

# **Legal environment and space of civil society organisations in supporting fundamental rights and the rule of law**

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# 1 Civic space developments in 2021

<b>1.1 Freedom of assembly remains limited by outdated legislation and the restrictions imposed during the pandemic</b>	
Area	Freedom of peaceful assembly
Topic	Organisation of assemblies Participation to assemblies
Impact	Major

In 2020, following a campaign by a group of human rights and watchdog CSOs<sup>1</sup>, steps were taken in Romania to modernise and improve the legislative framework regulating the right to freedom of peaceful assembly<sup>2</sup>. The Parliament was expected to complete the procedures and adopt the new legislation in Spring 2021, but the bill remained unaddressed by the end of 2021<sup>3</sup>.

The right to peaceful assembly was severely limited during the pandemic. Romania was continuously under the state of alert (*stare de alertă*). The latter was declared on 18 May 2020, for an initial period of 30 days, through a Government Decision<sup>4</sup>, later endorsed, with amendments, by the Parliament<sup>5</sup>, and renewed every 30 days through Government Decisions. Since September 2020, and for the entire duration of 2021, marches, protests and political gatherings were limited to 50 persons indoors and 100 persons outdoors, under the condition that all participants will

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<sup>1</sup> Coalition NGOs for Citizens (2020), '[Legea adunărilor publice armonizată cu Constituția – propunere legislativă promovată de 15 organizații neguvernamentale](#)', 11 June 2020.

<sup>2</sup> FRA (European Union Agency for Fundamental Rights) (2021), '[Protecting Civic Space in the EU](#)', Luxembourg, Publications Office of the European Union (Publications Office).

<sup>3</sup> Romanian Parliament (*Parlamentul României*), Legislative proposal for the amendment and completion of the Law on the organization and conduct of public assemblies ([Propunere legislativă pentru modificarea și completarea Legii nr.60 din 23 septembrie 1991 privind organizarea și desfășurarea adunărilor publice](#)), September 2020.

<sup>4</sup> Romania, Decision on the declaration of a state of alert and the measures to be taken during it to prevent and combat the effects of the COVID-19 pandemic ([Hotărâre nr. 394 din 18 mai 2020 privind declararea stării de alertă și măsurile care se aplică pe durata acesteia pentru prevenirea și combaterea efectelor pandemiei de COVID-19](#)), 18 May 2020.

<sup>5</sup> Romania, Decision of the Parliament on approval of the state of alert and of the measures established by the Government Decision no. 394/2020 on the declaration of the state of alert and the measures applied during it to prevent and combat the effects of the COVID-19 pandemic ([Hotărâre nr. 5 din 20 mai 2020 pentru încuviințarea stării de alertă și a măsurilor instituite prin Hotărârea Guvernului nr. 394/2020 privind declararea stării de alertă și măsurile care se aplică pe durata acesteia pentru prevenirea și combaterea efectelor pandemiei de COVID-19](#)), 20 May 2020.

wear face masks and they will observe social distancing measures<sup>6</sup>. The restrictions for other types of public gatherings, for example cultural, sports, and religious events were gradually relaxed. The disproportionate restrictions were criticized by civil society organisations<sup>7,8</sup> and the political opposition<sup>9</sup>.

Civil society organisations claim that both the provisions of the outdated law and the restrictions imposed during the state of alert were used to effectively limit the right to peaceful assembly on sensible issues<sup>10</sup>.

The Bucharest Mayor Office (*Primăria Municipiului București*) has initially rejected the request of ACCEPT Romania, a Human Rights NGO, to organise the Pride March in the central, pedestrian area of the city<sup>11</sup>, claiming that it would disturb other events to take place in the area. Faced with the public pressure, the Mayor Office has authorized the Pride, but the organisers were later fined with RON7,000 (€1,415) because a few thousands participants attended, exceeding the maximum number of participants allowed during the state of alert<sup>12</sup>. The organisers have challenged the fine in Court, and the trial is on-going.

The organisers of a similar Pride March organized in Cluj, the second largest city, were fined with RON2,000 (€400), one month after the event, because the number of participants was larger than the maximum allowed during the state of alert<sup>13</sup>.

