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Meeting: 1521st meeting (March 2025) (DH)

Item reference: Revised Action Plan (17/01/2025)

Communication from Romania concerning the case of C. v. Romania (Application No. 47358/20)

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Réunion : 1521^e réunion (mars 2025) (DH)

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Communication de la Roumanie concernant l'affaire C. c. Roumanie (requête n° 47358/20) (**anglais uniquement**)

L/ 178 / 17 January 2025

11638 R/AG/ 117

Revised Action Plan on individual and general measures in the case of

C. v. Romania

(Application no. 47358/20, judgment of 30 August 2020, final on 30 November 2020)

I. Introductory summary of the case

The present case concerns the State's positive obligations in respect of allegations of sexual harassment in the workplace, made by the applicant under Article 8 of the Convention, taken alone and together with Article 14.

Essentially, the Court held that the main object of the applicant's claim consisted of the inadequate response provided by prosecutors and the courts to her complaints regarding sexual harassment in the workplace.

The present action plan **reiterates and expands the information contained in precious documents, namely the 30 May 2023 Action Plan and the 8 November 2024 Revised Action Plan.**

At the same time, additional relevant information from the competent authorities on various issues related to the protection of women (more specifically protection against domestic violence) can be found in the most recent Action Plan submitted in January 2025 in the cases of *Bălșan v. Romania*, *Buturuğă v. Romania* and *P. v. Romania*.

II. Individual measures

To begin with, the Government would like to inform the Committee that, following the criminal judgment no. 1520 of 25.05.2023, the Public Prosecutor's Office attached to the Timisoara Court of First Instance resumed the investigation in the case, which had been terminated following the criminal judgement no. 1466/11.06.2020 of the Timișoara Court of First Instance.

Thus, the criminal judgement no.1466/11.06.2020 of the Timișoara Court of First Instance rendered in case no. 983/325/2020 was dismissed, and the complaint filed by the applicant C.I, against the order of dismissal from 22.10.2019 in case file no. 10867/P/2017 issued by the Public Prosecutor's Office of the Timișoara Court of First Instance was allowed. Therefore, the order to dismiss the case was annulled and the case was sent back to the prosecutor in order to complete the criminal investigation in relation to the commission of the offense of sexual harassment, provided for by Article 223 of the Criminal Code.

Subsequently, after the reopening of the criminal prosecution, the Public Prosecutor's Office of the Timisoara Court of First Instance forwarded the criminal case file to the Timis County Police Inspectorate - Criminal Investigation Service, for further investigation, where it was registered under number **104986/22.08.2023**.

According to the latest information, the criminal investigation body assigned to the case has carried out a number of activities to supplement the evidence, including a forensic psychological examination of the victim.

Nevertheless, on 15.07.2024, the Prosecutor's Office attached to the Timișoara Court of First Instance issued the Ordinance to close the case on the ground that there was an impediment preventing the prosecution, namely the application of the statute of limitations provided by art. 314 para. (1) letter a) and art. 315 para. (1) letter b) read in conjunction with art.16 para. (1), letter b) of the Code of Criminal Procedure.

The applicant challenged the prosecutor's solution which was dismissed by the chief prosecutor of the Prosecutor's Office attached to the Timișoara Court of First Instance.

At the same time, pursuant to the Court's findings regarding the effectiveness of complaints with the National Council for Combatting Discrimination (the CNCD) in the field of sexual harassment (paras. 37-40), the Government requested information from the CNCD on whether or not the applicant has lodged any complaints regarding the situation which makes the object of this case. On 19 December 2024, the CNCD replied and informed that C. has not lodged, so far, any such complaint concerning the sexual harassment suffered in 2016 or the manner in which the authorities investigated the situation.

Finally, the Government would also like to reiterate that just satisfaction has been duly paid in this case.

In this context, the Government is of the opinion that, following the termination of the criminal investigation due to the application of the statute of limitations, no further individual measures are possible in the present case.

III. General measures

First and foremost, the Government would like to emphasize that throughout the past years, measures have been taken to establish internal mechanisms available at the level of state institutions for combating harassment in the workplace.

The most relevant and visible such actions have been the accession of Romania to the International Labour Organisation (ILO) Convention concerning the elimination of violence and harassment in the world of work (C 190/2019), which was ratified through Law no. 69/2024.

Another important piece of legislation in this field is represented by the EU Directive no. 2006/54/EC on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation.

In the Romanian legal order, this directive has been transposed through a series of normative acts¹, the most recent of which is the 2012 Government Emergency Ordinance no. 83/2012 on amending and completing the provisions of Law no. 202/2002 on the equality of treatment and opportunities between men and women.

