b>	This case was a constitutional review filed by the People’s Advocate, of an amendment to Article 369 of the Criminal Code (Incitement to violence, hatred or discrimination), adopted by the Parliament in March 2022 after re-examination based on another Constitutional Court Decision, because the list of protected grounds included “political opinion and affiliation”.
<b>Main reasoning/argumentation (max. 500 chars)</b>	The People’s Advocate complained that by including “political opinion and affiliation” among the criteria explicitly listed in Article 369 of the Criminal Code to identify the categories of persons protected against Incitement to violence, hatred or discrimination, the provision violates freedom of expression.

<p><b>Key issues (concepts, interpretations) clarified by the case (max. 500 chars)</b></p>	<p>The act of incitement is directed to the public, which means an undetermined number of persons, and not necessarily a particular audience. Incitement to hatred is a conduct crime and not a result crime. This criminal offence can only be committed with intent. The criterion “political opinion and affiliation” is constitutional because the definition of the criminal offence is very clear and predictable, due to the legislator’s circumstantiating both <i>actus reus</i> and <i>mens rea</i> to the respective criterion, which must be considered by the perpetrator as the cause of inferiority of a person in relation to other persons and susceptible of determining a category of persons against which the criminal offence of incitement to violence, hatred or discrimination can be committed. The distinction between the criminal offence stipulated at Article 369 of the Criminal Code and the administrative offence of Article 15 of the Anti-discrimination Law consists in social danger, meaning that the criminal offence has the particular intensity and seriousness to justify criminal liability – <i>per a contrario</i>, civil or administrative liability, which can occur instead of criminal liability. The punishment of incitement to hatred based on political opinion does not breach freedom of expression because this freedom, like every human right must be exercised in good faith (Article 57 of the Constitution) and it is not an absolute right, but it is subjected to explicit limitations stipulated at Article 30 (6) and (7) of the Constitution, amongst which there are the fundamental values of national, racial, social and religious tolerance, and non-discrimination.<sup>218</sup> The Constitutional Court qualifies these as “values inherent to the human being or values-principle in the Romanian State.”<sup>219</sup> The Court also based its decision on political pluralism (Article 40 of the Constitution) and the principle of equality (Article 4 of the Constitution), that in its opinion would remain illusory rights if there was no effective protection against incitement to hatred based on political opinion and affiliation.<sup>220</sup></p>
<p><b>Results (sanctions) and key consequences or implications of the case (max. 500 chars)</b></p>	<p>The Constitutional Court rejected the complaint, a decision it reached after making an analysis of important elements of the criminal offence stipulated at Article 369 and after balancing freedom of expression against non-discrimination and pluralism (applied to the field of political activities, due to the topic of the request). As a result of this decision, the President of Romania passed the law on 3 June 2022.</p>
<p><b>Key quotation in original language and translated into</b></p>	<p>“59. Curtea statuează că, având ca fundament unitatea poporului român și solidaritatea cetățenilor săi, statul nu poate tolera, sub aparența protejării libertății de exprimare, subminarea unor drepturi și libertăți constituționale. Aceasta cu atât mai mult cu cât dispozițiile art.8 din Constituție</p>

<sup>218</sup> Constitutional Court of Romania, Decision No. 228/2022, of 28 April 2022, paras. 53-54, published in the Official Journal No. 532 of 31 May 2022, available at [https://www.ccr.ro/wp-content/uploads/2022/06/Decizie\\_228\\_2022.pdf](https://www.ccr.ro/wp-content/uploads/2022/06/Decizie_228_2022.pdf).

<sup>219</sup> Constitutional Court of Romania, Decision No. 228/2022, of 28 April 2022, para. 55, published in the Official Journal No. 532 of 31 May 2022, available at [https://www.ccr.ro/wp-content/uploads/2022/06/Decizie\\_228\\_2022.pdf](https://www.ccr.ro/wp-content/uploads/2022/06/Decizie_228_2022.pdf).