The political opposition organised a protest in front of the Parliament, against plans to introduce the green pass, and about 2,000 persons attended. After the protest, the Minister of Internal Affairs (*Ministrul Afacerilor Interne*) announced that the police used footage of the protest to identify and fine individual participants, for attending an unauthorised protest (under the general legislation) and not respecting the restrictions (under the special state of alert legislation). In two

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<sup>6</sup> Romania, Government Decision on the prolongation of a state of alert starting with 15 August 2020 and the measures to be taken during it to prevent and combat the effects of the COVID-19 pandemic ([Hotărâre nr. 782 din 14 septembrie 2020 privind prelungirea stării de alertă pe teritoriul României începând cu data de 15 septembrie 2020, precum și stabilirea măsurilor care se aplică pe durata acesteia pentru prevenirea și combaterea efectelor pandemiei de COVID-19](#)), 14 September 2020.

<sup>7</sup> Coalition NGOs for Citizens (2021), '[Măsurile de relaxare ignoră în continuare condițiile de organizare și desfășurare a adunărilor publice](#)', 12 June 2021.

<sup>8</sup> ACCEPT Romania (2021), '[Guvernul mentine restrictii abuzive în organizarea marsurilor și protestelor pasnice](#)', 9 July 2021.

<sup>9</sup> Hotnews.ro (2021), '[PSD atacă în instanță hotărârea de guvern privind măsurile anti-COVID valabile de la 1 august](#)', 29 July 2021.

<sup>10</sup> Stiri.ONG (2021), '[Guvernul mentine restrictii abuzive în organizarea marsurilor și protestelor pasnice](#)', 7 July 2021.

<sup>11</sup> G4Media.ro (2021), '[Asociația ACCEPT acuză Primăria Municipiului București că boicotează Marșul Bucharest Pride, deși a autorizat o contra-manifestație a Noii Drepte / Primăria propune organizarea marsului pe Șoseaua Kiseleff sau pe Bulevardul Magheru](#)', 6 August 2021.

<sup>12</sup> Hotnews.ro (2021), '[Organizatorul Bucharest Pride 2021, amendat cu 7.000 de lei. La manifestație au participat mii de oameni, desi legea permite 500](#)', 14 August 2021.

<sup>13</sup> Cluj24.ro (2021), '[Amendă de 2000 de lei pentru Marsul PRIDE Cluj, al LGBT. "La Nicula au fost 10.000 de persoane, cum face virusul diferența?"](#)', 30 September 2021.

days, over 200 persons were identified, and 168 fines were issued, with a total amount of RON252,800 (€51,000)<sup>14</sup>.

<b>1.2 Investigative journalists targeted by politicians in civil lawsuits</b>	
Area	Safe space & protection
Topic	Strategic Lawsuits Against Public Participation (SLAPPs)
Impact	Major

Investigative journalists from several groups were targeted by politicians in civil lawsuits as well as with complaints filed before the national equality body claiming discrimination. In some cases, the complaints were accepted by lower courts, and rejected or still pending decision in higher courts.

One Bucharest district mayor initiated over 20 legal actions against journalists from Libertatea and Newsweek Romania in the course of 2021<sup>15</sup>. The mayor was unhappy with how the journalists were presenting his decisions on public procurement in their articles and even in Facebook comments. In two cases, the District Courts ruled in favour of the complainant, but the Bucharest Tribunal reversed the decisions; in at least other five cases, the first instance courts ruled against the complainant, but the decisions can be appealed<sup>16</sup>.

The mayor has also filed a criminal complaint claiming that journalists at these media outlets were involved in organised criminal blackmail. Prosecutors from the Direction of Investigation of Organised Crime and Terrorism Crimes (DIICOT – *Direcția pentru Investigarea Infracțiunilor de Crimă Organizată și Terorism*) issued subpoenas and called the journalists who wrote the articles and the editors-in-chief of the two media outlets, presenting them the potential charges. The case was eventually closed by DIICOT, and the mayor appealed against the decision and asked for the case to be re-opened; the Bucharest Tribunal rejected the request<sup>17</sup>. Following the closure of the mayor's complaint by DIICOT, the National Anticorruption Directorate (DNA – *Departamentul Național Anticorupție*) opened a different investigation, in which the journalists were again called in, this time as

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<sup>14</sup> Digi24.ro (2021), '[Noi sanctiuni după protestul AUR de la Parlament: Au fost date amenzi de peste 250.000 de lei](#)', 23 December 2021.

