

# **4 Media freedoms and civic space in the digital age in Romania**

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This chapter explores the status of media freedoms and civic space in the digital age. It discusses access to information, pressures on free and pluralistic media in Romania and barriers facing journalists in their work. It then focuses on efforts around digitalisation as well as challenges relating to personal data protection, privacy and digital divides. It also analyses current efforts to develop a strategy for artificial intelligence. Concrete recommendations for government are provided throughout.

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## 4.1. Introduction

An enabling environment for free and pluralistic media, along with protected online civic space, is critical for citizens living in a democracy so that they can be informed of and engaged with the issues that affect them. In practice, this requires that governments promote access to public information, support media outlets and journalists, and counter attempts at censorship, media control and mis- and disinformation,<sup>1</sup> in support of a healthy and vibrant public interest information ecosystem. Unimpeded access to information also leads to a more active citizenry, encourages greater citizen participation in public decision making and allows citizens to hold their government to account. In Romania, there are several key legal and policy frameworks governing the information and media ecosystem. The right to information is enshrined at the constitutional level and implemented through Romania's access to information (ATI) law, introduced in 2001. Similarly, legislation guarantees press freedom and regulates audio-visual media. However, both face implementation challenges, with journalists and media outlets facing significant barriers in their daily work, including external interference and political influence, limitations arising from the misuse of the General Data Protection Regulation (GDPR) (EC, 2021<sup>[1]</sup>) and a perception of increased use of strategic lawsuit against public participation (SLAPP) cases to silence investigative reporting.

As a European Union (EU) member state, Romania has ramped up its digitalisation efforts in recent years and is committed to digital government reforms to foster strong online civic space. The COVID-19 crisis served to advance many of these initiatives; however, progress has stagnated due to a complex and ever-changing institutional architecture without clear ownership of the digital agenda. The country faces significant obstacles in ensuring universal connectivity across Romania, promoting digital public services and encouraging citizen usership of e-government initiatives (EC, 2022<sup>[2]</sup>).

Regarding data protection and the right to privacy, in 2004 Romania famously became the first country to implement a law to protect whistleblowers in both the public and private sectors. However, concerns have been raised by civil society regarding data protection and privacy in recent years. It is thus essential that public officials take all measures to comply with EU standards on data protection and privacy, namely those of the GDPR, to build trust with citizens and civil society organisations (CSOs). Romania is also developing a strategy for AI, with the potential to prioritise civic freedoms and position civil society in a central decision-making role regarding the use of technology in the public sector.

## 4.2. Access to information

### 4.2.1. Constitutional recognition and existing legal frameworks

Transparency is a core pillar of open government and ATI is a cornerstone of the principle of transparency. It plays a crucial role in enabling citizens to be informed and to take action to defend their interests. In this regard, ATI underpins and reinforces other civic freedoms, in particular the right to freedom of expression. As outlined in the 2017 OECD Recommendation of the Council on Open Government, access to “clear, complete, timely, reliable and relevant data and information” is a vital element of open government (OECD, 2017<sup>[3]</sup>) and thus a wider public interest information ecosystem and a functioning democracy more broadly. The OECD *Open Government Review of Romania* also highlights the need for sound institutional arrangements for ATI and transparency more broadly (OECD, forthcoming<sup>[4]</sup>).

Similar to about two-thirds of OECD Members, the right to information is enshrined in the Romanian constitution (Government of Romania, 1991<sup>[5]</sup>; OECD, 2022<sup>[6]</sup>). Notably, Article 31 of the constitution states: “A person's right to have access to any information of public interest may not be curtailed. Public authorities are obliged to provide citizens with correct information concerning public affairs and matters of personal interest falling within their respective jurisdiction” (Government of Romania, 1991<sup>[5]</sup>). This

recognition serves to protect ATI through changing political cycles and solidifies its status as a fundamental human right.

ATI is operationalised through Law 544/12 of 2001 on Free Access to Public Information (Parliament of Romania, 2001<sup>[7]</sup>). Under this law, “the individual’s free and unconstrained access to public information represents one of the fundamental principles of the relations between individuals and the public authorities in conformity with the Romanian Constitution and the international documents ratified by the Romanian Parliament” (Library of Congress, 2021<sup>[8]</sup>). Furthermore, the law defines public information as “any information related to or resulting from the activities of a public authority or organisation, regardless of the medium, material form, or manner in which the information is conveyed” (Library of Congress, 2021<sup>[8]</sup>), which offers the government an opportunity to take a broad and “open by default” approach. The law resulted from a consultation process with CSOs, academia and the media, and subsequent processes for amendments have also invited input from a range of stakeholders. Government Decision 123/2002 outlines the methodological rules regarding application of the law to provide guidance to public officials (Government of Romania, 2002<sup>[9]</sup>) and was supplemented by Government Decision 830/2022 approved by Government Decision 123/2002 (Government of Romania, 2022<sup>[10]</sup>).

The Centre for Law and Democracy’s Global Right to Information (RTI) Rating finds that the legal framework for ATI in Romania has several weaknesses (n.d.<sup>[11]</sup>). As of 2022, it ranks Romania 73<sup>rd</sup> out of 136 countries, with a score of 83 out of 150 (challenges are outlined below). Since 2018, the General Secretariat of the Government (hereafter the “General Secretariat”) has held regular technical meetings with representatives of central and local public administrations on complying with the law and improving reactive and proactive disclosure of information.

The General Secretariat also monitors how central and local government authorities apply relevant legislation and prepares related reports and recommendations. Furthermore, it prepares and publishes summaries of the monitoring process and the extent to which central and local public administrations adhere to obligations to display information of public interest *ex officio*<sup>2</sup> (General Secretariat of the Government, n.d.<sup>[12]</sup>). The most recent monitoring was conducted between June and July 2022 and was the first carried out based on new legislative changes surrounding ATI, including the updated standards for displaying information in the public interest *ex officio*, as outlined in both the annexes of the National Anti-corruption Strategy 2021-2025 (Government of Romania, 2021<sup>[13]</sup>) and the aforementioned Government Decision 830/2022 (Government of Romania, 2022<sup>[10]</sup>). According to these reports, there has been progress in regard to the *ex officio* disclosure of information by public bodies, with an increase in information disclosed at the national and local levels (General Secretariat of the Government, 2021<sup>[14]</sup>; General Secretariat of the Government, 2021<sup>[15]</sup>).

Regarding transparency more broadly, a new Law 179/2022 on Open Data was adopted in June 2022, transposing EU Directive 2019/1024 of the European Parliament and of the Council on Open Data and the Re-use of Public Sector Information (Parliament of Romania, 2022<sup>[16]</sup>). The law specifies that public bodies “shall make documents available in any pre-existing format or in any available language and, if possible and appropriate, by electronic means, in formats that are open, automatically processable, accessible, easy to find and reusable” (Parliament of Romania, 2022<sup>[16]</sup>).

#### **4.2.2. Addressing barriers to ATI across the public administration**

During the OECD fact-finding mission, CSOs generally praised the quality of Law 544/2001, although some noted that implementation had been regressing in recent years. Interviewees highlighted delays and refusals in response to information requests.<sup>3</sup> The Balkans and Caucasus Transeuropa Observatory reports that while the law indicates that simple requests must be answered within 10 days, an answer must be provided no longer than 30 days after a request, with many public bodies “exploit[ing] the ignorance of the applicant” by using this upper limit as their deadline (2017<sup>[17]</sup>). As stipulated by Article 8 of the law, “information of public interest verbally requested by the mass media will be communicated, as a rule,

immediately or within 24 hours at most”; however, testimonies from journalists and the media indicate that this is rarely the case (IPI, 2020<sup>[18]</sup>).

Emergency measures introduced during the COVID-19 crisis further affected the implementation of the law and exacerbated existing challenges.<sup>4</sup> As was the case in many countries, the Romanian Decree regarding the establishment of the state of emergency in 2020 (see Box 6.8 Regulation by emergency ordinance) extended the legal deadlines for responding to ATI requests (President of Romania, 2020<sup>[19]</sup>). According to the International Press Institute, in practice, many of the obligations to provide information were suspended entirely (IPI, 2020<sup>[18]</sup>). Several amendments to the law were also proposed in 2020, with some still under parliamentary scrutiny (Romanian Chamber of Deputies, 2020<sup>[20]</sup>). For example, one government initiative proposed that public bodies could share information in whatever format it was available, without any further processing of the data.<sup>5</sup> The reasoning behind this change was to reduce the administrative burden of data cleaning. However, some CSOs, including the International Press Institute and the Association for the Defence of Human Rights in Romania – the Helsinki Committee (APADOR-CH), raised concerns that this could grant the government free rein to refuse to release information if it is requested in statistical or summary format (IPI, 2020<sup>[18]</sup>; APADOR-CH, 2020<sup>[21]</sup>), as it would require additional data processing. Overall, the latest 2022 EU Rule of Law Report for Romania finds that “insufficient and inconsistent responsiveness of authorities to freedom of information requests represent an ongoing problem, including on urgent decisions taken on e.g. the COVID-19 pandemic or the Ukrainian refugees crisis” (EC, 2022<sup>[22]</sup>).

During the OECD fact-finding mission, ATI requests were cited as a burdensome challenge for some public bodies. One interviewee mentioned that ministries often receive requests which should be directed elsewhere. For example, citizens send requests for information to the Ministry of Health, which should be sent to local hospitals instead.<sup>6</sup> Redirecting these requests and responding to the requester can be time-consuming and causes delays in responding. While Romania already has an open data portal (<https://data.gov.ro/>), the introduction of a “one-stop shop” or a single portal for making ATI requests and issuing responses could prove useful in reducing the burden for both public officials and citizens. Romania could take inspiration from good practice in Brazil in this regard: the [Fala.BR](#) platform is a centralised system where citizens can submit requests, lodge complaints, provide feedback and suggest ideas for the improvement of public services (OECD, 2022<sup>[23]</sup>).

Public officials can restrict access to information in many ways, from denials of information and negative administrative silence to breaches of timelines or excessive fees. When such violations occur, corrections and sanctions are essential in ensuring that citizens do not lose trust in the process. The ATI law notes that “the explicit or tacit refusal of the designated employee of a public authority or institution to apply the provisions of this law constitutes a violation” (Article 21). That said, it does not provide further detail on what sanctions exist and there is no enforcement mechanism for sanctions. In addition, a range of public officials can be responsible for responding to requests for information, which can make introducing sanctions against a specific public official for administrative silence or illegitimate denial a challenge (Balkans and Caucasus Transeuropa Observatory, 2017<sup>[17]</sup>).

In the case of denials of ATI, requesters first have the right to an internal appeals process, meaning they can communicate a grievance to the same body to which they originally made the request. However, there are no conditions for an external appeal process, for example to an independent oversight body, outlined in the law (Centre for Law and Democracy, n.d.<sup>[11]</sup>). Following an internal appeal, the law provides for a judicial appeal process whereby an individual may file a complaint to the administrative litigation section of the court in their region or the region where the public body is located. The 2021 *EU Rule of Law Report* finds that “access to court for redress is onerous” (EC, 2021<sup>[1]</sup>) and undertaking such a process requires considerable resources and is often not worthwhile if the information requested is time-sensitive. External appeals are common in OECD Members (85% have such a process) (OECD, 2022<sup>[24]</sup>) and usually involve lodging a complaint with an independent oversight body, prior to launching a judicial process. External

appeals are often more accessible to citizens because they are usually free of charge and do not require legal representation.

Relatedly, there is currently no independent oversight body with a mandate to monitor and evaluate ATI processes, collect and publish data on requests and responses, and issue corrections and sanctions in the case of violations of the law. The OECD report, *The Protection and Promotion of Civic Space: Strengthening Alignment with International Standards and Guidance* (2022<sup>[6]</sup>) finds that most OECD Members have an ATI oversight body, which can be one or a combination of the following: an information commission/agency/body or ombudsman with a specific mandate for ATI (44% of OECD Members, 49% of all countries), an ombudsman with a broader mandate (28% of OECD Members, 24% of all countries) or a central government authority (50% of OECD Members, 45% of all countries) (OECD, 2022<sup>[6]</sup>). In this regard, Romania could consider the creation of such a body and also establish an ATI officer or office within each public body with a clearly defined responsibility for ATI, to report back to the oversight body. Box 4.1 illustrates some examples of oversight bodies with a mandate for ATI in other country contexts.

### Box 4.1. Institutional oversight of ATI in Europe and Latin America

#### Chile

In Chile, the institutional dimension of the right to information is strengthened through the Council for Transparency, which is an autonomous and independent oversight body with the power to monitor and evaluate the implementation of the law (Chilean Council for Transparency, n.d.<sup>[25]</sup>). Its mandate is to contribute to democracy “through accountability and social control, enforcing the right to access information, transparency and personal data protection” (Chilean Council for Transparency, n.d.<sup>[25]</sup>). The body also aims to improve regulation on transparency, raise standards on the right of ATI and increase the efficiency of public management in this area overall.

#### Denmark

The Parliamentary Ombudsman in Denmark also has a mandate for maladministration with a specific focus on ATI. According to the 2020 OECD Survey on Open Government, the Parliamentary Ombudsman undertook an internal investigation of the Access to Public Administration Files Act in 2016, with a focus on how it was interpreted and used by ministries and how the government could foster greater openness in the future (OECD, 2022<sup>[6]</sup>).

#### Ireland

The Freedom of Information Central Policy Unit in the Department of Public Expenditure and Reform provides information, guidelines and other resources which are relevant to the recently amended 2014 Freedom of Information Act. According to the 2020 OECD Survey on Open Government, as part of the amendment process, two expert review groups considered and reported on the institutional arrangements for ATI in Ireland in order to inform drafting. An internal group was composed of public sector stakeholders, while an external group consisted of representatives of academia, journalists, the Information Commissioner, citizens and activists. The Information Commissioner is required to prepare a report on their activities in the previous year and submit it to the government annually (OECD, 2022<sup>[6]</sup>).