<sup>220</sup> Constitutional Court of Romania, Decision No. 228/2022, of 28 April 2022, paras. 57-59, published in the Official Journal No. 532 of 31 May 2022, available at [https://www.ccr.ro/wp-content/uploads/2022/06/Decizie\\_228\\_2022.pdf](https://www.ccr.ro/wp-content/uploads/2022/06/Decizie_228_2022.pdf).

<b>English with reference details (max. 500 chars)</b>	<p>prevăd în mod expres că, în societatea românească, pluralismul este „o condiție și o garanție a democrației constituționale”, partidele politice contribuind „la definirea și la exprimarea voinței politice a cetățenilor”. Or, în lipsa unui cadru legal care să conțină măsuri adecvate pentru sancționarea faptelor de incitare la violență, ură sau discriminare pe motiv de opinie sau apartenență politică, protejarea acestei valori fundamentale ar fi doar iluzorie, iar normele constituționale, doar simple declarații fără efecte juridice.”</p> <p>“59. The Court rules that, based on the unity of the Romanian people and solidarity of its citizens, the state cannot tolerate, under the guise of protecting freedom of expression, the undermining of some constitutional rights and freedoms. This is all the more so as the provisions of Article 8 of the Constitution provide expressly that, in Romanian society, pluralism is ‘a condition and a guarantee of constitutional democracy’, political parties contributing ‘to the definition and expression of the political will of the citizens’. Or, in the absence of a legal framework that contains adequate measures for sanctioning acts of incitement to violence, hatred or discrimination based on opinion or political affiliation, protecting this fundamental values would only be illusory, and the constitutional norms, only simple declarations without legal effects.”</p>
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<b>Thematic area</b>	<b>ROMA EQUALITY AND INCLUSION</b> <b>Please provide the most relevant high court decision addressing violations of fundamental rights of Roma and Travellers.</b>
<b>Decision date</b>	2 February 2022
<b>Reference details</b>	National Council for Combating Discrimination (Consiliul Național pentru Combaterea Discriminării – CNCD), Decision No. 43, published on 2 February 2022 on the website of CNCD and communicated to both parties. Available at <a href="https://www.cncd.ro/wp-content/uploads/2022/05/Hotarare-43-2022.pdf">https://www.cncd.ro/wp-content/uploads/2022/05/Hotarare-43-2022.pdf</a>
<b>Key facts of the case (max. 500 chars)</b>	This petition was filed before the national equality body by the PRO-EUROPA Roma Association ( <a href="#">Asociația Romilor PRO-EUROPA</a> ) against Traian Băsescu (currently a Romanian MEP and former President of Romania). The complaint was triggered by a Facebook post from 7 June 2020, a public declaration in which Băsescu instigates hatred and discrimination against Roma, by associating this ethnic group with all criminality in Romania.

<p><b>Main reasoning/argumentation (max. 500 chars)</b></p>	<p>The complainant alleges possible discrimination committed by the respondent through defamatory statements on his social media Facebook account against the Roma community.</p>
<p><b>Key issues (concepts, interpretations) clarified by the case (max. 500 chars)</b></p>	<p>The complainant draws attention to the fact that the exercise of freedom of expression entails obligations and responsibilities, and abuse of freedom of expression is not compatible with democracy and human rights. When the rights of others are violated, the need to restrict freedom of expression can be invoked when there is an urgent public need - a situation of conflict that frequently recurs in the Romanian society between different ethnic communities. In addition, the need to restrict freedom of expression in the case of racist messages is pointed out; freedom of political speech is not absolute in nature.</p> <p>According to the definition of discrimination in Governmental Ordinance No. 137/2000, the discrimination consists of the differentiation, by comparing two situations, based on one criterion, in this case ethnicity, which affects a right, that of the right to dignity as specifically mentioned in the law.</p> <p>The complainant submits that the European Convention for the Protection of Human Rights and Fundamental Freedoms prevents totalitarian groups or persons who incite racial hatred from exploiting the principles set out therein for their own gain, since the aim of such groups is to destroy rights and freedoms.</p> <p>Article 30 of the Romanian Constitution, which guarantees freedom of expression, also sets limits on this freedom:</p> <p>“(6) Freedom of expression may not harm the dignity, honour, private life of the person or the right to one’s own image.</p> <p>(7) Defamation of the country and the nation, incitement to war, aggression, national, racial, class, or religious hatred, incitement to discrimination, territorial separatism, or public violence, as well as obscene manifestations contrary to morality, are prohibited by law.”</p> <p>The complainant also referred to the Constitutional Court in its Decision No. 62 of 18 January 2007, which considers that the right to dignity is one of the supreme values and that violation of this right may even be punishable under criminal law.</p>