<sup>15</sup> Libertatea.ro (2021), '[Cum arată agenda unor jurnaliști de investigație, cu termenele de judecată în procesele intentate de politicieni](#)', 4 November 2021.

<sup>16</sup> Libertatea.ro (2021), '[Anul 2021, încheiat cu trei procese pierdute de primarul PSD Daniel Băluță, pe 17, 20 și 22 decembrie, în fața jurnaliștilor de investigație](#)', 31 December 2021.

<sup>17</sup> Newsweek.ro (2021), '[Primarul Băluță a pierdut în fața jurnaliștilor Newsweek și Libertatea pe care i-a reclamat](#)', 10 October 2021.

witnesses<sup>18</sup>. In an open letter, Reporters Without Borders (RSF) and the Romanian NGO ActiveWatch denounced judicial pressures on investigative journalists<sup>19</sup>.

The mayor also complained before the national equality body (CNCD – *Consiliul Național pentru Combaterea Discriminării*), claiming that he was discriminated by the journalists. During the hearings, when asked on what grounds he was discriminated against, the complainant answered: “for being a politician”. Seven months since the initial complaint, CNCD is still to rule on the three complaints filed by the politician<sup>20</sup>.

Another investigative group, Rise Project, was targeted with civil libel by a former member of European Parliament<sup>21</sup>, and a former public hospital manager, now a member of the Romanian Parliament<sup>22</sup>. In both cases, the District Courts and the Bucharest Tribunal accepted the claims, ruling that the journalists should delete the articles and pay civil damages to the complainants. The appeals are still pending before the Bucharest Court of Appeal (*Curtea de Apel București*).

Recorder.ro, another independent media outlet, was the target of a civil complaint made by two businesspersons involved in a controversial public procurement affair exposed by the journalists. The District Court ruled in favour of the complainants, forcing the journalists to delete the articles and pay damage, but the Bucharest Tribunal reversed the decision, and rejected all claims<sup>23</sup>.

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<sup>18</sup> Libertatea.ro (2021), '[Băluță contra jurnaliștilor de investigație. Ieri, primarul a pierdut procesul, azi e un alt episod cu Tolontan ca martor la DNA](#)', 22 July 2021.

<sup>19</sup> Rsf.org (2021), '[Romania: In an open letter, RSF and ActiveWatch denounce judicial pressures on investigative journalists following a complaint from a Bucharest district mayor](#)', 26 May 2021.

<sup>20</sup> Libertatea.ro (2021), '[Se întâmplă în România: un primar s-a plâns Consiliului pentru Combaterea Discriminării că el e discriminat pentru că are „calitatea de politician”!](#)', 17 November 2021.

<sup>21</sup> Riseproject.ro (2021), '[4 milioane plus 4 mii de euro. Ramona Mănescu obține daune morale de la rise pentru prezentarea „defăimătoare” a unor fapte pe care nu le contestă](#)', 2 April 2021.

<sup>22</sup> G4media.ro (2021), '[Tribunalul București obligă RISE Project să șteargă articolele despre Streinu-Cercel. Decizia nu este definitivă](#)', 28 May 2021.

<sup>23</sup> Libertatea.ro (2021), '[Recorder a câștigat apelul după ce fusese obligat de prima instanță să șteargă un articol de pe site](#)', 18 October 2021.

<b>1.3 Physical attack on journalists and activists documenting forest cuts</b>	
Area	Safe space & protection
Topic	Physical attacks on people and property
Impact	Major

A team of two journalists and one Greenpeace activist were attacked, humiliated, and beaten by a group of about 20 persons, while documenting forest cuts in the county of Suceava. Two of the three victims needed hospital care<sup>24</sup>. The police investigation has shown that, among the aggressors, there were employees of the local forestry department (*Ocolul Silvic*), the public institution responsible with the forest protection<sup>25</sup>. In an open letter, civil society organisations asked for a rapid and transparent investigation, and for measures with systemic impact, reminding that, in the last decade, almost 600 persons were harassed in incidents related to illegal forest cuts<sup>26</sup>. The European Commission expressed concerns and described the situation as unacceptable<sup>27</sup>.