Source: 2020 OECD Survey on Open Government; OECD (2022<sup>[6]</sup>), *The Protection and Promotion of Civic Space: Strengthening Alignment with International Standards and Guidance*, <https://doi.org/10.1787/d234e975-en>; Chilean Council for Transparency (n.d.<sup>[25]</sup>), *About Us*, <https://www.consejotransparencia.cl/en/about-us/>.

### 4.2.3. Ensuring ATI is inclusive

Promoting inclusive and equitable ATI for all social demographics is crucial to protecting and promoting civic space. Romania has a range of initiatives to improve the accessibility of official websites. In 2017, the Ministry for Public Consultation and Social Dialogue, in partnership with the Ministry of Communications and Information Society, developed a guide on making the webpages of public institutions in Romania more accessible.<sup>7</sup> The General Secretariat also monitors the display of institutional webpages to gauge whether they need to increase or decrease font size, change colours, underline links or transform any text into audio files, for people with visual impairments. The government of Romania also produces a weekly synthesis of its activities which is adapted for people with hearing impairments (Government of Romania, n.d.<sup>[26]</sup>).

Romania could provide additional support to specific groups who need assistance in finding public information and in making information requests. As indicated in the OECD report, *The Protection and Promotion of Civic Space: Strengthening Alignment with International Standards and Guidance* (2022<sup>[6]</sup>), 50% of OECD Members provide additional support for requesters with special needs. Guidance around ATI could be issued in plain language that is accessible to all and in as many minority languages as possible (e.g. Hungarian, Romani, Ukrainian). In a positive step in this regard, in the context of the war in neighbouring Ukraine, the government developed a platform dedicated to Ukrainian refugees, in Ukrainian, on which they can find information related to legal, medical and social assistance (General Secretariat of the Government, n.d.<sup>[27]</sup>).

There are no fees for filing an information request in Romania, which contributes to a more accessible system. However, as in many other countries, requesters can be subject to a fixed cost (which cannot exceed 0.05% of the minimum wage per hour per page) if the public body in question is asked to reproduce information, as is the case in many countries (OECD, 2022<sup>[24]</sup>). In 2020, a proposed legal amendment would have made requesters liable to cover costs related to searching for, collecting, reproducing and mailing information, for example (Balkan Insight, 2020<sup>[28]</sup>). As there are no exceptions in law for impecunious requesters who cannot afford these potential costs, such a measure would have significantly limited ATI. Ultimately, the initiative was not approved and withdrawn (Senate of Romania, 2020<sup>[29]</sup>), with only the costs regarding reproduction remaining. To guarantee that the right to ATI is unrestricted for all citizens, it will be important for Romania to ensure that any costs related to access to information remain minimal and that any fees serve to cover real costs, without a profit for the public body concerned.

Romania has made recent efforts, through the aforementioned Government Decision 830/2022, to update and standardise reactive and proactive disclosure of information at the national and local levels (Government of Romania, 2022<sup>[10]</sup>). For example, one measure establishes an obligation for public bodies to update relevant information on the website of the respective institution, to publish information on those responsible for carrying out the activity, and requires them to display the date of publication for each type of information (Government of Romania, 2022<sup>[10]</sup>). Furthermore, Government Decision 830/2022 contains a number of promising amendments, including a new paragraph which notes that a “public authority or institution may communicate, *ex officio*, on its own website, frequently requested information, depending on its object or field of activity”, in an effort to promote proactive disclosure and reduce the number of requests for information (Government of Romania, 2022<sup>[10]</sup>). While 84% of OECD Members outline specific conditions for proactive disclosure in their guidelines on access to information (OECD, 2022<sup>[24]</sup>), it is less common for countries to share frequently requested information on an ongoing basis, thus Romania provides a positive example of progress in this area.

Romania could strengthen these efforts further by including a commitment to improving the inclusivity of the ATI law in its next Open Government Partnership (OGP) Action Plan, especially as several commitments to transparency are outlined in the most recent 2022-24 Action Plan, including transparency on national investment funds, participatory budgeting, and publishing open datasets (Open Government Partnership, 2022<sup>[30]</sup>). Such a commitment could prioritise undertaking outreach and awareness-raising activities – particularly at the local level – to target different minority groups, members of which may not be aware of their right to seek and receive information from public authorities.

## Recommendations

To enhance access to information from the public sector, Romania could:

- Embrace the broad and objective criteria for the definition of information of public interest, as outlined in Law 544/2001 (“information related to the activities or the results of the activities of a public authority or public institution, regardless of the format or form of expression of that information”) and ensure that exemptions are clearly defined and only applied where legitimate to do so.
- Ensure fees for requests to access information are kept to a minimum and reflect the actual costs involved for the public administration in reproducing information.
- Create an independent body such as an information commission/agency or ombudsman with responsibility for oversight of ATI. This body could also serve to collect and publish data on requests, respond to complaints and concerns, and impose sanctions for misdemeanours.
- Create a proposed single/central portal for all requests to access information, to reduce the burden on both public officials and citizens, as is the case in Brazil with the [Fala.BR](#) platform.
- In the short to medium term, establish an ATI officer or office within each public body with a clearly defined role and responsibility for ATI, which could guide public officials on relevant procedures and report back to the independent oversight body. The office or officers could also serve to promote the ATI law among citizens and CSOs to raise awareness and educate them on where and how to channel requests.
- Commit to offering training and capacity building for public officials on the importance of searching, retrieving and sharing information with requesters within the initial ten-day timeline, and encourage them to identify existing bottlenecks that hinder their ability to do so.
- Clarify the internal and judicial appeals processes and ensure that they are simple, subject to clear timelines and well-advertised. Such appeals processes should also be accessible without cost, to the extent possible, and not require legal representation.
- Continue to promote inclusiveness in ATI with the use of plain language, providing information on the right in minority languages, offering additional support to marginalised groups and those with disabilities and ensuring that filing a request remains free of charge, with exceptions to existing costs for those in need. In this regard, Romania could potentially include a commitment to improving the inclusivity of the ATI law in its next OGP Action Plan.

### 4.3. Press freedom

#### 4.3.1. Legal and regulatory frameworks

Freedom of the press is an essential component of vibrant civic space as a prerequisite for the unrestricted flow of information and the open exchange of opinions and ideas. Free and pluralistic media allow citizens to engage in public debate and to hold their governments to account. In Romania, press freedom is guaranteed in Article 30 of the constitution on freedom of expression and Article 31 on freedom of information, which state the following (Government of Romania, 1991<sup>[5]</sup>):

- **Article 30:** “Freedom of the press also includes the freedom to establish publications. No publication may be banned”.

- **Article 31:** “The public and private mass media organs must ensure that public opinion receives correct information”; “The public services of radio and television are autonomous”; “They must guarantee that significant social and political groups have the right to broadcast”.

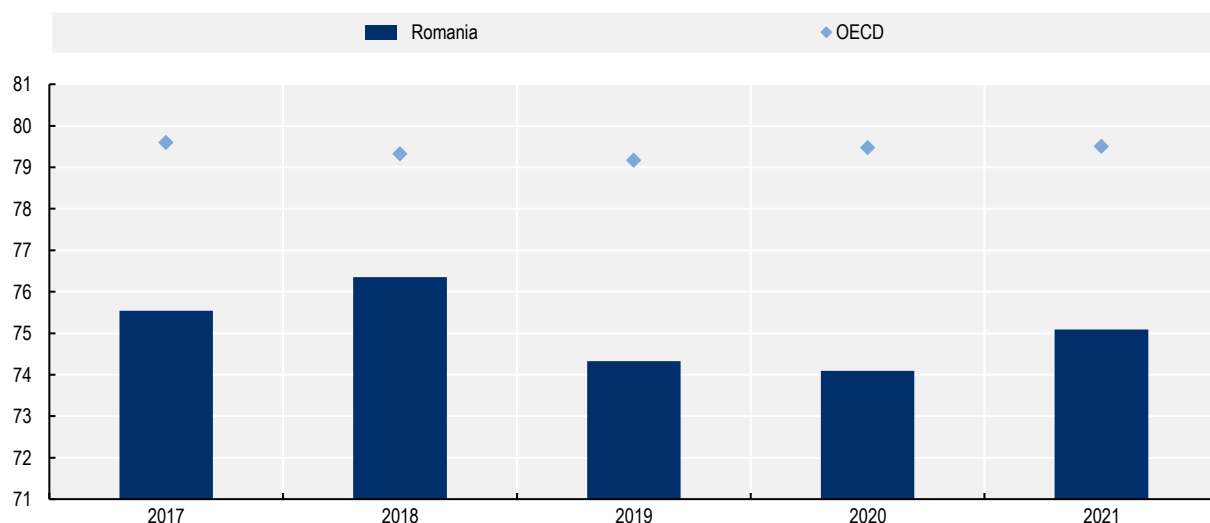
Furthermore, Law 544/2001 on the right of free access to public information states that “public authorities must issue press accreditations to journalists and media representatives without discrimination” (Library of Congress, 2021<sup>[8]</sup>). Accreditation “may be refused or withdrawn only for acts which hinder the normal activity of the public authority and not in connection to opinions lawfully expressed by the journalist”. In addition, public bodies must inform mass media of upcoming press conferences and public events and cannot restrict press access to any public government events (Library of Congress, 2021<sup>[8]</sup>).

Audio-visual media services in Romania are regulated by Law 504 of 2002, which covers television and radio broadcasting and on-demand media service providers (CNA, 2002<sup>[31]</sup>). The act “prohibits censorship and interference on the part of public authorities or private persons, guarantees the confidentiality of sources and maintains that public authorities must ensure the protection of journalists who are subjected to pressures or threats that may interfere with the exercise of their profession” (Library of Congress, 2021<sup>[8]</sup>). This legislation also establishes the National Audiovisual Council (CNA) (see Box 4.2), which regulates whether media content adheres to the law as well as to “the human rights instruments to which Romania is a party” (Library of Congress, 2021<sup>[8]</sup>).

#### 4.3.2. The current status of press freedom and journalistic freedom of expression

While press freedom is relatively well-protected by Romania’s legal frameworks, some challenges remain. The Reporters Without Borders (RSF) 2022 World Press Freedom Index ranks Romania 56<sup>th</sup> out of 180 countries assessed, with a score of 68.46 out of 100 (n.d.<sup>[32]</sup>).<sup>8</sup> While Romania’s scores have fluctuated over the past five years, they have remained below the OECD average (Figure 4.1), with the 2022 index raising ongoing challenges related to censorship, self-censorship, and opacity regarding media funding and media ownership (RSF, 2022<sup>[33]</sup>).

**Figure 4.1. RSF World Press Freedom Index: Romania and OECD Members, 2017-21**



Note: The degree of freedom available to journalists in 180 countries is determined by pooling the responses of experts to a questionnaire devised by the RSF. The index’s rankings are based on a score ranging from 0 to 100 that is assigned to each country or territory, with 100 being the best possible score (the highest possible level of press freedom) and 0 the worst.

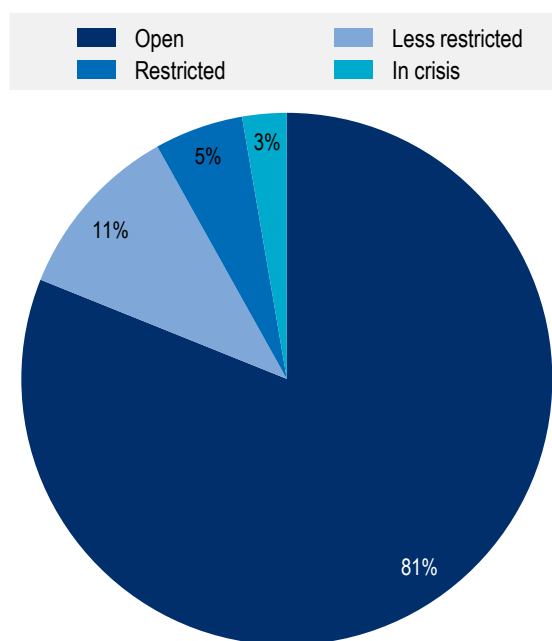
Source: RSF (n.d.<sup>[32]</sup>), *Index*, <https://rsf.org/en/index> (accessed on 29 April 2022).



Freedom House's Freedom in the World 2022 index gives Romania a score of 83 out of 100 with a rating of "free" (Freedom House, n.d.<sup>[34]</sup>).<sup>9</sup> In particular, the index's indicator on free and independent media gives Romania a score of three out of four<sup>10</sup>, citing challenges such as media outlets being controlled by political interests and public authorities influencing some media outlets through publicly funded advertising (Freedom House, n.d.<sup>[34]</sup>). Civil society interviewees confirmed these challenges and noted that both the government and the public's perception of private media was largely negative as a result.<sup>11</sup> Article 19's Global Expression country ranking categorises Romania as "less restricted" whereas 81% of OECD Members are deemed to be "open" (Figure 4.2) (Article 19, 2021<sup>[35]</sup>).

**Figure 4.2. Article 19's Global Expression country rankings: Romania and OECD Members, 2021**

Romania is categorised as "less restricted"



Note: The chart is based on available data from 36 OECD Members (no data available from Luxembourg or Mexico) and Romania.  
Source: Article 19 (2021<sup>[35]</sup>), *The Global Expression Report 2021: Country Rankings*, <https://www.article19.org/wp-content/uploads/2021/07/GxR-2021-Country-Rankings-Final.pdf> (accessed on 29 April 2022).

Romania's media landscape mirrors wider trends in Europe and worldwide with the number of print media outlets decreasing as online media outlets increase (2022<sup>[33]</sup>). Large European groups (e.g. Dogan Media International, Ringier) are present in the Romanian media market alongside other national and local outlets (RSF, 2022<sup>[33]</sup>). The Romanian public broadcaster, Romanian Television (TVR), has the status of an autonomous public service of national interest and broadcasts on six channels, with almost full coverage nationally, through its five territorial studios: Cluj, Craiova, Iasi, Timișoara and Tîrgu-Mureș (TVR, 2022<sup>[36]</sup>). It is funded from the state budget and from advertising (CIRCOM, n.d.<sup>[37]</sup>). TVR's mission is to be "the main source of information, education and entertainment for Romanians" (TVR, 2012<sup>[38]</sup>). TVR also states that diversity is one of its core values, and as such, it aims to represent different minorities, religions and perspectives equally (TVR, 2012<sup>[38]</sup>). In terms of private media, ProTV and Digi24 lead both in terms of online and offline consumption and in citizen trust in their content, even more so than public service radio and television (Reuters Institute, 2021<sup>[39]</sup>). Other significant online outlets include Adevărul online, Libertatea online, Mediafax online and Ziare.com (Reuters Institute, 2021<sup>[39]</sup>).