¹ <https://eur-lex.europa.eu/legal-content/EN/NIM/?uri=CELEX:32006L0054>

One example of actions taken at the level of a national authority in view of creating an internal mechanism against workplace harassment is provided by the Ministry of Interior, which appointed a gender advisor, and in 2023, published the Gender Equality Plan for the Ministry of Interior – 2023. Additional details on this subject are presented below.

According to the most recent information provided by the National Agency for the Equality of Chances (ANES) on 23 December 2024, with a view to continuing the steps regarding the harmonisation of national legislation with the provisions of the Istanbul Convention, as well in the context of the implementation of the recommendations presented by the GREVIO Group Experts in the Country Report, in order to fulfil the obligations assumed by the Romanian State upon ratification, a Working Group was set up at the level of the National Agency for Equal Opportunities for Women and Men, consisting of specialists from the following ministries and public institutions with competences in the field of preventing and combating domestic violence, namely: Ministry of Labour and Social Solidarity, Ministry of Internal Affairs, Ministry of Justice, Ministry of Public Prosecution, Superior Council of Magistracy, People's Advocate, IGPR, DGASMB and DGASPC - the six districts of Bucharest, National Agency for Social Payments and Inspection, National Union of Romanian Bar Associations, College of Psychologists, Bucharest Municipal Pension House, the National Health Insurance House, the National Penitentiary Administration, the National Agency for the Administration of Non-Disposable Assets, the National Centre for Mental Health and Anti-Drug Fight, experts and scientific researchers from the academic world, as well as experts from non-governmental organisations working in the field of prevention and combating domestic violence. This working group aims to initiate and analyse the proposals to amend Law no. 217/2003 for the prevention and combating of domestic violence, republished, with subsequent amendments and additions, as well as Order no. 146/2578/2018 on the modalities for the questioning of domestic violence cases by police officers.

The current process of amendment/revision of Law no. 217/2003 on preventing and combating domestic violence, which is underway, covers several relevant aspects, including **increasing the coordinating role at state level for preventing and combating all forms of violence covered by the Istanbul Convention, in particular by harmonising and monitoring the implementation of local plans to prevent and combat domestic violence and violence against women and by setting up institutionalised structures for coordination and cooperation tailored to the specific needs of victims of rape and sexual violence, forced marriage, stalking and sexual harassment.**

Furthermore, in order to implement the provisions of the ILO Convention No. 190 of 21 June 2019, ANES informs that the Government of Romania has realised the need to adopt legal provisions to ensure respect for the principle of equal opportunities between women and men and to take the necessary measures to prevent and combat sexual harassment, moral harassment and violence at work.

In this context, at this moment the draft law for the amendment and completion of Law no. 202/2002 on equal opportunities and equal treatment between women and men, republished, with subsequent amendments and additions is in the process of internal authorisation:

- introducing the obligation for legal entities in the public and private sector with more than 50 employees, central and local, civil and military public institutions and authorities to appoint and have in their organisational structure an equal opportunities expert or an equal technician, or, where appropriate, to assign specific tasks in the field of equal opportunities between women and men to an employee, through the job description;
- the performance by the above-mentioned experts of their duties in the field of prevention of harassment and violence at work, with a view to the application of the provisions of the International Labour Organization Convention No. 190 of 21 June 2019 concerning the elimination of violence and harassment in the world of work, adopted by the Conference at its Hundred and Eighth Session, Geneva, 21 June 2019 and ILO Recommendation No. 206 (R206);
- regulating the need to provide training courses in the occupation of gender equality expert or gender equality technician, within a period of 2 years from date of appointment of the persons with specific responsibilities in the field of equality;
- the inclusion of all areas of activity in the scope of application for measures to promote equal opportunities and equal treatment between women and men and to eliminate all forms of discrimination based on sex in the public and private sectors;
- clarifying definitions of the terms *sexual harassment* and *psychological harassment*;
- Defining the term "sexist speech" and regulating certain offences;
- defining "obstetric and gynaecological violence" and cyber-violence as a form of gender-based violence that can affect the integrity, physical or psychological health of women and thus cause harm.

Also, in 2023, the Romanian Government approved by Government Decision no. 970/2023 the Methodology on preventing and combating gender-based harassment and moral harassment in the workplace, providing a clear legal and procedural framework for the protection of employees against harassment. In this context, institutions and companies need to take proactive measures to prevent harassment of any kind in the workplace. These include information campaigns, training sessions and the implementation of codes of conduct setting standards of behaviour.