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<sup>24</sup> Digi24.ro (2021), '[Doi jurnaliști și un activist de mediu, bătuți în timp ce filmau în pădure despre tăierile ilegale de lemn: „Vă omor”](#)', 17 September 2021.

<sup>25</sup> G4media.ro (2021), '[5 din cei 20 de bărbați care au bătut doi jurnaliști și un activist de mediu într-o pădure din Suceava, audiați de poliție/ Printre ei se află proprietarul pădurii și șeful ocolului silvic](#)', 17 September 2021.

<sup>26</sup> Coalition NGOs for Citizens (2021), '[Încă un eșec al statului român – Tăierile ilegale de păduri fac noi victime](#)', 17 September 2021.

<sup>27</sup> Digi24.ro, '[Comisia Europeană, reacție privind cazul jurnaliștilor și activistului de mediu bătuți crunt în pădure: Este inadmisibil](#)', 17 September 2021.

## 2 Examples of civil society contributions to the rule of law

<b>2.1 Mechanisms to inform and assist victims of domestic violence</b>	
Topic	Assisting victims in accessing judicial and non-judicial mechanisms of justice

The VIF Network - The network for preventing and combating violence against women (*Rețeaua VIF – Rețeaua de prevenire și combatere a violenței împotriva femeilor*) is an informal structure convening 24 Romanian NGOs active in the field of promotion of women rights, protection of gender-based violence and combating discrimination on grounds of gender. The member organizations are a mix of service providers, advocates and human rights activists. During the pandemic, the VIF Network and its members redoubled their efforts, faced with the rising number of domestic violence cases, triggered by the additional pressure of the various restrictions imposed to contain the infections. The network members offered direct services and assistance to victims, and run information and awareness raising campaigns<sup>28</sup>. In October 2021, the National Agency for Equal Opportunities for Women and Men (ANES - *Agenția Națională pentru Egalitatea de Șanse între Femei și Bărbați*) partnered with the VIF Network in a new project, called “VioGen – RoJust” (four member organizations are formal members in the project, since the network itself is not formally registered). The project, with a total budget of RON3.7mIn (€740,000) and a duration of 22 months, aims at improving protection measures against domestic violence, as well as strengthening the capacity of the Romanian authorities to ensure adequate intervention and enforce the legislative framework on the protection and non-discrimination of victims. The project includes activities designed to improve the enforcement of European Court of Human Rights decisions and other country recommendations made by the Council of Europe in the field of abuse, domestic violence and gender-based violence<sup>29</sup>.

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<sup>28</sup> Good examples of new digital tools are the [Now You Know](#) (*Acum Știi – acumstii.ro*) website or the Map of Services for Persons Affected by Domestic Violence ([Harta Serviciilor pentru Persoanele afectate de Violenta Domestica](#)). More information can be found on the [VIF Network website](#).

<sup>29</sup> Romania, National Agency for Equal Opportunities for Women and Men (ANES - *Agenția Națională pentru Egalitatea de Șanse între Femei și Bărbați*) (2021), [Press Release](#), 19 October 2021.

## **2.2 Innovative design to foster citizen participation in decision making**

Topic	Contributing to law and policy making (including involvement in public consultations)
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The CIVICA Association (*Asociația CIVICA*), in partnership with the Municipality of Iași, designed and implemented an innovative method to increase citizens' participation in prioritizing and developing policy solutions at local level. The program entitled `Collaborative solutions in community` is based on the design thinking principles and was co-created by Civica and the Mayor Office and it was included in Iași's bid to participate in the international initiative Open Government Partnership. The implementation was financially supported by the Local Council (*Consiliul Local Iași*) and the Open Society Foundations. The program proposes seven strategic areas of development and imagines, in multidisciplinary teams, innovative answers and solutions, focused on citizens. The solutions will be implemented, as appropriate, in mixed formulas by organizations, private actors and local authorities. By September 2021, the program team finalized the design phases of the program, leading to seven solutions to the problems identified by citizens in the following areas: education, public spaces, public safety, culture, health and environment, mobility and good governance. The seven solutions are now on the agenda of the Local Council, to be included in the next year's budget. CIVICA and its partners (citizens, civil society, local businesses) will monitor and support the implementation<sup>30</sup>.