Alongside the general lack of trust in public institutions discussed in Chapter 1, there is also low trust in media. The Reuters Institute at the University of Oxford ranks Romania 38<sup>th</sup> out of 46 countries surveyed for trust in the news (Reuters Institute, 2021<sup>[39]</sup>). Romania's scores have fluctuated significantly over recent years, increasing from 35% in 2019 to 38% in 2020 and 42% in 2021, and currently stand at 33% in 2022 (Reuters Institute, 2021<sup>[40]</sup>). In 2021, the institute noted that “rarely [...] have Romanians been so hungry for up-to-date information [...], and journalists so ill-equipped to provide accurate information” given the challenging context (Reuters Institute, 2021<sup>[40]</sup>). The Central European University (CEU) Democracy Institute has noted that while the media sector is “vibrant and diverse”, independent journalism survives “thanks to a string of small online outlets that are struggling financially and grappling with a low level of trust and a public unwilling to pay for media content” (CEU Democracy Institute, 2019<sup>[41]</sup>).

### **4.3.3. Tackling challenges to free and pluralistic media**

#### *Political pressure, censorship and self-censorship*

The ability of journalists to report objectively and independently on events is crucial for press freedom. One of the most common issues raised by interviewees during the fact-finding mission was the tendency for media and journalists to be prone to external inferences on their reporting.<sup>12</sup> The 2021 EU *Rule of Law Report* also notes that political pressure is a significant issue, especially for media outlets that rely on government funding (EC, 2021<sup>[1]</sup>). Interviewees reported that some of those who have received government funding have felt pressure to censor their content or engage in self-censorship to avoid challenges to their coverage. For this reason, some media outlets such as G4Media and PressOne state explicitly on their websites that they do not receive government funding due to the perceived associated risks.<sup>13</sup> Interviewees also stressed that this causes particular concern at the local level, as it is difficult for small media outlets to survive without government support.<sup>14</sup>

Furthermore, according to the Centre for Media Pluralism and Media Freedom, editorial autonomy – meaning the ability of journalists and editors to make decisions without consideration of the ownership of the outlet, the political views of the publication or any other external pressures – is at high risk in Romania (CMPF, 2021<sup>[42]</sup>). No legal or self-regulatory safeguards currently “prevent arbitrary appointments or dismissals” or undue commercial or political pressure, for example (CMPF, 2021<sup>[42]</sup>). Industry-wide guidelines to establish basic codes of conduct do not exist, including to safeguard against unfair appointments or dismissals, or to guide editors on the line between journalistic content and advertising (CMPF, 2021<sup>[42]</sup>). While outlets can and do establish their own guidelines, there are no overall standards in place, either through self-regulation or legislation, on editorial independence (EC, 2021<sup>[1]</sup>).

Both large and small private media outlets are essential elements of a pluralistic media environment as contributors to varied public discourse and debate. However, while the leading five media outlets in Romania by weekly reach (Pro TV, Digi24, Antena 1, Antena 3 and Romania TV) generally offer balanced and moderate coverage of current events (Reuters Institute, 2021<sup>[40]</sup>), interviewees stated that private media outlets are generally viewed as being highly politicised.<sup>15</sup> In fact, the Reuters Institute for the Study of Journalism finds that “much Romanian news coverage is sensationalist, with outrage the stock in trade for many commentators” (Reuters Institute, 2021<sup>[40]</sup>). The perception among citizens of private media as biased and polarised has implications for access to information due to people limiting the types of media they consume. For example, if a media outlet is seen to cater to a certain political demographic, even if its information is accurate, others from opposing sides of the political spectrum may not watch or read the content. In this sense, the public may become more likely to choose television and radio that aligns with their views, thereby avoiding engaging with more varied perspectives.

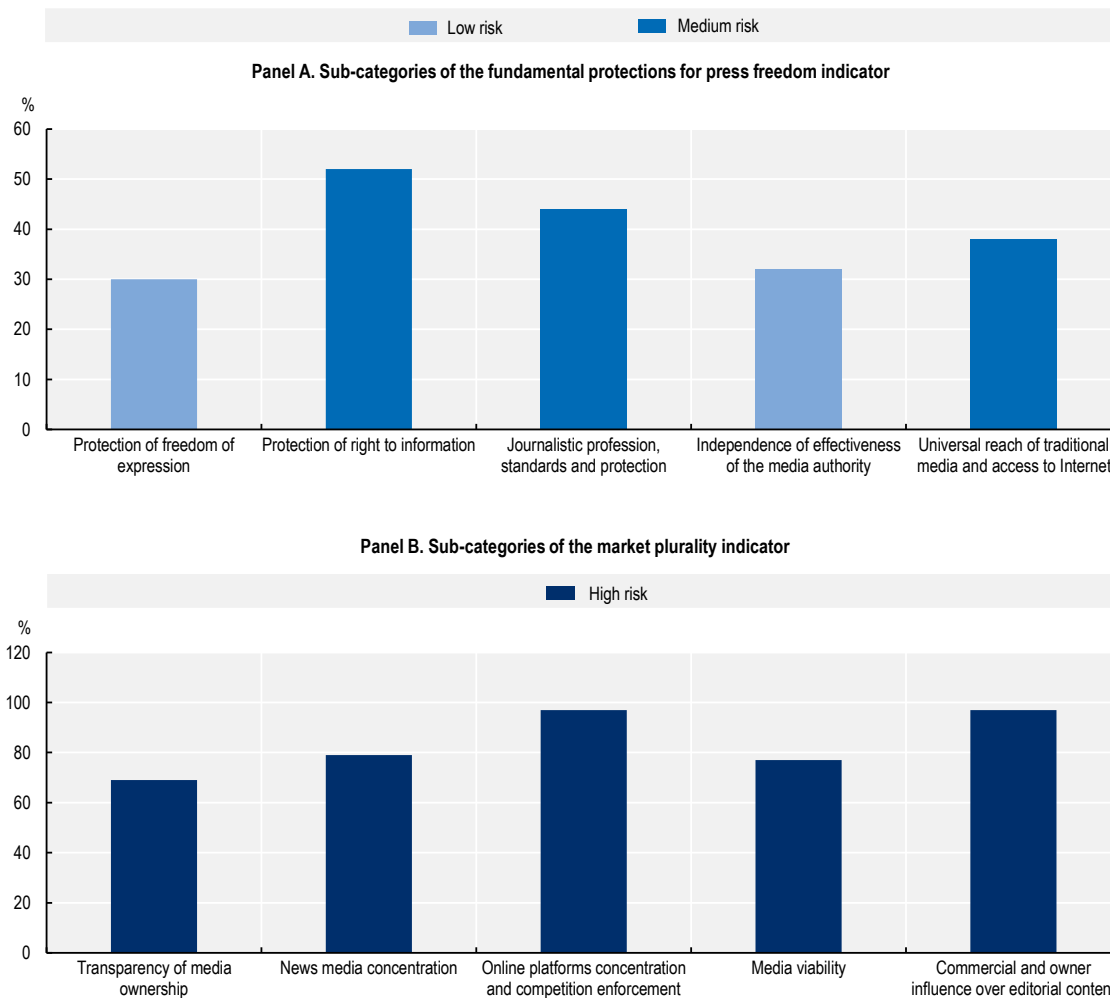
CSOs have raised concerns that political parties spend state subsidies on mass media to influence public opinion. In 2021, the Romanian Permanent Electoral Authority (AEP) reported that political parties had spent approximately EUR 22.5 million from January to September 2021 on “press and propaganda” (Balkan Insight, 2021<sup>[43]</sup>). Media outlets do not explicitly announce that they receive such money, due to both legal loopholes and insufficient regulation, resulting in sponsored content being presented in a manner that is misleading.<sup>16</sup>

### *Transparency of media ownership*

Transparency of media ownership, meaning that citizens can access data on individual, commercial, or governmental influence or control of different forms of media, is a key component of a free press within a democratic society. Publicly available information on media ownership allows citizens to critically assess their sources and enables governments and civil society to investigate whether media ownership is concentrated in the hands of a limited few. Longstanding concerns continue to be raised in Romania concerning the opacity of media ownership. In fact, interviewees noted that state capture of the media is an ongoing issue and, while some independent journalists have attempted to organise to combat this trend, there is little centralised co-ordination and thus negligible impact.<sup>17</sup>

The European Commission (EC) has highlighted this issue in more than one Rule of Law Report, with the 2021 edition stating that “transparency of media ownership continues to be incomplete” (EC, 2021<sup>[1]</sup>). The EU 2021 Media Pluralism Monitor (MPM) report places Romania in the high-risk category for its transparency of ownership indicator, along with Albania, Cyprus, the Czech Republic, Finland, Hungary, Latvia, the Slovak Republic, Spain and Turkey (CMPF, 2021<sup>[42]</sup>). Furthermore, the 2021 *Romania Country Report* finds transparency limited “due to both the presence of loopholes and the lack of media-specific regulations for all media other than audio-visual media” (Popescu, Bodea and Toma, 2021<sup>[44]</sup>). Romania is also considered medium to high risk for several other categories under the fundamental protections for press freedom and market plurality indicators (Figure 4.3), including news media concentration, media viability, and commercial and owner influence over editorial content.

**Figure 4.3. Medium- and high-risk categories in the 2021 Media Pluralism Monitor: Romania, 2020**



Source: Popescu, M., R. Bodea and R. Toma (2021<sup>[44]</sup>), *Monitoring Media Pluralism in the Digital Era: 2020 Romania Country Report*, <https://cmpf.eui.eu/mpm2021-results/> (accessed on 30 May 2022).

The National Audiovisual Council plays a valuable role in protecting press freedom (Box 4.2) by answering queries on media, investigating complaints, and imposing fines and sanctions where necessary. However, the council does not share information on the ownership of media, on the basis that this violates data protection laws (RSF, n.d.<sup>[45]</sup>).<sup>18</sup>

### Box 4.2. The role of the National Audiovisual Council in Romania

The National Audiovisual Council (CNA) in Romania regulates all broadcast media with the aim of safeguarding the public interest. The CNA is the interface between the state and the television and radio industry and is empowered by the Romanian parliament “to monitor the editorial content of the broadcasters and take measures in cases of infringement” (CNA, n.d.<sup>[46]</sup>). The council also oversees the issuing of all broadcast licences. As of December 2021, there are 938 audio-visual licences in force, owned by 331 companies (CNA, 2021<sup>[47]</sup>).

According to its 2021 report, the CNA ensures observance of the pluralistic expression of ideas and opinions, a diversity of information sources in the media, the protection of Romanian culture and language and those of minority groups, the protection of minors and the defence of human dignity (CNA, 2021<sup>[47]</sup>). It also aims to safeguard balanced reporting between national broadcasting services and local or regional services (CNA, 2021<sup>[47]</sup>). In 2021, the council had 65 public meetings and applied 195 sanctions for violations, 66 of which were fines. The most common issues were ensuring correct information and pluralism (101 sanctions), protection of human dignity and right of publicity (58 sanctions), child protection (19 sanctions), and discrimination, xenophobia and defamation (12 sanctions) (CNA, 2021<sup>[47]</sup>). In 2021, 3 409 notifications and complaints were received from citizens, CSOs and other actors regarding the programmes broadcast by television stations, with the most notifications received for Romania TV, Kanal D and Antena 1 (CNA, 2021<sup>[47]</sup>).

The council has 11 members, 3 of which are appointed by the government and 2 by the president. Each member is evaluated by the Romanian parliament. The council meets twice every week and holds regular public meetings, conferences and debates. The council’s budget is part of the state budget. It proposes the budget needed and Economic Committees of both the Senate and the Chamber of Deputies then discuss the amount. After these discussions, the state budget is voted on by these committees, followed by the plenary of the parliament. However, the CNA does face challenges due to inadequate human and financial resources (EC, 2021<sup>[1]</sup>).

If a media company violates any element of the regulatory code as outlined in Law 504 of 2002 (CNA, 2002<sup>[31]</sup>), the council issues a public notification as a first response. Following this, any further misdemeanours are subject to gradual fines before more serious sanctions are considered. The council publishes these decisions on a on its website (<https://www.cna.ro>).

Source: CNA (n.d.<sup>[46]</sup>), *Mission*, <https://www.cna.ro-Mission-html> (accessed on 2 May 2022); CNA (2021<sup>[47]</sup>), *2021 Annual Report*, <https://www.cna.ro/Raport-anual-2021.html> (accessed on 30 May 2022); EC (2021<sup>[1]</sup>), *2021 Rule of Law Report: Romania*, <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52021SC0724&from=EN> (accessed on 25 April 2022); interviews with the CNA, February 2022.

### *Combatting online restrictions on freedom of expression and press freedom*

Civil society and government interviewees alike highlighted worrying trends of overreach by public bodies in Romania in restricting and blocking online platforms<sup>19</sup> in recent years, with two of the most recent examples taking place during the COVID-19 crisis and the ongoing war in Ukraine.