Clear procedures are put in place for reporting and investigating harassment, whether on grounds of sex or under the guise of moral harassment.

Employers are obliged to establish internal mechanisms for dealing with complaints and are obliged to ensure the protection of those who report cases of harassment, preventing any form of retaliation against them.

HG 970/2023 also lays down clear sanctions for harassment in order to discourage any form of abuse in the workplace. These sanctions can include significant fines and other disciplinary measures against bullies.

The Ministry for Family, Youth and Equality of Opportunities (MFTES) through ANES provides methodological support, guidance and methodological coordination to the institutions and authorities of the central and local, civil and military public administration, as well as to private companies, in the application of the provisions of the methodology.

The central and local, civil and military public administration institutions and authorities shall draw up an annual report on the implementation of the provisions of the methodology, which will be submitted to ANES.

ANES publishes annually, in March, a report on the state of implementation of the provisions of this Methodology, based on the annual reports of public institutions and authorities.

The Ministry of Labour and Social Solidarity, through the Labour Inspectorate, shall ensure the control of the application of the provisions of this methodology and shall forward to ANES, on an annual basis, the cases of non-compliance with its provisions, according to its specific competences, in accordance with Article 37 paragraph. (3) lit. a) of Law no. 202/2002 on equal opportunities and equal treatment between women and men, republished, with subsequent amendments and additions.

On 8 January 2025, the Superior Council of the Magistracy (the CSM) informed that, concerning the data (including statistical data) on the evolution of the practice of courts and prosecutor's offices for the protection of victims of sexual harassment offences in the workplace, according to the data managed by the statistics department of the Superior Council of Magistracy, it results that in the first half of 2024, there were 11908 cases on the docket of Romanian courts, in the first half of 2024, concerning protection orders, of which 11318 cases concerning the issuance of a protection order, 5867 cases concerning non-compliance with protection orders and 3 cases concerning European protection orders (Law 151/2016j. In addition, statistics on the prosecution of criminal prosecution files at the level of public prosecutor's offices reveal, for the first half of 2024, a total of 597 defendants individuals sent to trial by indictment or plea agreement for domestic violence.

For the same period of the first half of 2024, the CSM informs that the national courts recorded statistically only one sexual harassment case, currently at the procedural stage of the appeal.

Furthermore, the Ministry of Justice provided additional updated information in the case of *C. v. Romania*.

As such, the ministry highlighted that, **by Government Decision no. 970 of October 12, 2023, the Methodology on the prevention and combating of harassment based on gender, as well as moral harassment at the workplace was approved** and was subsequently published in the Official Journal of Romania no. 939/17 October 2023.

According to art. 7 para. 4 letter a) of the Methodology², each employer/manager may develop his own guide on the prevention and combating of harassment based on gender, as well as moral harassment at the workplace, adapted to the specific working conditions, in compliance with the terms and principles provided in the annex to the methodology.

In this context, one of the most important measures taken by the Ministry of Justice is the development of the **Guide on reporting acts of violence and sexual harassment, available on the Ministry of Justice website**³ and which aims to provide relevant information on how to act in situations of abuse or harassment that may occur in schools, universities, at work, and in everyday life.

At the same time, **the Guide specifically indicates** which acts constitute forms of abuse, punishable by the Criminal Code, how to formulate a complaint, what legal rights exist both within the criminal process and the immediate measures that can be ordered in order to guarantee physical or psychological safety, such as a protection order, ways to benefit from financial compensation for the damages caused by the act that cannot be obtained from the perpetrator of the crime, useful information regarding victim assistance, the conduct to follow and the contact details of prosecutor's offices, police units and assistance services.

Moreover, the Ministry of Justice provided statistical data on the crimes of **harassment** (art. 208 of the Criminal Code – CC) and **sexual harassment** (art. 223 CC), obtained from its STATIS statistical application, as follows:

Situation of criminal cases in first instance (fond) pending before domestic courts in Romania, between 01.01.2017 - 30.09.2024, having as their main object the crime of harassment (art.208 NCP)"								
Crime	Reference interval	Pending files (dosare in stoc) at the start of the year	Newly registered files	Total files pending	Number of files solved out of the pending files (dosare din stoc) at the beginning of the year	Number of files solved out of the newly registered files	Total number of files solved	Total number of files remaining unsolved (in stoc) at the end of the year
Harassment (art.208 NCP)	01.01.2017 - 31.12.2017	19	26	45	14	7	21	24
	01.01.2018 - 31.12.2018	24	43	67	14	9	23	44
	01.01.2019 - 31.12.2019	44	32	76	32	6	38	38
	01.01.2020 - 31.12.2020	38	36	74	25	4	29	45
	01.01.2021 - 31.12.2021	45	37	82	35	10	45	37
	01.01.2022 - 31.12.2022	37	35	72	29	8	37	35
	01.01.2023 - 31.12.2023	35	40	75	25	5	30	45
	01.01.2024 - 30.09.2024	45	21	66	30	3	33	33