<p><b>Results (sanctions) and key consequences or implications of the case (max. 500 chars)</b></p>	<p>The CNCD decided that the constitutive elements of discrimination are met in accordance with the provisions of Article 2 paragraph 1 and Article 15 of GO No. 137/2000. The national equality body decided to impose a fine of RON 5,000 (€ 1,000) on the respondent. The high amount of the fine is justified given that he has been sanctioned for discriminatory statements previously, including for racist statements, and that the respondent is an important opinion leader.</p>
<p><b>Key quotation in original language and translated into English with reference details (max. 500 chars)</b></p>	<p>“Parte din clanurile țigănești au revenit acasă și par a refuza categoric să respecte legile țării. Lupta acerbă pentru a controla afaceri ilegale în zonele pe care și le-au auto-atribuit împingându-i la acte de violență greu de imaginat a se petrece în România cu doar câteva luni în urmă.</p> <p>...</p> <p>Grupările țigănești de tip mafiot, care încep să-și împartă zonele în care percep taxă de protecție de la comercianți, își fac și ele simțită prezența cu atât mai mult cu cât este în plină desfășurare și procesul de ocupare a zonelor în care vor acționa rețelele de cerșetori.</p> <p>...</p> <p>În acest timp, poliția și jandarmeria nu acționează pentru că pur și simplu nu au informații. Cei 2500 polițiști de proximitate nu au cum să acopere toată țara, iar falnica și bine plătită poliție locală, raportează primarului despre gropile din asfalt și ocoleşte cu mare grijă zonele mafiei țigănești sau cartierele unde spargerile de locuințe au devenit frecvente.”</p> <p>“Some of the <i>Gypsy</i> clans have returned home and seem to refuse to respect the laws of the country. Their fierce struggle to control illegal businesses in their self-assigned areas has driven them to acts of violence hardly imaginable in Romania just a few months ago.</p> <p>...</p>

	<p><i>Mafia-type Gypsy</i> groups, which are starting to divide up the areas where they collect protection fees from traders, are also making felt their presence, all the more so as the process of seizing the areas where the beggars' networks are to set up shop is in full swing.</p> <p>...</p> <p>In the meantime, the police and gendarmerie are not acting because they simply do not have information. The 2,500 local policemen are not able to cover the whole country, and the fallible and well-paid local police report to the mayor about potholes in the roads and carefully avoid areas of the <i>Gypsy mafia</i> or neighborhoods where house break-ins have become frequent."</p>
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<b>Thematic area</b>	<b>ASYLUM, VISAS, MIGRATION, BORDERS AND INTEGRATION</b> Please provide the most relevant high court decision – or any court ruling – relating to the processing of personal data by new technologies in asylum, migration and border management delivered in 2022 (on Eurodac, SIS and VIS).
<b>Decision date</b>	No case law has been identified for this thematic area

<b>Thematic area</b>	<b>INFORMATION SOCIETY, PRIVACY AND DATA PROTECTION</b> Please provide the most relevant high court decision related to the topics addressed in the chapter (i.e. data protection, and/or artificial intelligence systems).
<b>Decision date</b>	18 May 2022



