



Resolution 2466 (2022)¹

The honouring of membership obligations to the Council of Europe by Romania

Parliamentary Assembly

1. Romania joined the Council of Europe in 1993. Upon accession, it entered into a number of commitments which were subject to monitoring by the Parliamentary Assembly until 1997 and then to post-monitoring dialogue between 2000 and 2002. Romania is a party to a number of core Council of Europe conventions including the European Convention on Human Rights (ETS No. 5); the Framework Convention for the Protection of National Minorities (ETS No. 157); the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (ETS No. 126); the Criminal Law Convention on Corruption (ETS No. 173); the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (CETS No. 198) and the revised European Social Charter (ETS No. 163), and is subject to monitoring mechanisms attached to these legal instruments. In 2019, Romania was selected by the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee) for a periodic review report on its compliance with the obligations imposed on every Council of Europe member State in the areas of democracy, rule of law and human rights. The Monitoring Committee is responsible for preparing periodically monitoring reports on the compliance of the obligations of all member States which are not subject to specific monitoring procedures.

2. Since its accession to the Council of Europe, Romania has made important progress with regard to the functioning of democratic institutions and respect for human rights. The irreversibility and sustainability of this progress were called into question by the developments of 2017-2019, particularly in the areas of the judiciary and the fight against corruption. However, the Assembly notes with satisfaction that this setback has been successfully overcome and Romania has returned to the path of reform.

3. The Assembly commends the political will and commitment shown by the Romanian authorities to fully respect their obligation to comply with democratic standards, as confirmed by their continued co-operation with Council of Europe monitoring mechanisms and the Assembly's Monitoring Committee in the framework of the periodic monitoring review.

4. The Assembly appreciates the ongoing structural reforms of the Romanian judicial system aimed at addressing a number of concerns formulated, *inter alia*, by the European Commission for Democracy through Law (Venice Commission) and the Group of States against Corruption (GRECO). The Strategy for the Development of the Judiciary for 2022-2025 adopted by the government on 30 March 2022 sets clear objectives in this respect and is supplemented by a monitoring mechanism.

5. In terms of judicial independence, the dismantling of the Section for Investigating Criminal Offences within the Judiciary on 11 March 2022 marked an important step and should be commended. However, some issues related to the new system for investigation and prosecution of criminal offences within the judiciary still need to be addressed. While the competence to investigate offences committed by magistrates has now been transferred to designated prosecutors within the prosecutor's offices attached to the High Court of Cassation and Justice and the courts of appeal, it is expected that sufficient resources will be allocated to the investigations of complex corruption cases in order to ensure the efficiency of the new system.

1. *Assembly debate* on 13 October 2022 (33rd sitting) (see [Doc. 15617](#), report of the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee), co-rapporteurs: Ms Edite Estrela and Ms Krista Baumanė). *Text adopted by the Assembly* on 13 October 2022 (33rd sitting).



6. Furthermore, safeguards must be established to ensure judicial independence and prevent any risk of politicisation. These include the procedure for the appointment of designated prosecutors, which needs to ensure their integrity, competence and impartiality. At the same time, the Assembly welcomes the efforts within the judiciary to combat corruption and, in particular, the adoption of the Integrity Plan by the Superior Council of Magistracy.

7. Concerning the three laws relating to justice, namely those on the status of magistrates, the organisation of the judiciary and the superior council of magistracy, which were submitted to the parliament, the Assembly takes note of the setting-up by the parliament of the Joint Parliamentary Committee for the Examination of Laws in the Field of Justice and invites the authorities to follow the recommendations formulated by the Venice Commission and GRECO, in particular with regard to the civil and disciplinary liability of magistrates, competitions for admission into the judiciary and rules on the status as well as appointment and removal of specialised and high-ranking prosecutors.

8. Regarding the fight against corruption, the Assembly welcomes the adoption by the government, in December 2021, of the National Anti-Corruption Strategy for 2021-2025 and notes with satisfaction the increased effectiveness of the investigation and sanctioning of medium- and high-level corruption. In particular, the National Anti-Corruption Directorate should be commended for continuing the positive trend in terms of the number of indictments and the reduction in the backlog of cases despite insufficient human resources, which is the consequence of very strict criteria for prosecutors' appointments and, in particular, seniority requirements. Furthermore, it should be noted that the value of assets confiscated by the National Agency for the Management of Seized Assets increased considerably over the last year.

9. The Assembly notes that amendments to the Criminal Code and Code of Criminal Procedure aimed at bringing both laws into line with the Constitutional Court's decisions with regard, *inter alia*, to corruption-related crimes, abuse of office and supervision methods are under preparation. The Assembly hopes that they will be submitted to the parliamentary procedure without undue delay.

10. The Assembly notes with concern that Romania is among the States with the largest number of unexecuted judgments by the European Court of Human Rights (the Court); this number increased in 2021 to 409, compared to 347 in 2020. Some cases reveal the existence of structural problems and should be addressed as a matter of priority.

11. Media freedom and pluralism need to be strengthened. In particular, the use of public funds by political parties to finance media and influence their content on the basis of secret contracts is of the utmost concern. It potentially undermines the principle of free media and the proper functioning of democratic institutions. Typical cases of threats, instances of harassment and violence against journalists who express criticism reveal serious problems concerning freedom of expression.