² Available on-line at <https://legislatie.just.ro/Public/DetaliiDocumentAfis/275396>

³ Available on-line at https://www.just.ro/Ghid/Ghid_sesizare_violenta_sexuala.pdf.

Situation of criminal cases in first instance (fond) pending before domestic courts in Romania, between 01.01.2017 - 30.09.2024, having as their main object the crime of sexual harassment (art.223 NCP)"

Crime	Reference interval	Pending files (dosare in stoc) at the start of the year	Newly registered files	Total files pending	Number of files solved out of the pending files (dosare din stoc) at the beginning of the year	Number of files solved out of the newly registered files	Total number of files solved	Total number of files remaining unsolved (in stoc) at the end of the year
Sexual harassment (art. 223 NCP)	01.01.2017 - 31.12.2017	2	0	2	1	0	1	1
	01.01.2018 - 31.12.2018	1	0	1	0	0	0	1
	01.01.2019 - 31.12.2019	1	0	1	0	0	0	1
	01.01.2020 - 31.12.2020	1	0	1	0	0	0	1
	01.01.2021 - 31.12.2021	1	0	1	1	0	1	0
	01.01.2022 - 31.12.2022	0	1	1	0	0	0	1
	01.01.2023 - 31.12.2023	1	1	2	1	1	2	0

Situation of persons convicted, with final authority (definitiv), by Romanian domestic courts, between 01.01.2017 - 30.09.2024, of the crime of harassment (art.208 NCP)"

Reference interval	Main object of the case	TOTAL	Persons			INDIVIDUALIZARE EXECUTARE PEDEAPSA										
			Natural persons (persoane fizice)		Legal persons (pers. juridice)	Sentences served in detention					Fines	Suspension of serving prison sentences	Postponing (amanare) the serving of prison sentences	measures applied to underage convicted persons		
			Total	of which underage (minori)		Total	Length of prison sentences in years							without deprivation of liberty	with deprivation of liberty	
					(0-1]		(1-3]	(3-5]	(5-10]	> 10						
01.01.2017 - 31.12.2017	Harassment (art. 208 NCP)	10	10	0	0	1	0	1	0	0	00:00	7	0	2	0	0
01.01.2018 - 31.12.2018		12	12	0	0	3	0	1	2	0	00:00	2	6	1	0	0
01.01.2019 - 31.12.2019		13	13	0	0	1	0	0	1	0	00:00	4	7	1	0	0
01.01.2020 - 31.12.2020		12	12	0	0	1	0	1	0	0	00:00	3	5	3	0	0
01.01.2021 - 31.12.2021		13	13	0	0	4	0	3	1	0	00:00	1	4	4	0	0
01.01.2022 - 31.12.2022		20	20	0	0	3	2	1	0	0	00:00	6	4	7	0	0
01.01.2023 - 31.12.2023		10	10	0	0	0	0	0	0	0	00:00	3	5	2	0	0
01.01.2024 - 30.09.2024		11	11	0	0	2	1	1	0	0	00:00	3	6	0	0	0

Reference interval	Secondary object of the case	TOTAL
01.01.2017 - 31.12.2017	Harassment (art.208 NCP)	14
01.01.2018 - 31.12.2018		17
01.01.2019 - 31.12.2019		15
01.01.2020 - 31.12.2020		14
01.01.2021 - 31.12.2021		15
01.01.2022 - 31.12.2022		18
01.01.2023 - 31.12.2023		23
01.01.2024 - 30.09.2024		14

Situation of persons convicted, with final authority (definitiv), by Romanian domestic courts, between 01.01.2017 - 30.09.2024, of the crime of sexual harassment (art.223 NCP)"																
Reference interval	Main object of the case	TOTAL	Persons			INDIVIDUALIZARE EXECUTARE PEDEAPSA										
			Natural persons (persoane fizice)		Legal persons (pers. juridice)	Sentences served in detention					Fines	Suspension of serving prison sentences	Postponing (amanare) the serving of prison sentences	measures applied to underage convicted persons		
			Total	of which underage (minori)		Total	(0-1]	(1-3]	(3-5]	(5-10]				> 10	without deprivation of liberty	with deprivation of liberty
01.01.2017 - 31.12.2017	Sexual harassment (art.223 NCP)	1	1	0	0	0	0	0	0	0	00:00	1	0	0	0	0
01.01.2024 - 30.09.2024		1	1	0	0	0	0	0	0	0	00:00	0	0	1	0	0