<b>Reference details</b>	Constitutional Court of Romania, Decision No. 295 of 18.05.2022, published in the Official Journal No. 568 of 10.06.2022
<b>Key facts of the case (max. 500 chars)</b>	In March 2022, the Romanian Parliament adopted a draft law implementing the European Electronic Communications Code (EECC), including provisions that expanded the legal intercept obligations to new categories of providers. The new obligation also included in the new Article 10 <sup>2</sup> (c) an obligation to provide traffic data, data identifying clients or subscribers, payment methods and timestamped browsing history, based on an identified IP. These new provisions were challenged by a group of MPs and by People's Ombudsman.
<b>Main reasoning/argumentation (max. 500 chars)</b>	Collection and access to electronic communication traffic data is considered as intrusive, as already specified in previous jurisprudence of the Constitutional Court, and confirmed by the jurisprudence of the European Court of Justice on this matter. The Constitutional Court has struck down previous data retention laws, as not having enough guarantees, both at the stage of data collection and preservation, and on access to such data.
<b>Key issues (concepts, interpretations) clarified by the case (max. 500 chars)</b>	This is the third decision of the Romanian Constitutional Court on data retention provisions – this one is the follow-up of the previous ones, clarifying that any law specifying retention of traffic data or access to that retained data may be adopted only if it is accompanied by relevant guarantees for personal data protection and right to privacy in all stages of data retention.
<b>Results (sanctions) and key consequences or implications of the case (max. 500 chars)</b>	The specific provision on access to traffic data was declared unconstitutional and afterwards excluded by the Romanian Parliament from the final version of the law implementing the European Electronic Communications Code. If the Government wants to regulate again more specifically on access to electronic communications traffic data, it will need to re-do the entire legislative process and set out adequate guarantees for all stages of data retention.
<b>Key quotation in original language and translated into English with reference details (max. 500 chars)</b>	<p>“Chiar dacă norma prevede garanțiile necesare accesului și folosirii informațiilor reținute sau stocate (a doua etapă a mecanismului reținerii datelor), prin modul defectuos/ ambiguu de redactare, lipsit de precizie și predictibilitate, Curtea constată că aceleași dispoziții sunt susceptibile de a crea aparența de legalitate cu privire la activitatea de reținere și stocare a informațiilor electronice (prima etapă a mecanismului reținerii datelor), lăsând posibilitatea interpretării acestora în sensul că obligația reținerii și stocării informațiilor electronice poate fi reglementată prin acte normative infralegale, adoptate de autorități publice administrative cu competențe în materia comunicațiilor electronice.”</p> <p>Even if the law sets out necessary guarantees for access and usage of retained or hosted information (second stage of data retention mechanism), by the gap/ambiguous way of writing the</p>

	text, without precision or predictability, the Court notes that the same text is susceptible of creating an appearance of legality as regards the activity of retaining and hosting electronic information (first stage of data retention mechanism), leaving the possibility to interpret them in the sense that the obligation of electronic information retention and hosting can be regulated by secondary legislation, adopted by public administrative bodies, with competences on electronic communications.
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<b>Thematic area</b>	<b>RIGHTS OF THE CHILD</b> <b>Please provide the most relevant high court decision for the related topics addressed in the chapter.</b>
<b>Decision date</b>	28 April 2022
<b>Reference details</b>	The Constitutional Court of Romania - Decision No. 229 from 28 April 2022 regarding the exception of unconstitutionality of the provisions of Article 1391 (1) of the Civil Code, in the interpretation given by Decision No. 12 of 16 May 2016, pronounced by the High Court of Cassation and Justice - the panel for resolving some legal issues in the criminal matter <a href="#">(Curtea Constituțională a României - Decizia nr. 229 din 28 aprilie 2022 referitoare la excepția de neconstituționalitate a dispozițiilor art.1391 alin.(1) din Codul civil, în interpretarea dată prin Decizia nr.12 din 16 mai 2016, pronunțată de Înalta Curte de Casație și Justiție – Completul pentru dezlegarea unor chestiuni de drept în materie penală)</a>
<b>Key facts of the case (max. 500 chars)</b>	The constitutional review relates to a case in which the wife and children of a victim of a crime requested monetary compensation for the non-pecuniary damages that they had suffered.  The object of the exception of unconstitutionality is the provisions of Article 1391 (1) of the Civil Code, in the interpretation given by Decision No. 12 of 16 May 2016, pronounced by the High Court of Cassation and Justice.  Article 1391 (1) of the Civil Code states: "In case of injury to bodily integrity or health, compensation may also be granted for restricting the possibilities of family and social life." Decision No. 12 of 16 May 2016 of the High Court of Cassation and Justice found that "the provisions of Article 1391 paragraph (1) of the Civil Code are interpreted in the sense that, in a criminal case having as its object a crime of culpable bodily injury, only the victim of the crime, who suffered an injury, is entitled to obtain compensation for restricting the possibilities of family and social life." The applicants considered that this interpretation contravened the constitutional provisions of