## **2.3 Strengthening democracy through media education**

Topic	Combating disinformation and fostering media and digital literacy
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The Centre for Independent Journalism (*CJI – Centrul pentru Jurnalism Independent*) is a non-governmental organization active for over 25 years in protecting democracy, through freedom of expression and education. In the last few years, media literacy education has become one of the key areas of interest for CJI. The organization's media literacy program, "Teaching Media Literacy! – the Media Education and Culture Lab", is combining grassroots and advocacy work. At the grassroots, over 100 teachers and 16,000 high-school students participated in educational activities. The advocacy work is focusing on introducing media literacy into the common core of skills that students acquire, and on including

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<sup>30</sup> For more information, see the program's web page on <https://soluticolaborative.ro/>

media literacy in the initial training of Romanian language and literature teachers, together with at least one top university in Romania. The program's ambitious goal is that by 2030, at least 30% (175,000) of high school students will understand the media's role in a democratic society, distinguish misinformation, deconstruct media messages and interact responsibly with social networks. In December 2021, CJI announced that it secured financing for the next phase of the program, involving 120 teachers and 12,000 students<sup>31</sup>. The funding was secured through the EEA and Norway Grants, funded by Iceland, Liechtenstein and Norway.

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<sup>31</sup> For more information, see the program's web page on <https://cji.ro/subject/educatie-media/>

## 3 Other relevant developments

### 3.1 Concerns about political parties financing and impact on mass-media

Independent journalists and activists raised concerns about the significant increase of the amount allocated to political parties from the public budget in the last few years, and its impact on the independent media.

In the last five years, the total public subventions for political parties amounted to RON 1bln (€200mln), and the funds are shared between the few parties that are represented in the Parliament<sup>32</sup>. Yearly, Romania is allocating about 0.04% of its GDP to political party financing. According to the data obtained by mass-media, the largest share of the money is directed to “mass-media and propaganda”. Only in the first eleven months of 2021, the two largest parties, who are now forming the coalition in power, spent over €10mln on mass-media<sup>33</sup>. The entire media market in 2021 is estimated at €500mln but the share for the political and social campaigns is likely much smaller<sup>34</sup>. Journalists are raising concerns that the money invested by the political parties, from public sources, are contributing to silencing the mass-media on sensible issues<sup>35</sup>.

The political parties become subject of the Law on access to public information<sup>36</sup> when they receive public financing, but the civil society organizations showed that the parties often refuse to communicate the information regarding their spending. Expert Forum, an independent think-tank, is analysing the available data on political parties financing but almost all political parties have refused to provide the information requested<sup>37</sup>. The association Centre for Public Innovation requested, from all political parties that receive public financing, basic information about their spending but only one of the nine parties responded. The organization sued the other eight on grounds of the law on public information<sup>38</sup>.

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<sup>32</sup> Europa Liberă (2021), '[Un miliard de lei la secret. Experiment cu banii dati presei de PNL, PSD și USR PLUS](#)', 21 September 2021.

<sup>33</sup> Europa Liberă (2022), '[Investitorii ascunși din presă. PSD ține informațiile la secret, deși plătește milioane pe lună](#)', 6 January 2022.

<sup>34</sup> Paginademedi.ro (2021), '[Previziuni peste așteptări. Piața media în 2021 mult peste jumătate de miliard de euro. Cererea de reclame TV a crescut mult prețurile](#)', 17 December 2021.

<sup>35</sup> G4media.ro (2022), '[O presă plătită să tacă sau să țipe la ordinul marilor partide. Pe banii tăi](#)', 10 January 2022.

<sup>36</sup> Romania, Law on access to public information ([Lege nr. 544 din 12 octombrie 2001 privind liberul acces la informațiile de interes public](#)), 23 October 2001.

<sup>37</sup> Expert Forum (2021), '[Secretele subvențiilor politice](#)', 9 August 2021.

<sup>38</sup> Center for Public Innovation (2021), '[Partidele și transparența: relație inexistentă](#)', 10 May 2021.