Reference interval	Secondary object of the case	TOTAL
01.01.2017 - 31.12.2017	hărțuirea sexuală (art.223 NCP)	0
01.01.2024 - 30.09.2024		0

The Ministry also provided statistics on protection orders (for all crimes for which such an order can be issued), between 2017-2024:

Situation of cases before first instance courts in Romania (fond), in the field of "family and minors" (minori și familie), between 01.01.2017 - 30.09.2024, having, as their main object, the subject of protection orders								
Name of the object	Reference interval	Pending files (dosare in stoc) at the start of the year	Newly registered files	Total files pending	Number of files solved out of the pending files (dosare din stoc) at the beginning of the year	Number of files solved out of the newly registered files	Total number of files solved	Total number of files remaining unsolved (in stoc) at the end of the year
Protection order	01.01.2017 - 31.12.2017	173	6232	6405	152	6047	6199	206
	01.01.2018 - 31.12.2018	206	7764	7970	180	7616	7796	174
	01.01.2019 - 31.12.2019	174	12946	13120	156	12526	12682	437
	01.01.2020 - 31.12.2020	437	13228	13665	390	12926	13318	347
	01.01.2021 - 31.12.2021	347	16695	17042	301	16315	16616	426
	01.01.2022 - 31.12.2022	426	19439	19865	365	19013	19378	486
	01.01.2023 - 31.12.2023	486	20938	21424	410	20367	20777	647
	01.01.2024 - 30.09.2024	647	17880	18527	488	17190	17678	849

Additionally, over the course of 2024, at the request of the Government Agent for the ECHR, the authorities provided the following information on the measures taken.

1. Thus, the Superior Council of the Magistracy (C.S.M.) informed, by a letter of 06.06.2024, that the issues raised by the judgment in the case *C. v. Romania* can be approached during seminars on the case law of the European Court of Human Rights, and that the relevant aspects can be integrated into the topic of protection against discrimination, including from a gender perspective. At the same time, the C.S.M. informed that the National Institute of Magistracy includes, in its activity, the topic related to the protection of the rights provided for in Article 8, namely combating discrimination.

2. The Ministry of Justice informed that, after analyzing the legal provisions of domestic law defining the crime of "sexual harassment" provided by Article 223 of the Criminal Code, it was concluded that the deficiencies found by the Court in the above-mentioned case **do not arise from the nature of the regulation, but from the manner in which the law was applied in the concrete case.** In this regard, the Ministry of Justice stated that the offense of sexual harassment in Romanian criminal law requires the fulfilment of three cumulative elements:

- 1.the demand of favors of a sexual nature, which implies that the victim must be asked to have a tolerant attitude of acceptance towards the sexual act of any kind requested;
- 2.the demand for sexual favors must be repeated, requiring a *concrete* analysis of the material acts (*acte materiale*) in order to determine whether a sufficient number of acts have been committed to establish, depending on the particulars of the case, a certain pattern of the offender, the relevant doctrine showing that **even a second act of execution would be sufficient to establish the repetitive nature and, therefore, the consummation of the crime;**

Furthermore, the Ministry of Justice pointed out that **although the statutory provision requires that the claiming of sexual favors must take place repeatedly**, sexual harassment being a habitual offense, **no legal provision requires that the offense be retained for a certain minimum period of time** (e.g. minimum 6 months).

3.the victim has been intimidated or subjected to a humiliating situation. The notion of "intimidated" is understood as frightened, confused, afraid, etc., whereas the humiliating situation refers to the situation in which the person feels humiliated, offended, insulted (in other words, harmed in terms of feelings of honor and dignity).

The Ministry of Justice also mentioned that the definitions used by the legislator in defining the offense are sufficiently broad to encompass all the possible cases of committing the offense, so that the incriminating rule can be effectively applied and not be an obstacle to the work of law enforcement bodies.

In line with the above, the Ministry of Justice has emphasised that the criminalisation of sexual harassment in domestic law does not differ significantly from its content in the provisions of other European countries, indicating in this regard the articles 222-33 of the French Criminal Code⁴.