	Article 22 (1) – the right to life and to physical and mental integrity and of Article 26 (1) – respect for intimate, family and private life.
<b>Main reasoning/argumentation (max. 500 chars)</b>	In order to obtain moral damages to compensate for the mental suffering or other non-pecuniary damages, the victims of crimes must provide proof of their damages. For direct victims the burden of proof is easier, which is why the domestic courts have consistently admitted such requests. For indirect victims, such moral damages are more difficult to prove; the courts were more parsimonious and had hesitations. However, the outright exclusion of any possibility to repair the moral damages of the indirect victims, suffered as a result of their psychological trauma or their family life is not only equivalent to a limitation of the general principle of the full repair of damages caused by illegal acts, but also to a violation of Article 22, respectively Article 26 of the Constitution.
<b>Key issues (concepts, interpretations) clarified by the case (max. 500 chars)</b>	The key question is, in cases of harm to bodily integrity or health, who can obtain compensation for the restrictions they suffered in relation to their family and social life: is it only the direct victim, or do other individuals, such as the children of the person concerned, have such rights?
<b>Results (sanctions) and key consequences or implications of the case (max. 500 chars)</b>	<p>The provision was declared unconstitutional to the extent that it limits the possibility of indirect victims to be compensated for restricting their possibilities of family and social life as a result of damage to the physical integrity or health of the direct victim.</p> <p>One of the consequences of this decision is that children have been acknowledged to have a right to compensation when their parents or legal representatives have suffered harm to their bodily integrity or health, even if they did not die.</p>
<b>Key quotation in original language and translated into English with reference details (max. 500 chars)</b>	<p>“[...] excluderea de plano a oricărei posibilități de a repara daunele morale ale victimelor indirecte, suferite în urma afectării lor psihice ori a vieții lor de familie în interacțiunea cu victima directă a unui prejudiciu corporal grav și iremediabil, echivalează nu doar cu o limitare a principiului general al reparării integrale a prejudiciilor cauzate prin fapte ilicite, ci și cu o încălcare a art.22, respectiv a art.26 din Constituție.”</p> <p>“[...] the outright exclusion of any possibility to repair the moral damages of the indirect victims, suffered as a result of their psychological damage or their family life in the interaction with the direct victim of a serious and irreparable bodily harm, is not only equivalent to a limitation of the general principle of the full repair of damages caused by illegal acts, but also with a violation of Art. 22, respectively Art. 26 of the Constitution.”</p>

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<b>Thematic area</b>	<b>ACCESS TO JUSTICE – Victim’s Rights and Judicial Independence</b> <b>Please provide the most relevant high court decision related topics addressed in the chapter (i.e the Victim’s Rights Directive, the EU Strategy for Victim’s Rights and violence against women).</b>
<b>Decision date</b>	26 September 2022
<b>Reference details</b>	Constitutional Court of Romania, Decision No. 312/2022 published in the Official Gazette No. 940 from 26 September 2022
<b>Key facts of the case (max. 500 chars)</b>	The applicant in this case asked the Romanian Constitutional Court to find unconstitutional a provision of Law No. 211/2004 on the support and protection of victims of crime. <sup>221</sup> This Law specifies in Article 21 (1) (a) the right to financial compensation for victims of certain crimes, including rape, sexual assault, human trafficking and any other crime which was committed with violence. The Law also specifies in Article 22 (1) (c), that victims who were themselves convicted for one of the above-mentioned crimes are not entitled to receive that financial compensation without making a distinction in relation to when or in what context the crimes were committed. The explanatory memorandum to this law explains this provision was introduced in compliance with the European Convention on the Compensation of Victims of Violent Crimes. <sup>222</sup> The applicant claims that this difference in treatment is discriminatory as it does not afford all victims the same rights, even if they were victims of the same crimes.
<b>Main reasoning/argumentation (max. 500 chars)</b>	The Constitutional Court established that indeed there is a difference in treatment between victims of crimes who have themselves committed crimes and those who have not, only the latter being eligible for financial compensation. However, the Court found that this difference in treatment has an objective ground, as the two types of victims are not in the same position.

