

## TARGETED STAKEHOLDER CONSULTATION 2021 RULE OF LAW REPORT UN HUMAN RIGHTS REGIONAL OFFICE FOR EUROPE (OHCHR)

This document presents the UN Human Rights Office's contribution to the targeted stakeholder consultation held by the European Commission in 2021 in the context of the second annual rule of law report.

It is a compilation of information related to Romania, included in reports and documents of United Nations Treaty Bodies, Special Procedures and the Universal Periodic Review of the UN Human Rights Council, presented in a summarized manner. It also refers to statements and reports of the UN High Commissioner for Human Rights and her Office. The cited material covers the period 2018-2020.

It mentions both positive developments and challenges to the rule of law in Romania, as well as recommendations issued by the UN Mechanisms on how these challenges can be addressed and how the rule of law can be further strengthened.

In light of the methodology proposed by the European Commission the submission is divided in four pillars: national justice systems, anti-corruption frameworks, media pluralism and freedom and other institutional issues related to the checks and balances essential to an effective system of democratic governance.

### ROMANIA REVIEW

---

#### Justice System

##### ➤ *Independence*

In the end of mission statement after its official visit to Romania in 2020, the Working Group on Discrimination Against Women and Girls found encouraging the high number of women in the judiciary, representing 73% of the total number of judges and 52% of the prosecutors. At the Constitutional Court, three out of the nine judges were women and at the High Court of Cassation, which was presided by a woman, the majority were women too. The Working Group was pleased to hear about the positive jurisprudence of these courts advancing women's rights. (Statement available at:

<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25687&LangID=E>

The full report of the visit (A/HRC/47/38/Add.1) is forthcoming and will be presented at the 47<sup>th</sup> session of the UN Human Rights Council in June 2021.).

##### ➤ *Quality of justice*

In the end of mission statement after its visit to Romania in 2020, the Working Group on Discrimination Against Women and Girls pointed to the need for a greater understanding of women's barriers to access to justice. They found that measures should be taken inter alia to build the victims' trust in the system, as well as sensitise relevant authorities through gender-sensitive trainings. Furthermore, investigative efforts should be focused on all relevant

evidence, as they heard that witnesses were often required for cases of domestic violence, and evidence of physical injury for cases of rape. In addition, the authorities' coordination and cooperation with NGOs could be improved. The Working Group witnessed first-hand the impact that NGOs' work had on preventing violence against women and assisting victims' access to justice, particularly in closed off, rural communities. However, they found that it could not be left solely to NGOs to address the problems (available at <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25687&LangID=E> ).

In the end of mission statement after its visit to Romania in 2020, the Working Group on Discrimination Against Women and Girls pointed to several needs for more training of justice professionals. They observed that Romania had one of the highest numbers of early marriages in Europe which generally remained unsanctioned, and that while forced marriage was not a specific criminal offence, other relevant provisions (such as trafficking, abduction) were not frequently used. They found that efforts should be made to review the legislation and its implementation, including through training of the relevant officials. Similarly, they heard from their interlocutors that sexual violence was a widespread, but seriously under-reported phenomenon, partly due to the lack of trust in the criminal justice system as mechanisms for combating sexual violence faced some shortcomings. Rape was not defined by the lack of consent, but by coercive circumstances, which may lead to an overreliance on physical resistance. Cases of sexual intercourse with children younger than 13, including girls as young as 11, sometimes got qualified as consensual sex, even when there were multiple perpetrators, some of whom were significantly older (even five times). Cases of non-consensual sexual intercourse with girls and women with disabilities were also often defined as consensual. The Working Group attributed this to the existence of gender stereotyping in the qualification of sexual offenses, such as the idea that the lack of consent should be expressed by physical resistance, or that women and girls provoke sexual violence, by their behaviour or attire. They recommended efforts to ensure that all instances of non-consensual sex be prosecuted as rape and that rape be treated as a serious offence, including through training, and ensuring accountability of judicial agents (available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25687&LangID=E> ; The full report of the visit (A/HRC/47/38/Add.1) is forthcoming and will be presented at the 47<sup>th</sup> session of the UN Human Rights Council in June 2021).

## **Anti-corruption framework**

### **➤ Other**

In the end of mission statement after its visit to Romania in 2020, the Working Group on Discrimination Against Women and Girls observed that some of the main drivers behind human trafficking were corruption, lack of trust in the Romanian authorities, alongside with discrimination, affecting particularly Roma girls. They noted that trafficking in women and girls (primarily for purposes of sexual exploitation and begging) was a major concern in Romania. The country had the highest number of victims of trafficking and traffickers in the EU, with girls constituting 31% of the victims compared to 14% on average in the EU. They noted that following the ratification of the Palermo Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime in December 2002, Romania had taken measures to

tackle the phenomenon, including passing legislation on the protection of victims/survivors. Despite these positive developments, there were significant challenges in practice, including police corruption and involvement of public officials, particularly in cases of girls living in State-run institutions. There was also an issue of impunity and inadequate application of criminal law, as well as insufficient support services and specialised, well-equipped centres. Some of the centres envisaged by law were not operational and many of the services for victims had been provided by NGOs, which received limited funding (available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25687&LangID=E> ; The full report of the visit (A/HRC/47/38/Add.1) is forthcoming and will be presented at the 47<sup>th</sup> session of the UN Human Rights Council in June 2021).