Furthermore, the Ministry of Justice stressed that, from a procedural point of view, the law also provides for all the necessary conditions to prosecute the perpetrators of such an offence. **For example, the Romanian Criminal Procedure Code also recognises the admissibility of audio or video recordings of the crime as evidence**⁵.

The Ministry of Justice further mentioned that, from a regulatory point of view, **there is no element that could have a possible discouraging effect of the legal framework in force with regard to the reporting of the crime by the victims or its proper enforcement by the judicial authorities.**

With regard to ensuring access to legal assistance for victims of harassment/violence in the workplace, the Ministry of Justice clarified that the provisions of art. 93 para. 4 of the Criminal Procedure Code, as amended by point 2, article II of Law No. 217 of 10 July 2023, published in Official Gazette No. 634 of 11 July 2023, in force from 1 January 2024, **provide mandatory legal aid when the injured person or civil party is a victim of the crime of sexual harassment**⁶.

At the same time, the Ministry of Justice indicated that, with regard to the legal possibility for the victim of sexual harassment to request the granting of a protection order, *Law No. 26/2024 on Protection Orders* provides for the possibility of granting a protection order for the commission of any act of violence within the meaning of the said law, so that none of the offences contained in the Criminal Code (*niciuna dintre infractiunile curpinse in codul penal*) is excluded from the application of this legal instrument.

⁴https://www.legifrance.gouv.fr/codes/section_lc/LEGITEXT000006070719/LEGISCTA000021796051/#LEGISCTA000021796946

⁵ **Article 139 of the Criminal Procedure Code** -Technical inspection

(3) The recordings provided for in this Chapter, made by the parties or other persons, shall constitute evidence if they relate to their own conversations or communications with third parties. All other recordings may be used as evidence, unless prohibited by law.

⁶ **Article 93 of the Code of Criminal Procedure** - Legal aid for the injured person, the civil party and the person liable under civil law.

(4) Legal assistance shall be obligatory if the injured person or the civil party is a person deprived of legal capacity or with restricted legal capacity, or if the injured person or the civil party is the victim of one of the offences referred to in articles 197, 199, 209-216¹, 218, 218¹, 219, 219¹, 221, 222 and 223 of the Criminal Code".

Moreover, *Law No. 26/2024 on Protection Orders* does not use the concept of "crime", but rather that of "act of violence", **so that its provisions can be applied regardless of the existence of criminal proceedings for these acts and their classification as sexual harassment or as another crime.**

The Ministry of Justice also pointed out that since the concept of "act of violence", as defined in the aforementioned law, is sufficiently broad to cover any type of manifestation that, by its nature and seriousness, may justify the application of a restrictive measure, **it follows that the issuance of a protection order, even in the absence of a specific provision, may find a legal basis in the aforementioned law, including for acts that fall within the content of the offence of sexual harassment.**

An additional argument in this regard is the fact that *Law No. 26/2024* does not provide its own definition of the concept of psychological violence, which is why it should be understood in the common sense (which implies that it may include, but is not limited to, emotional abuse, coercive and controlling behavior, stalking and harassment) or with the meaning given to psychological violence by other normative acts that regulate it, such as art. 4 par. 1 letter b) of *Law no. 217/2003 on the prevention and combating of domestic violence*.⁷

According to the Ministry of Justice, sexual harassment constitutes an act of violence (of a sexual nature) within the meaning of *Law No. 26/2024* and may lead to the issuance of a protection order given that in Romanian criminal law, the crime of sexual harassment is found in Title I, Chapter VIII of the Special Part of the Penal Code, a chapter dedicated to offenses against sexual freedom and integrity.

Regarding the adoption of legislative measures in criminal matters that would serve the enforcement process in the case of *C. v. Romania*, the Ministry of Justice clarified that **Art. 299 of Law no. 286/2009 on the Criminal Code defines the crime of abusive use of office for sexual purposes, in the standard and assimilated versions,** a crime with a specific active subject. Thus, the above mentioned article incriminates the act of a public official who, in order to perform, not to perform, to accelerate or to delay the execution of an act concerning official duties, or in order to act contrary to such duties, demands or obtains sexual favors from a person directly or indirectly interested in the effects of that professional act (Art. 299 paragraph 1 of the Criminal Code), or who claims or obtains sexual favors by taking advantage of a position of authority or superiority over the victim, arising from the position held (Article 299 paragraph 2 of the Criminal Code).