<sup>221</sup> Romania, Law No. 211/2004 on the support and protection of victims of crime (*Legea nr. 211/2004 privind unele măsuri pentru asigurarea informării, sprijinirii și protecției victimelor infracțiunilor*), published in the Official Journal No. 505 of 4 June 2004.

<sup>222</sup> As explained in the explanatory memorandum to Law No. 211/2004 on the support and protection of victims of crime (*Legea nr. 211/2004 privind unele măsuri pentru asigurarea informării, sprijinirii și protecției victimelor infracțiunilor*), available in Romanian at <https://www.cdep.ro/proiecte/2004/200/40/6/em246.pdf>

<b>Key issues (concepts, interpretations) clarified by the case (max. 500 chars)</b>	The main issue would be whether the difference in treatment between victims of crimes who themselves have committed some crimes and the ones who have not, constitutes discrimination.
<b>Results (sanctions) and key consequences or implications of the case (max. 500 chars)</b>	Based on this reasoning, the application for constitutional review was rejected and the difference in treatment was considered to be in accordance with the Constitution.
<b>Key quotation in original language and translated into English with reference details (max. 500 chars)</b>	<p>“20. În ceea ce privește ipoteza prevăzută la art. 22 alin. (1) lit. c) din Legea nr. 211/2004, acordarea de compensații financiare persoanelor care sunt victime ale infracțiunilor prevăzute la art. 21 alin. (1) din Legea nr. 211/2004, dar care, la rândul lor, au comis una dintre aceste infracțiuni, aspect reținut printr-o hotărâre judecătorească definitivă, ar echivala cu acordarea unor sume de bani atât victimelor, cât și autorilor infracțiunilor astfel reglementate. Or, o astfel de soluție juridică nu ar fi în acord cu obiectivele avute în vedere de legiuitor cu prilejul adoptării Legii nr. 211/2004, obiective ce vizează protecția victimelor infracțiunilor din România și au la bază rațiuni de echitate.</p> <p>21. Așadar, persoanele care sunt victime ale infracțiunilor prevăzute la art. 21 alin. (1) din Legea nr. 211/2004, dar care nu au săvârșit infracțiuni din aceeași categorie, se află într-o situație diferită de cele care sunt atât victime, cât și autori ai unor astfel de infracțiuni, această diferență constituind un criteriu obiectiv ce justifică reglementarea de către legiuitor în privința acestora a unui regim juridic distinct sub aspectul posibilității de a beneficia de compensații financiare potrivit art. 21 din Legea nr. 211/2004.”</p> <p>20. Regarding the hypothesis provided for in Art. 22 para. (1) (c) from Law No. 211/2004, granting financial compensation to people who are victims of the crimes provided for in Art. 21 (1) from Law No. 211/2004, but who, themselves have committed one of these crimes, as confirmed by a final court decision, would be equivalent to awarding sums of money to both the victims and the authors of the crimes thus regulated. However, such a legal solution would not be in accordance with the objectives taken into consideration by the legislator upon the adoption of Law No. 211/2004, objectives aimed at the protection of victims of crimes in Romania and which are based on reasons of equity.</p>