During the pandemic, Presidential Emergency Decree 195/2020 (Official Gazette of Romania, 2020<sup>[48]</sup>) included provisions intended to tackle mis- and disinformation related to COVID-19 and government measures to combat it. The National Authority for Management and Regulation in Communications (ANCOM) was vested with additional powers beyond its mandate to implement this decree (Kokoly, 2021<sup>[49]</sup>). As the Library of Congress underlines in its legal analysis for this Review, this allowed a body with “no expertise in media content” to remove any reports, publications or websites if they appeared to be spreading false information (2021<sup>[8]</sup>). The national authority suspended 15 websites without outlining any mechanisms for appeal or redress (Library of Congress, 2021<sup>[8]</sup>). The Organization for Security and Co-operation in Europe (OSCE) Representative on Freedom of the Media expressed concerns regarding the special powers granted to the government by this decree and its potential to curb freedom of information and expression (OSCE, 2020<sup>[50]</sup>). Similarly, the Romanian Ombudsman requested clarification from the Strategic Communication Group (GCS) – the official COVID-19 communication task force under the direct co-ordination of the Department for Emergency Situations, within the Ministry of Internal Affairs – on how notifications were received, how sites were monitored, and how decisions were made on blocking and removing content (Stirileprotv, 2020<sup>[51]</sup>). CSOs including APADOR-CH unsuccessfully requested that the composition of this committee be made public (APADOR-CH, 2020<sup>[52]</sup>).

More recently, organisations such as the European Digital Rights (EDRi) association and the Association for Technology and Internet (APTi) in Romania have raised concerns about the government’s decision to block sites linked to the spread of Russian propaganda during the war in Ukraine.<sup>20</sup> Despite not having the mandate to do so, the Romanian National Directorate for Cybersecurity (DNSC) took the initiative to publish a list of domains linked to Russia Today and Sputnik as well as any other media that are “used to deploy cyberattacks and malware that may also impact Romania in the context of the Ukrainian-Russian Crisis” (EDRi, 2022<sup>[53]</sup>). In April 2022, the list contained 37 domains and 311 Internet Protocol (IP) addresses (EDRi, 2022<sup>[53]</sup>); however that number has grown to include over 35 000 IPs as of October 2022 (Hot News Romania, 2022<sup>[54]</sup>). The DNSC did not explain the criteria or outline the system for choosing which websites posed a threat. The list was then forwarded to ANCOM, who shared it with Internet service providers (ISPs) which could then decide whether to block the relevant platform or not (EDRi, 2022<sup>[53]</sup>). As noted by the APTi, some websites were then blocked erroneously by ISPs, including legitimate journalistic websites and a book blog (APTi, 2022<sup>[55]</sup>). Some of these cases were highly publicised, with the government acknowledging the error and unblocking the sites after calls from CSOs, journalists and activists. Regardless, civil society interviewees have stressed that blocking websites is not a solution, and that the government should instead focus its efforts on initiatives to educate citizens about identifying mis- and disinformation themselves.<sup>21</sup>

### *Promoting media literacy and combatting mis- and disinformation*

The proliferation of mis- and disinformation online and its evolving nature presents significant challenges for governments as they attempt to ensure that accurate and factual information reaches all social demographics. These phenomena have the potential to divide public opinion, encourage further polarisation across society and even promote hate speech. In addition, mis- and disinformation are harmful to governments as they can undermine people’s trust, not only in their fellow citizens but also in the democratic institutions that seek to serve them. In this regard, media literacy and civic education are vital tools to empower citizens to process information in a critical and analytical way and to ensure that they are well-informed, understand the benefits of being active and engaged citizens, and seek opportunities to be involved in decision making.

The 2021 *OECD Report on Public Communication* recommends that governments “engage in a whole-of-society effort to combat misinformation and disinformation [...] that includes working with and benefiting from civil society, the private sector and individuals to support the timely and effective sharing of information and data and to promote democratic discussion” (2021<sup>[56]</sup>). One of the suggested avenues for collaboration is the use of media literacy initiatives, which foster citizens’ abilities to identify and disregard false information and fake news (OECD, 2021<sup>[56]</sup>). Similarly, the 2018 EU report *Tackling Online Disinformation: A European Approach* has acknowledged the role of “educational initiatives and awareness campaigns to improve media literacy” (EC, 2018<sup>[57]</sup>). The forthcoming *OECD Principles of Good Practice for Public Communication Responses to Mis- and Disinformation* emphasises prevention as one of its ten principles, encouraging proactive government interventions to identify and anticipate disinformation vulnerabilities and risks (forthcoming<sup>[58]</sup>).

The exposure of citizens to large-scale disinformation, including misleading or outright false information, is a significant challenge for Romania and the rest of Europe (EC, 2018<sup>[57]</sup>). A 2018 study found that “in general, Romanians lack the abilities to cope with the fake news phenomenon” (Bărgăoanu and Radu, 2018<sup>[59]</sup>). Moreover, the Open Society Institute Media Literacy Index 2021 ranked Romania 28<sup>th</sup> out of the 35 European countries (OSI, 2021<sup>[60]</sup>).

The government has made efforts to combat the phenomenon, notably by earmarking EUR 40 million for media public information and awareness campaigns. However civil society and government interviewees alike noted that this initiative did not strongly emphasise improving the media and information ecosystem but rather focused on providing general financial support to struggling media outlets due to the COVID-19 pandemic.<sup>22</sup> Furthermore, this initiative was criticised by CSOs and journalists for the opaque criteria and selection process used to allocate funding (RSF, 2022<sup>[33]</sup>). A specific platform to fight mis- and disinformation and share accurate information was also established by the government during the pandemic (<https://covid19.stirioficiale.ro>). The project was launched through the Authority for the Digitalisation of Romania (ADR) and in partnership with the CSO Code for Romania.

Several interviewees stressed the need for critical thinking and media literacy skills to be embedded in the school curriculum as part of broader civic education.<sup>23</sup> Currently, there are no centralised government initiatives targeting youth or the wider public to raise awareness about the rise of mis- and disinformation, for example. CSOs have attempted to fill this gap. For example, the Romanian Centre for Independent Journalism and the Romania-American Foundation (RAF), with support from the United Nations International Children’s Emergency Fund (UNICEF) in Romania, have been running a media literacy programme since 2016, with the aim of teaching students how to identify factual information and separate opinion from fact (UNICEF, 2021<sup>[61]</sup>). The organisation has entered a partnership with the Ministry of Education to pilot it across the education system, and to ensure sustainability and scale-up. Since 2014, the RAF has also supported testing and developing civic education models in schools and communities through other organisations like *the Romanian Association for Debate, Oratory and Rhetoric* (ARDOR) and the Intercultural Institute Timișoara. About 700 Romanian language teachers were trained in promoting media literacy elements, 600 civic education teachers were introduced to active citizenship project-based learning and approximately 500 teachers were trained in using debate as part of their teaching.<sup>24</sup> In addition, more than 15 000 Grade 7 students experimented with active citizenship in civic education classes, more than 14 000 high school students benefitted from the integration of media literacy into the Romanian language curriculum and about 3 000 students participated in debate clubs.<sup>25</sup> Two university communities of expertise (in Bucharest and Cluj) are now emerging, providing research and insights on civic education prerequisites and outcomes. Romania could be inspired by good practices in OECD Members which also promote media literacy (see Box 4.3).

### Box 4.3. Promoting media literacy: Good practices from OECD Members

#### Estonia

Estonia views the fight against mis- and disinformation as a fundamental element of its digitalised culture and as a national security issue, and has been continually praised for its success in “inoculating against disinformation” (BBC Future, 2022<sup>[62]</sup>). The Estonian Ministry of Education and Research defines media literacy as “the skills, knowledge and attitudes that help to critically analyse and evaluate information presented in different channels and to form adequate assessments” (Government of Estonia, n.d.<sup>[63]</sup>). The school curriculum explicitly states that two of the core competencies to be developed in students include:

- **Social and civic competency:** This teaches students to act as informed and active citizens who engage with public officials and contribute to a democratic society, with a focus on respecting diversity and human rights, both in person and in online environments (Government of Estonia, 2021<sup>[64]</sup>).
- **Digital literacy:** This competency develops students’ abilities to use digital technologies, assess the reliability of information and be cognisant of the risks of the online environment. It also fosters their skills in protecting their personal data, digital identity and privacy and encourages students to follow “the same moral and value principles in the digital environment as in everyday life” (Government of Estonia, 2021<sup>[64]</sup>).

#### United Kingdom (UK)

The UK Department for Digital, Culture, Media and Sport published its Online Media Literacy Strategy in 2021, which intends to establish a co-ordinated approach to activities on media literacy, address gaps in the existing landscape and create new opportunities for organisations undertaking media literacy initiatives (UK Government, 2021<sup>[65]</sup>). The strategy specifically emphasises the need to upskill citizens to ensure greater resilience in identifying and stopping the spread of false narratives (UK Government, 2021<sup>[65]</sup>). It also highlights the role of CSOs with expertise in this area and notes that they are well-placed stakeholders to advocate for what is needed in the education system and to collaborate with governments to deliver media literacy initiatives (UK Government, 2021<sup>[65]</sup>). The UK Council for Internet Safety (UKCIS) Education Working Group has also developed a framework to encourage media and digital literacy among youth (UK Government, 2020<sup>[66]</sup>).

Source: BBC Future (2022<sup>[62]</sup>), “The country inoculating against disinformation”, <https://www.bbc.com/future/article/20220128-the-country-inoculating-against-disinformation> (accessed on 2 June 2022); Government of Estonia (n.d.<sup>[63]</sup>), *Media Literacy*, <https://www.hm.ee/et/tegevused/meediapadevus> (accessed on 2 June 2022); Government of Estonia (2021<sup>[64]</sup>), *Upper Secondary School National Curriculum*, <https://www.riigiteataja.ee/akt/129082014021?leiaKehtiv> (accessed on 2 June 2022); UK Government (2021<sup>[65]</sup>), *Online Media Literacy Strategy*; UK Government (2020<sup>[66]</sup>), *Education for a Connected World*, <https://www.gov.uk/government/publications/education-for-a-connected-world> (accessed on 2 June 2022).

#### *Reducing barriers for journalists and media outlets*

Some of the barriers facing journalists in Romania are increasingly common across Europe, but others pose more of a challenge than elsewhere. This section will discuss the misuse of legal frameworks against journalists, either to restrict information – through the GDPR – or to silence journalists through targeted strategic lawsuits against public participation (SLAPPs). Instances of hate speech, harassment and even some rare cases of physical violence have also contributed to a hostile environment, and few associations or organisations support journalists facing such circumstances.



### SLAPPs being used to deny information and silence journalists

In many countries, the daily work of journalists and CSOs is increasingly endangered by lawsuits which aim to silence the voices of those who publicly criticise or investigate powerful individuals, companies or interest groups (OECD, 2022<sup>[6]</sup>). Such lawsuits, known as SLAPPs, are typically initiated by the private sector or influential public sector entities and serve to harass individuals or organisations, undermine their reputation and drain their financial resources (BHRRRC, 2021<sup>[67]</sup>). SLAPPs refer to lawsuits which are filed by powerful organisations or public figures against CSOs, journalists and ordinary citizens on issues of social, economic, or political significance. They usually take advantage of a power imbalance and aim to silence criticism by depleting the human or financial resources available to the defendant in bringing the case to court (Resource Centre on Media Freedom in Europe, 2019<sup>[68]</sup>). Journalists interviewed for this Review<sup>26</sup> expressed concern regarding a number of SLAPP cases being used to silence journalists in Romania and cases of the GDPR being used to restrict access to information. Such cases can have an adverse effect on freedom of expression and pluralistic public debate in addition to deterring investigative journalists from uncovering instances of misconduct, misuse of public funds and corruption in the public sector. While interviewed CSOs cautioned that SLAPPs are being initiated by a relatively limited group of public figures and that it is thus difficult to speak of a trend, concerns remain.<sup>27</sup>

As discussed in Chapter 3, Romania is one of a handful of countries in Europe that has decriminalised defamation, alongside Cyprus, Ireland, Malta and the UK (MPM, 2019<sup>[69]</sup>), which is in line with international guidelines (OCSE, 2017<sup>[70]</sup>) from the UN Special Rapporteur on Freedom of Expression, the OSCE Representative on Freedom of the Media and the Organization of American States (OAS) Special Rapporteur on Freedom of Expression (OECD, 2021<sup>[71]</sup>). While this is a good practice in Romania, civil proceedings for potential defamation cases can still pose risks to journalists when used illegitimately. In fact, despite the fact that Romania does not criminalise defamation, over the last five years, the European Court of Human Rights has found more than once that defamation proceedings before Romanian courts against politicians or journalists violated their rights to freedom of expression, noting the importance of protecting political speech and media contributions relating to matters of public interest. It also emphasised that disproportionately high damage payments could have a dissuasive effect on freedom of expression.<sup>28</sup>

At a general level, SLAPP cases have low visibility in Romania and journalists often have difficulty defending themselves (2021<sup>[72]</sup>). Furthermore, the EU CITIZEN Academic Network on European Citizenship Rights' *Strategic Lawsuits against Public Participation (SLAPP) in the European Union: A Comparative Study* report notes that "mainstream media have almost abandoned hard investigative reporting" in Romania (EU-CITIZEN, 2021<sup>[72]</sup>), including because of a fear of legal repercussions. Several interviewees mentioned instances in 2021 when public figures had begun legal proceedings against journalists.<sup>29</sup> The Platform for the Safety of Journalists reported on one such investigation into both Newsweek Romania and Libertatea following a complaint which claimed that journalists at these outlets were involved in "organised criminal blackmail" (CoE, 2021<sup>[73]</sup>). The Direction of Investigation of Organised Crime and Terrorism Crimes has since closed the complaint, citing a lack of concrete evidence, while the National Anticorruption Directorate (DNA) opened a separate investigation in December 2021 (CoE, 2021<sup>[73]</sup>). After months of deliberation, prosecutors decided to close the file (International Press Institute, 2022<sup>[74]</sup>). In 2021 the European Centre for Press and Media Freedom (ECPMF) published a letter from a coalition of CSOs concerned about legal action taken against the Centre for Investigative Media, Dela0.ro (an alternative journalism platform) and three journalists (ECPMF, 2021<sup>[75]</sup>). CSOs warned that the case – which arose following reporting on sexual abuse allegations – had many characteristics of a SLAPP case. Citing this Romania case, a letter signed by CSOs including Article 19, ActiveWatch and the Civil Liberties Union for Europe recommended that new standards should be introduced at the EU level to combat this worrying trend across the continent (ECPMF, 2021<sup>[75]</sup>). In 2022, the EC announced it would begin "taking action to improve the protection of journalists and human rights defenders from abusive court proceedings" (EC, 2022<sup>[76]</sup>). The proposed Directive aims to establish "procedural safeguards and

remedies” for those accused as well as dissuasive penalties for those who launch abusive lawsuits, with judges also having the ability to dismiss “manifestly unfounded lawsuits” (EC, 2022<sup>[76]</sup>).