In addition, a mitigating version of the offense (*varianta atenuantă*) is also provided for in Article 299 in conjunction with Article 308 of the Criminal Cod and is committed when the act of misuse of office for sexual purposes described in the standard version and the assimilated version is committed by a person who permanently or temporarily, with or without payment, carries out an assignment of any kind in the service of a natural person among those referred to in Article 175 para. (2) or in the service of any legal person.

⁷ **psychological violence** - forcing one's will or personal control, causing mental distress and distress in any way and by any means, by verbal or any other form of threat, blackmail, demonstrative violence to objects and animals, ostentatious display of weapons, neglect, control of personal life, acts of jealousy, coercion of any kind, unlawful stalking, surveillance of the victim's home, place of work or other places frequented by the victim, making telephone calls or other types of communication by means of remote transmission which by their frequency, content or timing create fear, and other actions with similar effect.

Moreover, the Ministry of Justice indicated that, in order to combat sexual harassment in schools and universities, a new paragraph⁸ was added to Article 299 of Criminal Code by *Law No. 430 of 29 December 2023*, published in the Official Gazette No. 1 of 3 January 2024, which aims to incriminate the acts referred to in paras. (1) and (2) which have been committed by university or pre-university teaching staff against a pupil or student.

3. The information provided by the **Prosecutor's Office attached to the High Court of Cassation and Justice (hereinafter, PICCJ)** mentioned that, by *Order no. 51/19.03.2021 of the Prosecutor General of the PICCJ*, a thematic control was conducted at the level of all the prosecutor's offices on the legality and consistency of the solutions disposed in 2020 in cases that had as their subject matter the offense of sexual harassment. The control sought to **identify vulnerabilities in the prosecution activity**, which would call into question the failure to comply with international obligations related to women's rights and their protection against violence, in particular *the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention)*. The PICCJ mentioned that this control **examined the way in which criminal prosecution in cases of sexual harassment is carried out, in order to ensure the judicial effectiveness of this incrimination.**

As a result of the control, some difficulties were revealed in the practice of the prosecution units in defining the meaning of "sexual favors" in the provisions of Article 223 of the Criminal Code, but also in relation to determining the consequence of a repeated request for sexual favors (intimidation or putting the victim in a humiliating situation), which outlines the elements of objective typicity of the offense of sexual harassment.

At the same time, the heads of the public prosecutor's offices were reminded of the need **to resolve cases within reasonable time limits, and to investigate them in an impartial manner that meets the challenges of the modern world, taking into account the practice of the European Court of Human Rights**, which condemned the obstacles to women's effective and non-discriminatory access to justice, the lack of a full and effective investigation in cases of gender-based violence, the lack of celerity and the lack of prompt action by judicial bodies, which are in themselves means of protecting vulnerable victims, such as victims of gender-based violence.

As part of the thematic control, **the findings regarding the wrong legal classification of the reported facts and other procedural shortcomings identified were reported to the prosecutor's offices. Furthermore, the conclusions and findings of the inspection were subsequently disseminated to the subordinate prosecutor's offices.**

The PICCJ also mentioned that **an analysis of cases/circumstances leading to the decision not to prosecute and acquittal in cases of "sexual offences" has been conducted at all prosecution units of the Prosecutor's Office, including for sexual harassment under Article 223 of the Criminal Code.**

Also, the PICCJ mentioned that it had developed a standard form for informing victims in criminal investigations.

The standard forms for hearing the parties and the main procedural issues in criminal proceedings are part of the **Integrated Management Information System of Hearings and has been implemented at prosecutor's offices as of January 1, 2024 by Order of the General Prosecutor of the PICCJ No 350/29 November 2023.**

⁸ *Art. 299 of the Criminal Code - Abuse of office for sexual purposes* (3) If the acts referred to in para. (1) and (2) have been committed by university or pre-university teaching staff against a pupil or student, the special limits of the punishment shall be increased by one third.

The PICCJ also indicated that it is currently acting as the promoter and partnership leader of the project "Protection of Victims of Crime", funded by the Norwegian Financial Mechanism 2014-2021. The aim of the project is to strengthen the rule of law by ensuring an efficient, accessible and high-quality criminal justice system for child victims of crime and victims of hate crimes, with a special focus on the Roma population.

With regard to the question of gathering statistical data, the PICCJ mentioned that, in the future, **the collection of all statistical data will be made operational through the implementation of the ECRIS-V program**, developed within the framework of the project "Support for the development of the electronic case management system ECRIS V", managed by the Ministry of Justice, which has, as one of its objectives, the interconnection with the databases of the courts.