	<p>21. Therefore, the persons who are victims of the crimes provided for in Art. 21 (1) from Law No. 211/2004, but who have not committed crimes of the same category, are in a different situation from those who are both victims and authors of such crimes, this difference being an objective criterion that justifies the regulation by the legislator in regarding them of a distinct legal regime in terms of the possibility to benefit from financial compensation according to Art. 21 of Law No. 211/2004.</p>
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<b>Thematic area</b>	<p><b>DEVELOPMENTS IN THE IMPLEMENTATION OF THE CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES (CRPD)</b>  <b>Please provide the most relevant High Court decision, which quoted the CRPD or prominently referred to the CRPD in the reasoning.</b></p>
<b>Decision date</b>	9 February 2022
<b>Reference details</b>	<p>National Council for Combating Discrimination (Consiliul Național pentru Combaterea Discriminării – CNCD), Decision No. 77 of 09.02.2022, in File No. 26/2021; parties: X and an owners’ association  <a href="https://www.cncd.ro/wp-content/uploads/2022/05/Hotarare-77-2022.pdf">https://www.cncd.ro/wp-content/uploads/2022/05/Hotarare-77-2022.pdf</a></p>
<b>Key facts of the case (max. 500 chars)</b>	<p>The applicant complains about the refusal of the owners’ association to allow the construction of an access ramp for people with disabilities connected to the building where the applicant lives. More precisely, in 2016 the applicant requested that the Town Hall of Sector 3 of Bucharest and the owners’ association of the building where he lives to build an access ramp connected to the staircase of the building. Three construction teams came on site, but they were all sent away by the president of the owners’ association.</p> <p>The applicant complained before domestic courts and won (Decision 2676/19/03/2020), with the courts ordering the defendant to prepare and submit the documentation necessary for the urban planning certificate and the building permit required for building an access ramp. The applicant claims that the owners’ association continues to refuse to implement this court decision.</p> <p>The defendant, the owners’ association, claimed that the applicant can exit the building through a backdoor entrance.</p>
<b>Main reasoning/argumentation (max. 500 chars)</b>	<p>Representatives of the National Council for Combating Discrimination went to check the premises and talked to a variety of witnesses. They found that the defendant had, in the meantime, initiated</p>

	<p>the procedure for obtaining the documents necessary for building the ramp; they also found that there was no certainty that the ramp was ever to be built.</p> <p>The CNCD cited, among other provisions of domestic legislation, Articles 9 and 19 of the CRPD. They found that for over five years no actual steps were taken to build the access ramp that the applicant needed.</p> <p>The CNCD found that the applicant had indeed been discriminated against. It applied a fine (RON 2000 (€ 400)). It also issued a recommendation for the owners' association to take the necessary measures in order to ensure that all necessary authorisations are obtained and the access ramp is built.</p>
<p><b>Key issues (concepts, interpretations) clarified by the case (max. 500 chars)</b></p>	<p>This case promotes accessibility and mobility. It finds that people with disabilities have a right to have physical access to the premises where they live.</p>
<p><b>Results (sanctions) and key consequences or implications of the case (max. 500 chars)</b></p>	<p>Physical accessibility, including in the buildings where they actually live, remains an important obstacle for many people with disabilities in Romania. This case is important because it reiterates the rights that people with disabilities have. In the current Romanian context, such reiterations are necessary and important.</p>
<p><b>Key quotation in original language and translated into English with reference details (max. 500 chars)</b></p>	<p><i>"[Se] constată că [...] pentru a avea acces la același drept, la accesul în blocul de locuințe, reclamatul a prevăzut aceleași condiții deși persoanele cu dizabilitate locomotorie, utilizatori de fotoliu rulant, au nevoie de măsuri suplimentare din partea statului (accesibilizarea condițiilor de acces) pentru a beneficia de acesta, în condiții egale. [...]"</i></p> <p>Tratamentul discriminatoriu are de cele mai multe ori ca scop sau ca efect umilirea, degradarea sau interferența cu demnitatea persoanei discriminate, în mod particular, dacă acest tratament se manifestă în public. Tratând pe cineva mai puțin favorabil datorită unor criterii inerente sugerează în primul rând dispreț sau lipsă de respect față de personalitatea sa."</p> <p>"[It] is found that [...] in order to have access to the same right, to access the block of flats, the defendant provided the same conditions, although people with locomotive disabilities, wheelchair users, need additional measures from the state (accessibility access conditions) to benefit from it, under equal conditions. [...]"</p> <p>Discriminatory treatment usually has as its goal or effect the humiliation, degradation or interference with the dignity of the discriminated person, particularly if this treatment is manifested in public. Treating someone less favourably due to inherent criteria primarily suggests contempt or disrespect for their personality."</p>

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