### **The GDPR restricting ATI**

Alongside standard delays, many public bodies use data protection rules as a justification to limit ATI, by stating that sharing would be in violation of the GDPR, according to the EC (2021<sup>[11]</sup>). Furthermore, there have been instances of some using the GDPR as a basis to interrogate journalists and demand that they reveal the sources of their information. One example occurred in 2018, when the National Supervisory Authority for Personal Data Processing (ANSPDCP) sent the RISE Project, a Romanian media outlet, a letter demanding the source of the personal data used in an article and access to the data, citing GDPR regulations, according to Privacy International (2018<sup>[77]</sup>). In the case of non-compliance, the body warned of a potential fine of up to EUR 20 million (Privacy International, 2018<sup>[77]</sup>). Privacy International, European Digital Rights and the APTI, together with other CSOs, have addressed the European Data Protection Board, the ANSPDCP and the EC on this issue (Privacy International, 2018<sup>[77]</sup>). A statement issued in 2018 sent a strong message that the GDPR “must not be used as a tool to silence journalists” (Privacy International, 2018<sup>[77]</sup>). Furthermore, in 2019, the Association for Technology and Internet (APTI) sent a formal complaint to the EC regarding the problematic approach to the implementation of the GDPR in Romania (EDRI, 2019<sup>[78]</sup>).

The protection of whistleblowers is also key to safeguarding freedom of expression, freedom of the press and ATI. In a positive step, Romania recently adopted Law 361/2022 in December 2022, on the Protection of Whistleblowers in the Public Interest, which intends to support individuals in reporting wrongdoing or any other threats or harms to the public interest deriving from the private and public sectors, in line with international standards (Government of Romania, 2022<sup>[79]</sup>).<sup>30</sup> The Romanian Ministry of Justice launched a public debate on the draft Law in April 2021. CIVICUS reported that despite this consultation, proposals made by APADOR-CH and others were not reflected in the new draft text (CIVICUS, 2021<sup>[80]</sup>). Specifically, civil society had expressed concerns that under the new law, whistleblowers would have an obligation to report within their institutions before reaching out to media and risked losing their legal protection if they did not comply (CIVICUS, 2021<sup>[80]</sup>). Under the final provisions of the law, concerns from civil society are somewhat reflected. Whistleblowers are protected if they report using internal and external channels, as well as if they report via unofficial channels when they have reasonable grounds to believe the behaviour or violation in question is a danger to the public interest or if there is a risk of retaliation (Government of Romania, 2022<sup>[79]</sup>). At the time, the Whistleblowing International Network (WIN) has stated that implementation challenges still lie ahead as, for example, the criteria for anonymous reporting “do not meet international best practice principles” (EU Whistleblowing Monitor, 2023<sup>[81]</sup>). In March 2023, a draft law to amend the newly adopted legislation was submitted to parliament, with one change removing the need for whistleblowers to provide identifying details alongside reports of wrongdoing. The President of the Association for Cooperation and Sustainable Development noted that the amendments were insufficient to tackle weaknesses in the legislation, including “problematic terminology” in its provisions (EU Whistleblowing Monitor, 2023<sup>[81]</sup>).

### **Recognising and addressing hate speech and harassment targeting journalists**

As in other countries across the EU, journalists in Romania can also be subject to instances of hate speech, harassment and even in some rare circumstances, physical violence (European Parliament, 2019<sup>[82]</sup>; IPI, 2020<sup>[83]</sup>). In fact, the 2022 *EU Rule of Law Report* notes that “the situation regarding threats, instances of harassment and violence against journalists is more concerning” compared to 2021 (EC, 2022<sup>[22]</sup>). This contributes to a threatening environment for those working in the media overall and hinders the ways in which they operate.<sup>31</sup>

Hateful discourse and online hate speech are increasingly common challenges in many countries (OECD, 2022<sup>[6]</sup>). While national data on the phenomenon is not available, the 2021 Centre for Independent Journalism report noted that in Romania, reporters are sent comments which “affect them profoundly” and that the number of such incidents is on the rise with comments often containing explicit language and death threats (CIJ, 2021<sup>[84]</sup>). Interviewees for the Review also noted that hateful discourse was a growing phenomenon including from political figures.<sup>32</sup> As mentioned above, ordinary citizens in Romania have become more distrustful of media and hateful comments generated on media platforms, as well as on social media, in response to reporting are now considered commonplace.<sup>33</sup>

Journalists have also faced harassment and smear campaigns due to their investigative reporting with interviewees stressing their fear that such cases could dissuade journalists, especially investigative journalists, from tackling sensitive issues or those involving public figures in positions of power. Instances of outright violence against journalists are rare in Romania, as is the case for the rest of Europe. However, some notable cases have occurred in recent years. In 2018, RSF reported on police violence against journalists during protests against the Romanian government in 2017-19 (RSF, 2018<sup>[85]</sup>). More recently in 2021, journalists were attacked by citizens. A journalist and freelance filmmaker, a director and an environmental activist were making a documentary on illegal logging in a remote forest region of Romania when all 3 were attacked by 20 people “armed with sticks and axes” (ECPMF, 2021<sup>[86]</sup>). The police have since identified and questioned 11 people involved, with CSOs urging them to ensure that they are prosecuted (ECPMF, 2021<sup>[86]</sup>).

### **Establishing centralised support for the media sector**

There are a range of media outlets across Romania, in both large cities and small towns. However, many regional outlets only publish press releases and are devoid of content from factual or investigative reporting (CIJ, 2020<sup>[87]</sup>). Interviewees stressed that smaller media outlets across Romania are struggling and often unable to compete.<sup>34</sup> Furthermore, many outlets struggle with hiring and retaining journalists and are understaffed, especially outside major cities (CIJ, 2020<sup>[87]</sup>). This is partly because of short-term contracts, coupled with precarious conditions and a lack of financial stability.

Journalism associations can serve as centralised bodies to identify barriers facing journalists, allowing them to voice concerns while strengthening their power as a collective rather than as individuals or as sole media outlets. These associations assist journalists in advocating for their profession and voicing their concerns on longstanding and emerging issues, as well as engaging with the government on challenges for the sector. In Romania, national and local organisations exist to represent journalists in this regard. For example, at the national level, the Union of Professional Journalists of Romania (UZPR) was founded in 1919 and is the largest professional membership association for journalists in Romania. The UZPR is a “community of journalists committed to advancing diversity in the news industry and at the heart of its mission to increase members’ perspectives and representation in newsrooms, media, and publishing in general” (UZPR, n.d.<sup>[88]</sup>). A similar example at the local level is the Professional Media Association in Cluj (APPC) (n.d.<sup>[89]</sup>). However, despite this, interviewees expressed dissatisfaction with the support available for journalists at the national level, noting that the UZPR could do more to raise awareness of the issues affecting media workers and could, for example, conduct surveys and collect data on instances of censorship or harassment.<sup>35</sup> They also noted that unions could be bolstered financially by the government. Romania could look to Finland for good practices in this regard (Box 4.4).

#### Box 4.4. Good practices from Finland's Union for Journalists

The Union of Journalists (UJF) in Finland is a trade union with nearly 14 000 members working in print, broadcasting, publishing and new digital media (UJF, n.d.<sup>[90]</sup>). The UJF works to safeguard and promote journalistic standards and regularly influences and engages with policy-making processes that may affect freedom of expression or freedom of the press. In addition, freelance journalists can opt to join the Association of Freelance Journalists in Finland, affiliated with the UJF, for representation on issues they face (OECD, 2021<sup>[71]</sup>).

The UJF runs several initiatives to protect journalists and offers support through financial resources and legal advice and action. For example, it has issued advice kits for journalists experiencing hate speech and harassment, filed formal complaints with the Finnish prosecutor's office over its reluctance to press charges in cases of severe harassment of journalists and established a fund specifically for journalists who wish to take these cases to court (OECD, 2021<sup>[71]</sup>). The UJF has conducted surveys among members on the prevalence and content of threats which journalists have received (OECD, 2021<sup>[71]</sup>).

Source: UJF (n.d.<sup>[90]</sup>), *About the Union of Journalists in Finland*, <https://journalistiliitto.fi/en/about/about-ujf/> (accessed on 6 June 2022); OECD (2021<sup>[71]</sup>), *Civic Space Scan of Finland*, <https://dx.doi.org/10.1787/f9e971bd-en>.

## Recommendation

To address external pressures and censorship, Romania could:

- Investigate instances of both national and local-level interference in reporting and how such cases have led to censorship and self-censorship, particularly where government funding is involved. The government could try to rebuild trust with journalists by creating a dialogue on their challenges in interacting with the government. In the meantime, funding could be channelled to media outlets through EU programmes for those outlets that feel their work could be compromised by accepting government financing.
- The government could also work with relevant stakeholders to create quality benchmarks to address concerns regarding money invested in media content by political parties from public sources and to avoid conflicts of interest.
- Commit to establishing a multi-stakeholder forum to co-develop standards on editorial codes of conduct and professional norms in the media with journalists.
- Launch an awareness-raising campaign on the importance of citizens verifying their sources of information and the media that they consume to confirm its accuracy and to reduce polarisation.

To improve the transparency of media ownership, Romania could:

- Further support the role of the CNA with adequate resources to fulfil its mandate and ensure that the oversight body publishes information on media ownership.
- Consider amendments to existing legislation with explicit requirements for transparency of media ownership so the public can evaluate the objectivity of specific media outlets and identify undue political influence.

To promote media literacy and protect civic space online, Romania could consider:

- Reviewing and publicising the criteria for blocking sites related to mis- and disinformation to ensure transparency and guarantee that affected sites have recourse to mechanisms for appeal as needed.
- Moving away from the risk of restricting freedom of expression online by adopting a holistic approach that prioritises teaching citizens (both children and adults) how to analyse information critically and detect mis- and disinformation.
- Encouraging the Ministry of Education and the Authority for the Digitalisation of Romania to collaborate to identify potential approaches to combatting mis- and disinformation through initiatives to improve media literacy and analytical skills in schools.

To reduce barriers to journalists undertaking their work and contributing to a public interest information ecosystem, Romania is encouraged to:

- Consider exploring the frequency of SLAPP cases in Romania to assess whether this is a common trend and ensure necessary protections are in place against these cases, both in law and in practice, including by introducing anti-SLAPP measures and legislation or amending the Civil Procedure Code.
- Ensure that public officials have adequate information on, and understand the terms of, the GDPR and investigate situations when public bodies have misused it to silence journalists, including by taking appropriate measures to rectify or sanction such conduct.
- Foster independent investigative journalism which can contribute to more transparent and accountable public decision making.
- Consider concerns raised by civil society regarding the newly adopted Law on the Protection of Whistleblowers on an ongoing basis during its implementation, to ensure that whistleblowers are adequately protected in practice from risks of retaliation.

To combat hate speech, online and offline, and harassment, Romania could:

- Work with media outlets and independent journalists to identify ways to track cases of intimidation, harassment, violence and online hate speech targeting journalists, to raise the profile of such threats and foster accountability.
- Undertake preventative measures such as awareness-raising campaigns on the crucial role of journalism in society and the negative impact of hate speech on freedom of expression and democratic debate.
- Consider undertaking regular training of police and law enforcement officials in understanding and identifying cases of hate speech and taking action to deter offenders, including prosecutions.

To strengthen centralised support to media outlets, Romania could:

- Channel EU funds into the existing national union for journalists, which could enable it to provide legal advice and support, undertake analysis on key trends and challenges for the media, and advocate on behalf of media workers.

## 4.4. Digitalisation, personal data protection and online civic space

Digitalisation is crucial for government outreach to citizens, helps to strengthen trust between citizens and the state, and facilitates a healthy and vibrant civic space. In that regard, it is important for governments to ensure that human rights and values are at the core of digital government and data policies, strategies, projects and initiatives, and that public integrity is upheld through data ethics and the right to privacy (OECD, 2021<sup>[91]</sup>).

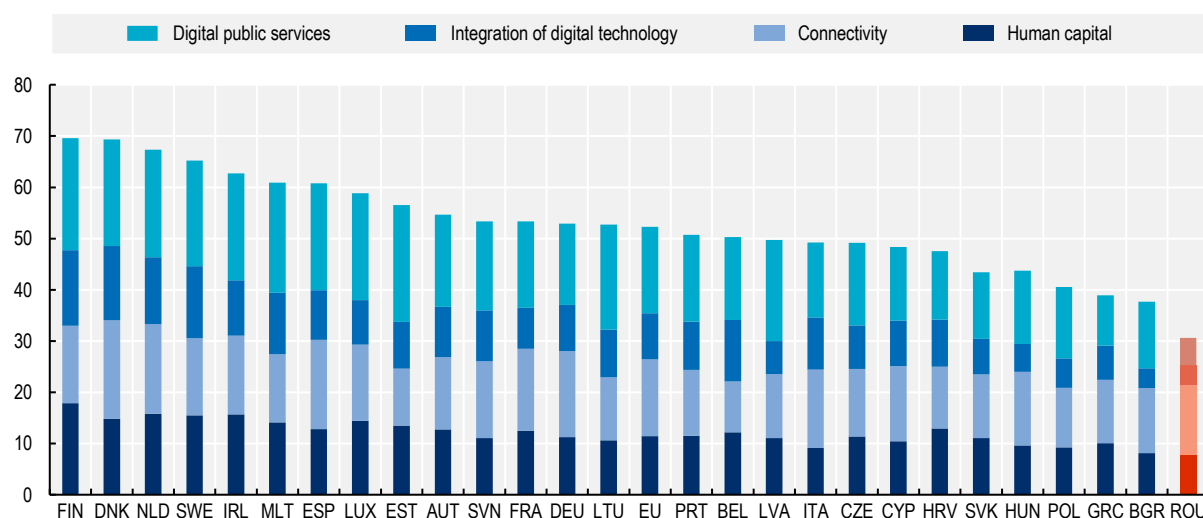
### 4.4.1. Ongoing initiatives and programmes for digitalisation in Romania

Digital transformation is a powerful tool for renewing civic engagement and establishing new channels of communication with citizens. Since joining the EU, Romania has followed other member states' lead in channelling significant efforts and funds into strengthening digitalisation and Romania's endeavours to improve digital government through various strategies, agendas and working groups are expected to produce significant results in the years to come.<sup>36</sup> The 2020 National Strategy on Digital Agenda for Romania (Government of Romania, 2014<sup>[92]</sup>) is the main framework outlining Romania's ambitions for digital transformation. The strategy sets key priorities, with upskilling being a cross-cutting objective in all of the following focus areas: i) employment, research and development; ii) climate change and energy sustainability; iii) education; and iv) fighting poverty and social exclusion (Government of Romania, 2014<sup>[92]</sup>). There are four fields of action: e-government, interoperability, cybersecurity and open data; ICT in different sectors (e.g. health, education); e-commerce; and broadband and digital service infrastructure (EC, 2020<sup>[93]</sup>).