## **Media pluralism**

### **➤ *Framework for journalists' protection***

In 2018, several Special Procedures mandate-holders initiated a dialogue about concern at the reported use of force against demonstrators and journalists, leading to severe injury of several of them, in the context of a large gathering of over 100,000 persons protesting legislative changes concerning the laws of justice and the penal code. Over 500 persons, including 35 police officers, were injured, with over 80 of them requiring hospitalization. Among the injured were eight journalists, including reporters from the Austrian public television and a German newspaper. (See [ROU 4/2018](#), available at <https://spcommreports.ohchr.org/TmSearch/Results>).

## **Other institutional issues related to checks and balances**

### **➤ *The process for preparing and enacting laws***

In March, April and May 2020, Romania duly notified the UN Secretary-General of the declaration on 16 March 2020, the extension in April, and the termination on 14 May, of a state of emergency in the territory of Romania, by Decrees no. 195 and no. 240/2020, to deal with the pandemic. Romania notified that some of the measures taken or which would be taken in the context, on the basis of the Decree, may involve derogations from the obligations under the International Covenant on Civil and Political Rights ([C.N.121.2020](#), [C.N.151.2020](#) and [C.N.175.2020](#)).

### **➤ *Independent authorities***

Romania currently does not have an accredited national human rights institution. The Romanian Institute for Human Rights was previously recognised as a 'C institution', a category for organizations non-member and non-compliant with the Paris Principles, which is no longer in use by GANHRI (available at <https://nhri.ohchr.org/EN/AboutUs/GANHRIAccreditation/Documents/Status%20Accreditation%20Chart%20as%20of%202020%2001%202021.pdf>)

In the end of mission statement after its visit to Romania in 2020, the Working Group on Discrimination Against Women and Girls noted the operation of different state-based human

rights bodies: the National Council for Combatting Discrimination, the Office of the Romanian Ombudsman, and the Romanian Institute for Human Rights, all of which were playing an important role in the promotion and protection of the human rights of women and girls. They called on the Government to ensure adequate resources to these institutions and strengthen their independence (available at:

<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25687&LangID=E>

The full report of the visit (A/HRC/47/38/Add.1) is forthcoming and will be presented at the 47<sup>th</sup> session of the UN Human Rights Council in June 2021).

At its Universal Periodic Review in 2018, Romania supported seven recommendations pertaining to national human rights institutions, notably to ensure the compliance of the NHRI with the Paris Principles; finalize the process of accreditation of NHRIs with the status responding to the Paris Principles; and ensure the proper functioning of the newly established Children's Ombudsman in accordance with the Paris Principles (<A/HRC/38/6/Add.1>).

➤ ***The enabling framework for civil society***

In the end of mission statement after its visit to Romania in 2020, the Working Group on Discrimination Against Women and Girls noted that there had been positive developments in legal, policy and institutional frameworks on gender equality and women's rights. However, there remained many implementation challenges, including coordination between relevant authorities and the use of existing expertise in civil society organisations. Women's rights organisations in Romania played a key role in the fight against discrimination against women and girls, complementing, and often taking on, tasks of the Government – with activities including awareness raising, education and training on gender equality and gender-based violence, providing shelter, support, rehabilitation and reintegration services for victims/survivors of gender-based violence, migrant and refugee women. The Working Group noted that civil society had stepped in to address many of the problems related to discrimination against women and girls, and it had witnessed first-hand the impact of their work. In light of the key role that women's and girls' organisations and networks played in ensuring human rights, the Working Group recommended that their significant expertise should be utilised, they should be granted adequate resources and be included in policy making. Also, any harassment of activists must be prevented (available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25687&LangID=E> ; The full report of the visit (A/HRC/47/38/Add.1) is forthcoming and will be presented at the 47<sup>th</sup> session of the UN Human Rights Council in June 2021).

Earlier in 2018, several Special Procedures mandate-holders entered in dialogue with Romania with regard to information received about repeated attempts since 2013 to hamper the exercise of the freedom of assembly and expression of the Hungarian-speaking Szekler minority in Romania, during their annual commemoration event organised by the Szekler National Council (SNC). The different penalties and decisions to hamper the holding of the Day of Szekler Freedom march has deterred many participants to demonstrate as they fear the authorities could impose penalties such as fines. In contrast, other movements, including extremist political parties, had repeatedly organized similar marches without any interference from the authorities (<ROU 2/2018>, available at <https://spcommreports.ohchr.org/TmSearch/Results>).