12. The Assembly notes with satisfaction the overall progress accomplished by Romania with regard to protection and respect for human rights. In particular, it welcomes the recent adoption of the amendment to Article 369 of the Criminal Code, extending the grounds for hate speech and hate crimes in line with Council of Europe standards. The Assembly also commends the Romanian Parliament for having revised its rules of procedure in June 2022, allowing for more efficient prosecution of hate speech among politicians.

13. The Assembly commends Romania for its commitment to protect the rights of persons belonging to national minorities. According to the reports of the monitoring mechanism of the Framework Convention for the Protection of National Minorities, Romania can be considered as an example of good European practice in this area. There are clear improvements, as provided by Article 195 of the Administrative Code adopted in 2019, especially in the localities where more than 20% of the population belong to a national minority, with regard to the right to use their mother tongue in dealings with the local authorities, and the obligation of the respective authorities to provide citizens with, *inter alia*, bilingual forms, public information and procedures. Some difficulties still exist, particularly with regard to the financial and administrative obstacles to the implementation of these provisions of the Administrative Code. There are also concerns that some amendments introduced into the Administrative Code may limit minority language rights in small communities.

14. However, regarding the Roma minority, the Assembly notes with concern that a number of programmes, strategies and action plans have not had the expected impact on the inclusion of Romanian citizens belonging to this minority and that Roma continue to occupy the most disadvantaged position in the labour market; despite sustained efforts by governmental and non-governmental stakeholders meant to improve their living standards, the material situation of Roma is well below the average in the country; they are also affected by shortages in social housing.

15. Since the invasion of Ukraine by the Russian Federation on 24 February 2022, Romania has faced large flows of refugees from Ukraine. Over 2.25 million Ukrainians have fled to Romania to date. While the majority transited the country, about 81 000 decided to stay. Romania is to be commended on its swift reaction and the help it has given to a large number of people in need of international protection.
16. In consequence, the Assembly calls on the Romanian authorities:
 - 16.1. in the field of the judiciary, to:
 - 16.1.1. continue the ongoing reform while respecting the deadlines established by the Strategy for the Development of the Judiciary for 2022-2025;
 - 16.1.2. take into account the recommendations and address the concerns formulated by the Venice Commission and GRECO in the preparation of draft justice laws;
 - 16.1.3. ensure inclusiveness in the legislative process; carry out meaningful consultations with all stakeholders and try to accommodate different opinions;
 - 16.1.4. ensure that proper safeguards are included in the new system of investigation and prosecution of criminal offences in the judiciary, following the dismantling of the Section for Investigating Criminal Offences within the Judiciary, with a view to guaranteeing judicial independence;
 - 16.1.5. continue the implementation of measures already adopted which are aimed at increasing the efficiency and quality of the justice system, including increasing the recruitment of magistrates, redistributing the courts' workload and increasing the digitalisation of the justice system;
 - 16.2. in the fight against corruption, to:
 - 16.2.1. pursue implementation of the National Anti-Corruption Strategy for 2021-2025 and ensure determined political support for its effectiveness;
 - 16.2.2. amend the Criminal Code and the Code of Criminal Procedure in line with the decisions of the Constitutional Court and the recommendations of the Venice Commission in respect of deadlines established by the National Anti-Corruption Strategy for 2021-2025;
 - 16.2.3. address effectively the issue of human resources shortages within the National Anti-Corruption Directorate;
 - 16.3. in the execution of judgments of the European Court of Human Rights, to:
 - 16.3.1. step up efforts to implement the Court's judgments, in particular those concerning nine principal cases subject to the Committee of Ministers' enhanced supervision procedure and over 300 repetitive cases;
 - 16.3.2. consider exploring the feasibility of organising training sessions in co-operation with the Council of Europe on the implementation of the Court's rulings;
 - 16.3.3. consider exploring the feasibility of organising training sessions in co-operation with the Parliamentary Assembly Co-operation Unit on legislative follow-up to the Court's decisions;
 - 16.4. in the field of media, to:
 - 16.4.1. ensure proper implementation of the existing legislation on access to information;
 - 16.4.2. ensure full independence of the National Audiovisual Council by establishing clear professional criteria for the selection of its members and ensure adequate budgetary resources;
 - 16.4.3. ensure full transparency of media ownership;
 - 16.4.4. ensure specific safeguards for editorial independence and introduce legal requirements to disclose secret contracts between political parties and the media that involve the transfer of public funds to the latter;
 - 16.4.5. ensure proper investigation and punishment of perpetrators in cases of harassment or intimidation of journalists;
 - 16.5. in the field of the protection of minorities and vulnerable groups, to:
 - 16.5.1. condemn without reservation, investigate and prosecute any discriminatory remarks and behaviour, and eliminate hate speech from public discourse;

16.5.2. continue efforts aimed at better integration of Romanian citizens belonging to the Roma minority.

17. In conclusion, the Assembly recognises that Romania has made substantial progress towards its compliance with Council of Europe standards in areas crucial for the functioning of democratic institutions, in particular the judiciary and the fight against corruption. However, the question of the sustainability and irreversibility of the reforms, as well as of their effectiveness, will have to be confirmed by the proper implementation of legislation.

18. Against this background, the Assembly invites its Monitoring Committee to continue following developments in the country in the framework of a future periodic review and to report back to the Assembly if developments so warrant.