Several other projects related to the digital agenda are in progress. An EU-funded digital identity system is also under way (EC, 2020<sup>[93]</sup>). There are a multitude of related working groups in existence, including on interoperability and ICT, with over 300 different people involved. There are currently 15 projects dedicated to making online platforms more accessible,<sup>37</sup> with the government also intending to put all public services online by 2030.<sup>38</sup> Furthermore, an e-Governance Council has been established in the General Secretariat, in charge of implementing the Zero Bureaucracy project, which aims to leverage digitalisation to eliminate unnecessary administrative bureaucracy (Government of Romania, 2022<sup>[94]</sup>). As a last example, the Executive Agency for Higher Education, Research, Development and Innovation Funding (UEFISCDI), within the Ministry of Education, launched the BrainMap platform in 2016, which serves as a community for all stakeholders working in the fields of research, technology, innovation and entrepreneurship (Romanian Ministry of Education, 2022<sup>[95]</sup>).

Despite these initiatives, Romania still faces significant challenges in several areas. Currently, it ranks 27<sup>th</sup> among all EU member states in the 2022 edition of the EU Digital Economy and Society Index, with low scores in digital public services and citizen usership of e-government initiatives, in particular (Figure 4.4).

**Figure 4.4. Digital Economy and Society Index 2022: Romania and the EU**



Source: EC (2022<sup>[2]</sup>), *Digital Economy and Society Index*, [https://digital-agenda-data.eu/charts/desi-composite#chart={%22indicator%22:%22desi\\_sliders%22,%22breakdown%22:{%22desi\\_hc%22:5,%22desi\\_conn%22:5,%22desi\\_idt%22:5,%22desi\\_dps%22:5},%22unit-measure%22:%22pc\\_desi\\_sliders%22,%22time-period%22:%222022%22}}](https://digital-agenda-data.eu/charts/desi-composite#chart={%22indicator%22:%22desi_sliders%22,%22breakdown%22:{%22desi_hc%22:5,%22desi_conn%22:5,%22desi_idt%22:5,%22desi_dps%22:5},%22unit-measure%22:%22pc_desi_sliders%22,%22time-period%22:%222022%22}}) (accessed on 10 June 2022).

Government interviewees recognised these shortcomings but also note that COVID-19 has accelerated the digitalisation process.<sup>39</sup> For example, the Romanian government set up a National Emergencies Platform (<https://fiipregatit.ro/>) to inform citizens about various issues, from alerts on the health crisis to announcements on domestic violence cases. As discussed in Chapter 6, many ministries and public bodies have also created their own online platforms to communicate with the public about their activities and opportunities for participation (see section on enhancing online participation portals). The government is now attempting to establish one platform with a single set of credentials for access, without the need to create multiple accounts and search through numerous public platforms. As the main governmental platform has approximately 50 000 annual users (<http://e-consultare.gov.ro/>), it will be used as a gateway for this interconnected platform. In this sense, the pandemic brought new opportunities and a renewed focus on the need to prioritise digitalisation, but challenges remain regarding institutional architecture and knowledge and skills.

### *Internal challenges to implementing Romania's digital agenda*

#### **Strengthening the institutional architecture**

Romania's institutional architecture governing digitalisation has undergone rapid changes. The former Agency for the Digital Agenda (ADR) of Romania, which functioned under the supervision of the Ministry of Communications and Information Society, was dissolved in 2019. The current ADR was established in 2020 (ADR, n.d.<sup>[96]</sup>) with a mandate to cover all aspects of digitalisation under the Ministry of Research, Innovation and Digitalisation, including strategies, policies and programmes.<sup>40</sup> While interviewees noted that institutional memory is strong, they emphasised a number of ongoing challenges. Some strategies and projects can be box-ticking exercises without clearly allocated responsibilities and interviewees mentioned a general reluctance from senior public officials to delegate, contributing to hesitancy among junior colleagues to take control of projects.<sup>41</sup> Parts of strategies without clear ownership or attachment to specific funds risk being abandoned.<sup>42</sup> The OECD *Strengthening the Innovative Capacity of the Government of Romania: Interim Assessment Report* found that, in general, institutional strategic plans are "under-utilised due to a lack of employee involvement in the[ir] design and implementation". The

General Secretariat is currently undertaking efforts to “improve prioritisation, collaboration and planning around key agendas” to strengthen institutional responsibilities (OPSI, 2022<sup>[97]</sup>).

The ADR has a National Council for Digital Transformation, which functions as an advisory body that allows the government to collaborate and seek input from the private sector and CSOs (ADR, n.d.<sup>[98]</sup>). Interviewees noted that the council’s creation was a positive shift away from only involving public officials with no subject-specific expertise in digitalisation.<sup>43</sup> However, the council currently meets infrequently and government interviewees themselves noted that whenever there is time pressure on deliverables, “the first thing to go is consulting civil society”.<sup>44</sup> Civil society interviewees reported that the council was not active at all over the past two years and that its members were often not informed of available public consultations regarding digitalisation, indicating that there is an opportunity to reinvigorate this institution.<sup>45</sup>

Romania is making ongoing concrete efforts to improve the existing system. The government has set up an Inter-ministerial Committee on e-Government and Reducing Bureaucracy which will propose specific measures to simplify administrative procedures for businesses, citizens and institutions (Government of Romania, 2021<sup>[99]</sup>). The committee is chaired by the prime minister, together with two vice-chairs, respectively a state counsellor from the Chancellery of the Prime Minister and the chair of the ADR. It aims to provide a framework for debate and decision making on key initiatives, measures and projects on de-bureaucratisation in addition to ensuring coherence in the implementation of the e-government policy proposal (Government of Romania, 2021<sup>[99]</sup>).

### **Increasing knowledge and skills among public officials and attracting talent**

As mentioned above, upskilling public officials and citizens is a core tenet of Romania’s National Strategy on Digital Agenda for Romania (Government of Romania, 2014<sup>[92]</sup>). Interviewees corroborated the need for more knowledge on digital transformation, greater awareness of the benefits of digital government and the development of digital skills within the public administration. However, they noted that one of the most significant challenges is attracting top ICT talent, especially at senior levels. This is mainly related to salaries and positions being less competitive than in the private sector. That said, Romania is hoping to remedy this and gain more qualified personnel as one of the main aims of its Recovery and Resilience Plan (Box 4.5). While introducing more highly paid positions may not be possible, Romania does intend to invest in digital skills and training for those working on the digital agenda and to digitalise processes across the public administration to make working in the public sector a more attractive prospect. The government could also create more opportunities for increased responsibility and leadership for public officials.

#### **Box 4.5. Efforts to improve the digitalisation of public administration as part of Romania’s Recovery and Resilience Plan**

The EC has taken numerous measures to help member states deal with the economic fallout caused by the COVID-19 pandemic. To benefit from such support, EU member states have submitted recovery and resilience plans to the EC, which set out the reforms and investments that the individual country plans to implement by the end of 2026 (EC, 2021<sup>[100]</sup>). Romania’s Recovery and Resilience Facility (RRF) entered into force on 19 February 2021. Investments included in the plan are expected to contribute to the areas of sustainability of public finances and the pension system, healthcare, public administration, business environment, education, and green and digital transition. The plans prioritise this green and digital transition in COVID-19 recovery (EC, 2021<sup>[100]</sup>). Some 21% of the total funding for the plan will be dedicated to reforms and investments that support digitalisation (EC, 2021<sup>[100]</sup>). In a 2021 analysis of 22 member states’ recovery and resilience plans conducted by the Open Procurement EU Coalition, a collaboration of non-governmental organisations and professionals in Europe working on enhancing transparency in procurement and government spending, Romania was one of two



countries (the other was Sweden) scoring top points for transparency, due to its proactive communication on the plan and on final recipients of the funds (EU, 2021<sub>[101]</sub>).

In the realm of digitalisation, Romania's key objectives include creating an electronic identity card for Romanians, cloud investment, spending on microelectronics and improving connectivity. Digitalisation is a cross-cutting goal across the plan's different sectoral components, including health, justice, environment, public procurement, employment and social welfare (EC, 2021<sub>[102]</sub>). Regarding the digitalisation of public administration, aims include increasing training and digital competency in government and making the public sector a more attractive prospect for highly skilled individuals. Lastly, the plan proposes a "comprehensive package of reforms and investments in order to provide secure, interoperable, cost-efficient and fast user-centred services for citizens" (EC, 2021<sub>[102]</sub>), which will necessitate gathering feedback from citizens and listening to their needs.

Source: EC (2021<sub>[100]</sub>), *Laying the Foundations for Recovery: Romania's Recovery and Resilience Plan*, <https://doi.org/10.2775/146116>; EC (2021<sub>[102]</sub>), *Proposal for a Council Implementing Decision on the Approval of the Assessment of the Recovery and Resilience Plan for Romania*, European Commission; EU (2021<sub>[101]</sub>), *The Need for Transparency over Europe's Recovery and Resilience Facility*, [https://www.access-info.org/wp-content/uploads/RFF\\_transparency.pdf](https://www.access-info.org/wp-content/uploads/RFF_transparency.pdf) (accessed on 30 June 2022).

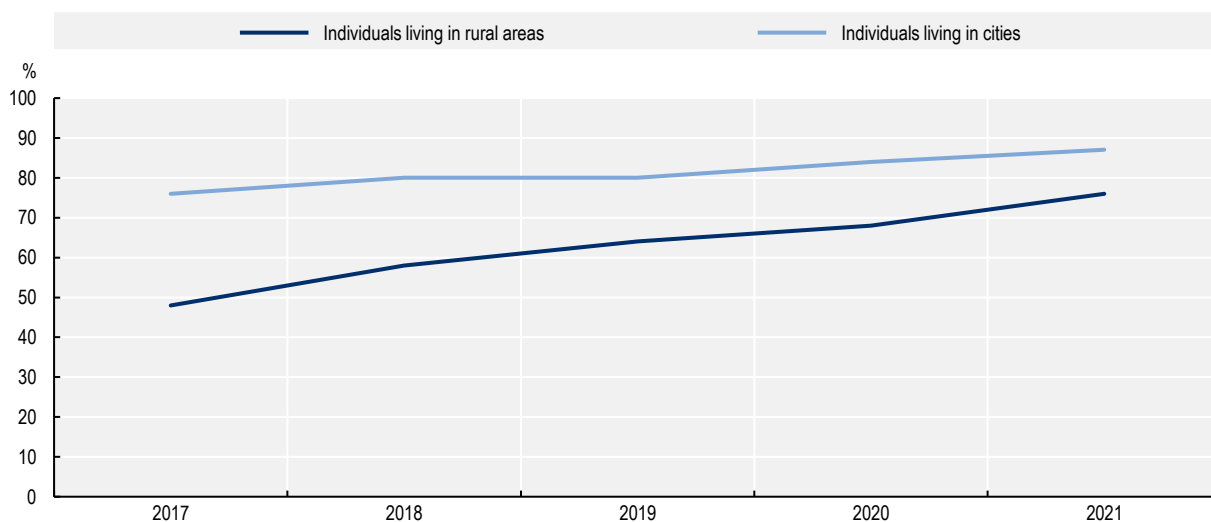
#### **4.4.2. Reducing barriers to inclusive digitalisation**

##### *Expanding Internet coverage and usage*

Measures to improve digitalisation and strengthen online civic space cannot be inclusive without widespread Internet access and broadband coverage across urban and rural areas. Reliable Internet access allows all citizens to access and share public information, seek guidance on public services and make suggestions or complaints, and use online platforms to engage with their governments on policy making. In Romania, fixed broadband coverage remains an issue. The EU Digital Economy and Society Index (DESI) 2021 illustrates that, while this is universal in most EU member states, Romania is lagging "with less than 90% of households covered" (EC, 2021<sub>[103]</sub>). In addition, there is a significant rural-urban gap in households with a broadband subscription (54% versus 81%) (EC, 2021<sub>[103]</sub>). Data from Eurostat illustrates a significant divide in the frequency of access to the Internet (Eurostat, n.d.<sub>[104]</sub>). In 2021, 87% of individuals in urban areas used the Internet at least once a week, with only 76% in rural areas (Figure 4.5). On a positive note, there has been a steady improvement in access for both population demographics over the last five years, as shown in Figure 4.5.

**Figure 4.5. Frequency of access to the Internet in Romania (urban and rural)**

Individuals' frequency of access to the Internet: once a week (including every day)



Source: Eurostat (n.d.<sub>[104]</sub>), *Data Explorer*, <https://appsso.eurostat.ec.europa.eu/nui/submitViewTableAction.do> (accessed on 10 June 2022).

### *Bridging digital divides by enhancing ICT literacy*

Bridging digital divides – defined by the OECD as “the gap between individuals, households, businesses and geographic areas at different socio-economic levels with regard both to their opportunities to access ICTs and to their use of the Internet for a wide variety of activities” – requires more than providing Internet to all citizens (OECD, 2001<sub>[105]</sub>). Certain demographic groups may have less education and fewer skills to use ICT effectively. Regarding human capital, Romania is well below the EU average, with less than one-third of adults having basic digital skills (EC, 2022<sub>[2]</sub>). Only 10% of citizens have above-basic digital skills, according to the EC (EC, 2022<sub>[2]</sub>).

Romania has taken a number of steps in recent years to do improve digital literacy. The Presidency of Romania, for example, introduced the Educated Romania project after several phases of public consultation, which intends to improve school infrastructure, combat high drop-out levels, cut the functional illiteracy rate and ameliorate teacher education (President of Romania, n.d.<sub>[106]</sub>). It includes specific targets on “ensuring basic digital skills for both teachers and students” (Radio Romania International, 2021<sub>[107]</sub>). In addition, as part of the EC 2021-27 Digital Education Action Plan and its Recovery and Resilience Plan, Romania has allocated EUR 881 million for the digitalisation of education (EC, 2021<sub>[100]</sub>). The plan commits to promoting lifelong digital education for all citizens (EC, 2021<sub>[108]</sub>). Moving forward, it will be essential for Romania to test digital services and platforms on a representative group of citizens from all social demographics (e.g. with a specific focus on those who could face barriers, including people with disabilities, those with low literacy skills, etc.).

CSOs have also stepped in to assist in addressing these challenges. One example is the Foundation for Digital Education, which Logischool Romania launched during the COVID-19 pandemic. The foundation provides access to programming courses and digital workshops for children in rural and disadvantaged communities (Business Review, 2021<sub>[109]</sub>). Furthermore, the Romanian National Coalition (Skills4IT) gathers different types of stakeholders through an open platform to organise coding classes, cybersecurity courses and other educational events (DSJP, 2022<sub>[110]</sub>). The Ministry of Education and the University of Bucharest are key partners, among others (DSJP, 2022<sub>[110]</sub>). The Orange Foundation runs a Digitaliada

programme in Romania, which also works to introduce digital and innovative work methods into the teaching, learning and assessment process in schools (DSJP, n.d.<sup>[111]</sup>).

## Recommendations

To reach its ambitious goals on digitalisation, Romania could:

- Streamline existing online platforms for engagement with citizens and ensure that platforms which exist to share information or promote participation are easy to find, intuitive to use and accessible for all population demographics, especially marginalised groups.
- Clarify and promote different public bodies' roles regarding the digital agenda while encouraging senior public officials to delegate responsibilities and establish ownership of projects and tasks.
- Ensure that the National Council for Digital Transformation meets regularly and that stakeholders are given sufficient time to review proposed policies and initiatives and offer input.
- Commit to training or information days for all public officials so they are well-versed in the contribution that civil society can make to the digital agenda and know how to engage stakeholders proactively and systematically in related decision making.

To bridge digital divides, thereby strengthening online civic space, Romania could:

- Continue working towards universal connectivity across rural areas to ensure online civic space is equally inclusive for citizens living in both inside and outside urban areas and continue channelling Recovery and Resilience Facility (RRF) funding towards improving the digital skills of children and adults.
- Financially support CSOs undertaking ICT and digital literacy programmes.
- Test new digital public services and other e-government initiatives with representative groups of citizens to ensure that these platforms are user-friendly and all citizens can use them to engage with their governments, provide their opinions, and submit complaints where necessary

### 4.4.3. Protecting personal data and privacy

Drawing on the benefits of big data can enable governments to obtain detailed information about citizens and their needs, which can be used for better policy making and service design or delivery. Governments already collect, process and store personal data for a variety of reasons related to taxation, healthcare and education, for example. That said, this data and the combination of datasets in particular can reveal a great deal of personal information about individuals, providing insights into private spheres of life, such as membership in organisations, religious or social affiliations and sexual orientation. As with the protection of privacy more generally, personal data protection is a key component of protected civic space as it helps create an enabling and trustworthy environment in which citizens and civil society actors can operate freely and engage in activities without fear of intrusion or arbitrary interference in their activities or lives.

#### *Legal frameworks*

Article 28 of the constitution of Romania states that the confidentiality of letters and other mail, telegrams, telephone conversations and other means of communication is inviolable. Public authorities are obliged to respect and protect private and family life (Government of Romania, 1991<sup>[5]</sup>). Furthermore, the Civil Code stipulates that every person has the right to have his/her dignity, image and private life respected with nobody subjected to interference with his/her private life, domicile, residence or correspondence without consent (Government of Romania, 2009<sup>[112]</sup>). This includes intercepting private conversations, recording or using the image or voice of a person in private surroundings without consent, disclosing personal data

concerning a medical condition or treatment, and disclosing personal data such as residence or phone numbers without the person's consent (Government of Romania, 2009<sup>[112]</sup>). A person may petition a civil court to prevent privacy violations and to request compensation for damages (Government of Romania, 2009<sup>[112]</sup>).

The Penal Procedure Code details the conditions in which individuals may be subjected to surveillance or the interception of communications (Government of Romania, 2010<sup>[113]</sup>). Listening, tapping, storage or other kinds of interception or surveillance of communications and related data traffic are prohibited, except for the following cases: i) when participants in the communication carry out such operations; ii) when the participants in the communication previously gave their written consent; or iii) when the competent authorities carry out the operations under the conditions set out by the legal provisions in force (National Supervisory Authority for Personal Data Processing, 2004<sup>[114]</sup>). Electronic service providers must submit to courts or the competent judicial or national security authorities upon court order, specified traffic data, equipment identification data and location data (National Supervisory Authority for Personal Data Processing, 2004<sup>[114]</sup>). At the same time, in 2020, the High Court of Cassation and Justice ruled that the publication on a court's portal of personal data such as the domicile and the personal numeric code of a party is a violation of legal provisions concerning the protection of personal data (High Court of Cassation and Justice, 2020<sup>[115]</sup>). The Romanian Criminal Code states that unlawful privacy violations by recording images or private conversations in a house or room are punishable by imprisonment from one to six months or a fine (Government of Romania, 2010<sup>[113]</sup>). Furthermore, the unlawful disclosure, dissemination, presentation, or transmission of such conversations or images shall be punished with imprisonment from three months to two years or a fine (Government of Romania, 2010<sup>[113]</sup>).

As discussed above in the area of data protection specifically (see section on the GDPR restricting ATI), Romania has transposed the GDPR into national legislation, thereby replacing previous data protection legislation in place since 2001. In 2001, Romania also ratified the Council of Europe's Convention for the Protection of Individuals with regard to the Automatic Processing of Personal Data (Government of Romania, 2001<sup>[116]</sup>). The convention covers the automatic storage of data, carrying out operations on data, and the alteration, erasure, retrieval or dissemination of such data. It likewise sets safeguards against abusive processing of personal data and states that personal data revealing racial origin, political opinions, or religious or other beliefs, criminal convictions, as well as personal data concerning health or sexual life, may not be processed automatically unless domestic law provides appropriate safeguards. Appropriate security measures must be taken against accidental or unauthorised destruction or accidental loss as well as against unauthorised access, alteration or dissemination. While the GDPR is directly applicable in Romania, Law 190/2018 also serves to implement several provisions (Government of Romania, 2018<sup>[117]</sup>; Library of Congress, 2021<sup>[8]</sup>). Law 129/2018 outlines the establishment, organisation and functioning of the National Supervisory Authority for Personal Data Processing (Government of Romania, 2018<sup>[118]</sup>).

### *Institutional frameworks and constraints*

The National Supervisory Authority for Personal Data Processing (ANSPDCP) and the National Authority for Management and Regulation in Communications (ANCOM) are the main public bodies with a mandate for data protection and privacy and ensuring open Internet and net neutrality. In particular, the ANSPDCP is the "guarantor of respecting the fundamental rights to private life and to the protection of personal data" (ANSPDCP, n.d.<sup>[119]</sup>). The authority is tasked with monitoring compliance with the GDPR and applying sanctions and corrective measures to public authorities or private data operators violating the GDPR (Library of Congress, 2021<sup>[8]</sup>). According to Article 7 of Law 129/2018 (Government of Romania, 2018<sup>[118]</sup>), the chairperson and vice-chairperson of the authority are appointed by a majority vote of the Senate, which is chosen by the Permanent Bureau, based on recommendations received from parliamentary groups in both houses of parliament. The chairperson of the authority exercises his/her powers upon request or *ex officio*; requests may be made by natural or legal persons (Article 12). As stated in Article 27, the ANSPDCP has its own budget, an integral part of the state budget. The budget is approved by the authority

itself, in consultation with the government, and then submitted for inclusion in the state budget. Objections to the draft budget prepared by the government are submitted to parliament for settlement.

Complaints submitted to the ANSPDCP must be processed within 45 days, though not necessarily finalised. However, the body must inform the data subject about the progress or outcome of the investigation within three months of its submission.<sup>46</sup> If a breach is found, the body can impose fines, suggest remedial action, or formally reprimand or sanction.<sup>47</sup> In the first 4 months of 2021, the ANSPDCP received 1 733 complaints, notifications and reports on security incidents, following which they opened 288 investigations (ANSPDCP, 2021<sub>[120]</sub>). In its 2020 annual report (ANSPDCP, 2020<sub>[121]</sub>), the authority indicated it had received a total of 5 480 complaints, referrals and notifications of security incidents, based on which 694 investigations were opened. As a result of the investigations, it issued 29 fines totalling RON 892 116 (approximately EUR 180 302), as well as 64 reprimands and 65 corrective measures (ANSPDCP, 2020<sub>[121]</sub>). The majority of cases involved infringements of the GDPR (which were also the subject of *ex officio* investigations), disclosing personal data without consent, the processing of images by video surveillance systems and the failure to ensure the security of data processing, among others. The authority also launched 398 *ex officio* investigations, resulting in 9 fines totalling RON 652 020 (approx. EUR 139 000), 9 reprimands and 18 corrective measures. In 2021, the latest report shows that the authority received 5 006 complaints and notifications about security incidents, based on which 691 investigations were opened. As a result, 93 warnings were given and 36 fines were imposed, totalling RON 371 132 (EUR 75 379) (ANSPDCP, 2021<sub>[122]</sub>).

Despite extensive data on the overall number of complaints, interviewees during the OECD fact-finding mission reported that there is no available breakdown of the types of complaints made annually.<sup>48</sup> In addition, the body faces capacity challenges. As stated on the website, it requires an “allocation of adequate material, financial and human resources for the exercise of our new specific tasks, for the effective application of the EU standards provided in the new adopted regulations” (ANSPDCP, n.d.<sub>[119]</sub>). The body should have 85 employees by law but currently has 34.<sup>49</sup> In addition, the budget has remained at the same level since 2017-18, despite the fact that its responsibilities have expanded over recent years (ANSPDCP, 2021<sub>[122]</sub>).

Civil society interviewees acknowledged the ANSPDCP’s significant budgetary constraints but remarked that the authority also had opportunities to take more initiative. For example, it currently investigates low-level cases such as minor data breaches in the private sector or the use of closed-circuit television (CCTV) in the workplace, but often misses “the bigger picture” regarding more serious data protection concerns, including those related to misapplication of the GDPR, across the public and private sector.<sup>50</sup> One such case where civil society expected a more significant reaction from the ANSPDCP was regarding data collection during the 2022 census in Romania. Cybersecurity specialists interviewed by Europa Liberă Romania highlighted that methods used by the National Institute of Statistics to encrypt and anonymise personal data were outdated and did not offer sufficient protection to citizens. They also reported that insufficient data security is a widespread challenge for public bodies (Europa Liberă Romania, 2022<sub>[123]</sub>).

Furthermore, the Law on the National Interoperability Framework has raised concerns as it contains wide-ranging exceptions for political parties and public officials, allowing them to collect sensitive data for their own interests.<sup>51</sup> Romania’s government cloud project has also faced criticism from some civil society actors. The project, which intends to bring Romania closer to EU targets on e-government, aims to provide universal access to public services online and create a centralised system for citizen interactions with the state (Euractiv, 2022<sub>[124]</sub>). According to Romania’s commitments, a legislative framework for the project was to be adopted by the end of June 2022 (Euractiv, 2022<sub>[124]</sub>). Much of the criticism from civil society and other public bodies derived from the government’s choice to delegate implementation and oversight of the public cloud to the Special Telecommunications Service and of cybersecurity to the SRI (Euractiv, 2022<sub>[124]</sub>). The APTI, representatives from the Open Government Partnership, and private sector IT companies alike voiced concern about the choice of responsible agencies and the ability of the SRI to ensure security of citizens’ personal data (Euractiv, 2022<sub>[124]</sub>). The APADOR-CH has raised concerns

about the constitutionality of this choice, noting that security of the cloud cannot be ensured by the secret service and requires establishment of a new civil entity (APADOR-CH, 2022<sup>[125]</sup>)<sup>52</sup>. The Government Emergency Ordinance 89/2022 regarding the establishment, administration, and development of infrastructures and cloud IT services used by public authorities and institutions was adopted in June 2022 (Government of Romania, 2022<sup>[126]</sup>) and Law 242/2022 on the exchange of data between IT systems and the creation of the National Interoperability Platform was adopted in July 2022 (Government of Romania, 2022<sup>[127]</sup>). The law on cyber-defence and security was adopted in December 2022, and was challenged by the Romanian Ombudsman for lacking clarity and expanding the powers of the Romanian Intelligence Service (SRI) without establishing clear limits (Romania Insider, 2022<sup>[128]</sup>).

## Recommendations

To protect personal data and the right to privacy, thereby strengthening civic space online, Romania could:

- Ensure all groups or individuals have the same opportunities to participate online and take measures to counter potential concerns and instances of digital exclusion.
- Ensure that individuals better understand how their personal data is collected, stored, and used and that they have the right to access it, delete it and transfer it to the providers of their choice in line with the GDPR. Awareness-raising activities among citizens could be useful in this regard, to provide them with the tools needed to exercise their rights.
- Ensure that oversight bodies for data protection and privacy could thoroughly investigate complaints and appropriately sanction any instances of non-compliance with the legal framework governing personal data protection. Relatedly, oversight bodies could be strengthened with adequate human and financial resources to fulfil their role and to act proactively to strengthen privacy and personal data protection in Romania.
- Continue to monitor the law on national interoperability to ensure it will not allow sensitive data to be collected for personal or political reasons, rather than the public interest.
- Investigate how aggregated and merged datasets could infringe on citizens' right to privacy and take action to rectify any negative side effects of digitalisation, cloud and interoperability projects.
- Institutionalise mechanisms for input from civil society stakeholders on matters of public importance, including legislative proposals that may directly or indirectly involve data collection measures which could amount to surveillance.

## 4.5. Emerging technology and civic space

### 4.5.1. Use of AI in the public sector and its potential impact on civic space

Breakthroughs in the field of algorithms, machine learning and AI have led many governments to consider the potential of emerging technology in transforming the design and execution of public policies and services. However, if not employed correctly, AI can be detrimental to fundamental civic freedoms, particularly non-discrimination, thereby excluding and marginalising people (OECD, 2022<sup>[6]</sup>). For example, algorithmic processing can lead to unfair, inaccurate or biased automated decision making, which can be particularly detrimental when used to underpin or grant access to public services. This can be problematic in the absence of accessible oversight and redress mechanisms when mistakes occur.

The EC has addressed the need for countries to strive for the benefits of AI while also governing emerging risks in stating its ambition to develop “trusted AI based on truly European ethical and societal values” (EC-JRC, 2020<sub>[129]</sub>). The OECD has been closely following the use of AI in the public sector and launched the first set of intergovernmental policy guidelines on AI in 2019, through the OECD Recommendation of the Council on Artificial Intelligence (OECD, 2019<sub>[130]</sub>). Romania was one of the 42 countries (including all OECD Members) that adopted the principles (OECD, 2019<sub>[130]</sub>). They aim to promote AI “that is innovative and trustworthy and that respects human rights and democratic values” (OECD, 2019<sub>[130]</sub>). In short, the OECD recommends that AI should be designed to respect the rule of law with appropriate safeguards from human intervention, alongside strong accountability mechanisms around AI systems (OECD, 2019<sub>[130]</sub>).

#### **4.5.2. Ongoing strategies and initiatives for AI**

Romania has recognised AI’s advantages and has several ongoing strategies and initiatives in this area. First, it has a broad National Strategy for Research, Innovation and Smart Specialisation 2021-2027, led by the Ministry of Research, Innovation and Digitalisation, which benefitted from an extensive consultation process which drew input from 150 stakeholders and experts and over 2 352 responses to an online questionnaire (Romanian Ministry for Research, Innovation and Digitalisation, 2021<sub>[131]</sub>). This strategy intends to stimulate collaboration between the public and private sectors on using science, technology and innovation to address economic and societal challenges and seize existing opportunities to be a recognised leader and create an environment that fosters talent, encourages entrepreneurship, and tackles national and international challenges (Romanian Ministry for Research, Innovation and Digitalisation, 2021<sub>[131]</sub>). Furthermore, regarding AI specifically, the Research Institute for Artificial Intelligence in the Romanian Academy has a research programme and reflection group which focuses on the societal impact of ICT and AI on humanity. The OECD Artificial Intelligence Policy Observatory (OECD.AI) dashboards note the main objectives of the programme are to:

- Draft adequate regulation and transpose EU directives on AI into Romanian legislation.
- Anticipate and prevent ethical challenges which may arise in the use of AI.
- Forewarn public officials and other stakeholders about “unavoidable changes” that could be triggered by AI (OECD.AI, n.d.<sub>[132]</sub>).

In 2020, Romania endorsed an EU-funded project to create an AI strategy for 2021-27 (JRC/OECD, 2021<sub>[133]</sub>). The EU Joint Research Centre (JRC)-OECD *National Strategies on Artificial Intelligence* report notes that Romania’s forthcoming AI strategy will seek to develop education, skills and training in AI, increase AI research and development in the public and private sectors, and create working groups and platforms (JRC/OECD, 2021<sub>[133]</sub>). The strategy was originally intended to be published for public debate by the end of 2019 (Romania Insider, 2019<sub>[134]</sub>); however, interviewees noted that no public draft of the strategy was available as of December 2022. That said, a public consultation phase on the strategy has begun and has thus far received over 800 inputs,<sup>53</sup> which are currently under review by the Ministry of Research, Innovation and Digitalisation.<sup>54</sup> During the design and implementation phases of the strategy, Romania could take inspiration from other countries on prioritising civil society engagement in the process (Box 4.6).

### Box 4.6. Involving citizens and civil society in policy making on AI

#### Germany

The Artificial Intelligence Strategy of the German Federal Government highlights the role of citizens and civil society in ensuring that AI development is “public good-oriented” (Government of Germany, 2020<sub>[135]</sub>). Germany has already begun involving CSOs and other stakeholders in AI policy making, with its AI Observatory organising a workshop with experts from business, science, politics, and CSOs to discuss the potential and challenges of creating indicators to monitor and evaluate the use of AI. The strategy also stresses that the success of AI initiatives relies on strengthening “societal dialogue and opportunities for citizens to have a say, and using new forms of effective participation” (Government of Germany, 2020<sub>[135]</sub>). One example is the Civic Innovation Platform project, which aims to connect civil society actors and social partners around the country to share ideas and collaborate on projects.

#### Portugal

The strategy AI Portugal 2030 underlines the importance of public participation and multi-stakeholder development in AI policy making. In order to do so, Portugal recognises that inclusion and education to foster human capital are key, emphasising digital inclusion, women and minorities in science, technology, engineering and mathematics (STEM), and ICT competency. The strategy’s main goal is to foster a collective process that mobilises all citizens (Government of Portugal, n.d.<sub>[136]</sub>). It states that an all-of-society approach is needed to encourage the population to participate in debates about AI and voice their priorities. It also notes that it is essential to champion diversity to ensure a human rights-based approach and to draw on collective intelligence.

Source: Government of Portugal (n.d.<sub>[136]</sub>), *AI Portugal 2030*, <https://www.portugal.gov.pt/download-ficheiros/ficheiro.aspx?v=%3D%3DBAAAAB%2BLCAAAAAAABACzMDQxQC3h%2ByrBAAAAA%3D%3D> (accessed on 9 June 2022); Government of Germany (2020<sub>[135]</sub>), *Artificial Intelligence Strategy of the German Federal Government*, [https://www.ki-strategie-deutschland.de/files/downloads/Fortschreibung\\_KI-Strategie\\_engl.pdf](https://www.ki-strategie-deutschland.de/files/downloads/Fortschreibung_KI-Strategie_engl.pdf) (accessed on 9 June 2022).

Many other related projects are in operation at both the national and local levels. For example, regarding education and research, several workshops on AI have been organised by Romanian researchers working for the Eastern European Machine Learning (EEML) summer school (Government of Romania, n.d.<sub>[137]</sub>). The University of Bucharest runs a Recent Advances in AI conference, with the most recent in 2019 (University of Bucharest, 2019<sub>[138]</sub>). Furthermore, the city of Bucharest has a Bucharest.AI community, which adheres “to the European values of Artificial Intelligence (AI) ecosystems and aims to enrich the region with AI expertise and initiatives that benefit the society as a whole” (Bucharest.AI, n.d.<sub>[139]</sub>).



## Recommendations

To promote ethical and people-centred AI and algorithmic decision making that does not restrict civic space, Romania could:

- Ensure that its upcoming AI strategy emphasises the potential risks to civic freedoms posed by the use of algorithmic decision making in the public sector and analyses whether there are gaps in existing legal frameworks around AI.
- Conduct human rights impact assessments on relevant policies and laws to identify the potential for bias in the application of algorithms and monitor their use in the public sector as this area develops, in consultation with the public and civil society, to ensure that civic freedoms are respected, and that people have access to effective and accessible oversight and redress mechanisms for potential violations.
- Ensure transparency and accountability regarding algorithmic and automated system decision making and develop both education and public communication initiatives on the use of automated decision making in the public sector.
- Systematically engage and consult with CSOs and citizens on the use of AI in policy making and service design and delivery.

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## Notes

<sup>1</sup> The OECD defines misinformation as “false or inaccurate information not disseminated with the intention of deceiving the public” and disinformation as “false, inaccurate, or misleading information deliberately created, presented and disseminated to deceive the public” (OECD, n.d.<sup>[141]</sup>).

<sup>2</sup> *Ex officio* refers to instances where a public body can initiate actions on his/her own initiative, and not based on any individual request or complaint.

<sup>3</sup> Interview with media worker, April 2022; interview with CSO representative, May 2022.

<sup>4</sup> Interview with media worker, April 2022; interview with CSO representative, May 2022

<sup>5</sup> Information provided by the General Secretariat, December 2021.

<sup>6</sup> Interview with government body, February 2022.

<sup>7</sup> See <http://dialogsocial.gov.ro/wp-content/uploads/2017/07/Web-Ghid-A4-19-pagini-4-iulie-cu-text.pdf>.

<sup>8</sup> The RSF assigns points to countries from 0-100 (with 0 being the worst score and 100 being the best). The situation in countries is classified as “good” in the range of 85-100 points, “satisfactory” in the range of 70-85 points, “problematic” in the range of 55-70 points, “difficult” in the range of 40-55 points and “very serious” in the range of 0-40 points.

<sup>9</sup> The Freedom House Freedom in the World Index assigns 195 countries to free, partly free, or not free status. The category is determined by combining the overall score awarded for political rights with the overall score awarded for civil liberties, after being equally weighted.

<sup>10</sup> Freedom in the World uses a two-tiered system consisting of scores and status. A country or territory is awarded 0 to 4 points for each of 10 political rights indicators and 15 civil liberties indicators, which take the form of questions; a score of 0 represents the smallest degree of freedom and 4 the greatest degree of freedom.

- <sup>11</sup> Interview with media worker, April 2022; interview with media worker, May 2022.
- <sup>12</sup> Interview with media worker, April 2022; interview with media worker, May 2022.
- <sup>13</sup> Interview with media worker, May 2022.
- <sup>14</sup> Interview with media worker, May 2022.
- <sup>15</sup> Interview with government body, February 2022.
- <sup>16</sup> Interview with media worker, April 2022.
- <sup>17</sup> Interview with CSO representative, September 2022.
- <sup>18</sup> Interview with CSO representative, April 2022.
- <sup>19</sup> Interview with government body, February 2022; interview with CSO representative, May 2022; interview with media worker, May 2022.
- <sup>20</sup> Interview with CSO representative, May 2022.
- <sup>21</sup> Interview with CSO representative, May 2022; interview with media worker, May 2022.
- <sup>22</sup> Interview with media worker, April 2022; interview with government body, February 2022.
- <sup>23</sup> Interview with CSO representative, May 2022; interview with media worker, April 2022; interview with media worker, May 2022.
- <sup>24</sup> Interview with CSO representative, October 2022.
- <sup>25</sup> Interview with CSO representative, October 2022.
- <sup>26</sup> Interview with CSO representative, May 2022; interview with media worker, April 2022; interview with media worker, May 2022.
- <sup>27</sup> Interview with media worker, May 2022; interview with CSO representative, May 2022.
- <sup>28</sup> European Court of Human Rights, Gheorghe-Florin Popescu vs. Romania, Application No. 79671/13, Judgment of 12 January 2021, paras. 35-38; Monica Macovei vs. Romania, Application No. 53028/14, Judgment of 28 July 2020, paras. 88 and 96; and Ghiulfer Predescu vs. Romania, Application No. 29751/09, Judgment of 27 June 2017, paras. 52 and 61. See also Petro Carbo Chem S.E. vs. Romania, Application No. 21768/12, Judgment of 30 June 2020.
- <sup>29</sup> Interview with media worker, May 2022; interview with CSO representative, May 2022.
- <sup>30</sup> The new law replaced Law 571/2004, which was praised as the first of its kind in Europe.
- <sup>31</sup> Interview with media worker, May 2022.
- <sup>32</sup> Interview with media worker, May 2022.

- <sup>33</sup> Interview with media worker, May 2022; interview with media worker, April 2022.
- <sup>34</sup> Interview with government body, February 2022; interview with CSO representative, June 2022.
- <sup>35</sup> Interview with media worker, May 2022; interview with media worker, April 2022.
- <sup>36</sup> Interview with government body, February 2022; interview with government body, April 2022.
- <sup>37</sup> Interview with government body, February 2022.
- <sup>38</sup> Interview with government body, February 2022.
- <sup>39</sup> Interview with government body, February 2022.
- <sup>40</sup> Interview with government body, February 2022; interview with government body, April 2022.
- <sup>41</sup> Interview with government body, February 2022.
- <sup>42</sup> Interview with government body, February 2022.
- <sup>43</sup> Interview with government body, February 2022.
- <sup>44</sup> Interview with government body, February 2022.
- <sup>45</sup> Interview with CSO representative, May 2022.
- <sup>46</sup> Interview with government body, October 2022.
- <sup>47</sup> Interview with government body, February 2022.
- <sup>48</sup> Interview with government body, February 2022.
- <sup>49</sup> Interview with government body, February 2022.
- <sup>50</sup> Interview with CSO representative, May 2022.
- <sup>51</sup> Interview with CSO representative, May 2022.
- <sup>52</sup> The Romanian Ombudsman intended to take the emergency order regulating this law to the Constitutional Court, following a concerted advocacy effort by CSOs, but ultimately did not follow up on the request, on the basis that parliament may still change the draft law during the legislative approval process (Romanian Ombudsman, 2022<sup>[140]</sup>).
- <sup>53</sup> Interview with CSO representative, October 2022.
- <sup>54</sup> Interview with government body, February 2022; interview with government body, April 2022.



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