As regards the statistical data on crimes committed the PICCJ mentioned that between 2021-2023, **the information regarding the crime of sexual harassment are as follows:**

In **2021**, 96 cases of sexual harassment were registered, of which 43 cases were closed by dismissal and 4 cases were closed by order of reassignment, dismissal, suspension or detention for prosecution (*reunirea, declinarea, suspendarea sau reținerea în vederea efectuării urmăririi penale*); at the end of the reporting period, 38 cases with known perpetrators and 11 cases with unknown perpetrators remained unresolved.

In **2022**, 96 cases of sexual harassment were registered, of which 31 cases were closed by dismissal and 5 cases were closed by order of reassignment, dismissal, suspension or detention for prosecution (*reunirea, declinarea, suspendarea sau reținerea în vederea efectuării urmăririi penale*); at the end of the reporting period, 49 cases with known perpetrators and 8 cases with unknown perpetrators remained unresolved.

In **2023**, 84 cases of sexual harassment were registered, of which 1 was sent to trial, 28 cases were closed by dismissal and 4 cases were closed by order of reassignment, dismissal, suspension or detention for prosecution (*reunirea, declinarea, suspendarea sau reținerea în vederea efectuării urmăririi penale*); at the end of the reporting period, 42 cases with known perpetrators and 7 cases with unknown perpetrators remained unresolved.

4. **The Ministry of the Interior** (the MAI) informed that the normative framework regulating the promotion of equal rights and equal treatment between women and men, with the aim of eliminating all forms of discrimination based on sex in all spheres of public life in Romania, including sexual harassment in the workplace, is regulated by *Law No. 202/2002⁹, republished, with subsequent amendments and additions, by Government Ordinance No. 137/2000¹⁰, republished, with subsequent amendments and additions, and by Government Ordinance No. 262/2019¹¹ republished, with subsequent amendments and additions.*

At the same time, *Law No. 146/2021 on Electronic Monitoring in Judicial and Law Enforcement Proceedings*, as subsequently amended and supplemented, created the legal framework for the implementation of the measure requiring the offender to wear an electronic monitoring device at all times. The effective implementation of the measure began on 01.10.2022, in a pilot project, in accordance with the provisions of *Government Ordinance No. 1025/2022 on the establishment of technical and organisational aspects of the functioning in the pilot project, as well as on the operationalisation of the electronic monitoring computer system, as subsequently amended and supplemented.*

⁹ on equal opportunities and equal treatment between women and men

¹⁰ on preventing and sanctioning all forms of discrimination

¹¹ for the approval of the Methodological Norms for the application of the provisions of Law no. 202/2002 on equal opportunities and equal treatment between women and men

In 2023, the methodology for preventing and combating gender-based harassment and moral harassment in the workplace was approved by *Government Decision No. 970/2023*.

Furthermore, in 2024, *Law No. 69/2024* was enacted to ratify *Convention No. 190/2019 on the Elimination of Violence and Harassment in the world at work, adopted at the 108th session of the International Labour Conference of the International Labour Organization in Geneva on 21 June 2019*.

The Ministry of the Interior also highlighted that *Law No. 26 of 28 February 2024 on protective orders*, **emphasizes the protection of the integrity of victims of crime**. Additionally, the Ministry of Interior has implemented measures aimed at enhancing the ethical environment within the organization to establish a system for the immediate reporting of such incidents. This includes the creation of a special telephone and an e-mail for reporting incidents of discrimination, harassment, or comparable treatment directed at the personnel of the Ministry of Interior, as mandated by *Order of the Minister of Interior No. 60/2013*¹².

Also, in 2018, a regulation¹³ was issued to prevent behavioural deviations affecting the work and image of the Ministry of Internal Affairs and to identify and manage possible individual/group vulnerabilities that may have the effect of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment.

The Ministry of the Interior also stated that it is one of the relevant institutions with attributions in the fulfilment of the objectives contained in the Action Plan for the Implementation of the National Strategy for the Promotion of Equal Opportunities and Equal Treatment of Women and Men and for the Prevention and Combating of Domestic Violence for the Period 2022-2027. The primary focus areas include initiatives to combat gender-based violence, promoting gender equality in leadership and decision-making, ensuring gender equality in recruitment and career advancement, and implementing gender mainstreaming in research and education.

Moreover, in 2023, three representatives of the Ministry of the Interior were appointed as members of the Inter-ministerial Committee for the Implementation, Monitoring and Evaluation of the Strategy.

In line with the European Commission's gender equality strategy for 2020-2025, **the Ministry of Interior appointed a gender advisor, and in 2023, published the Gender Equality Plan for the Ministry of Interior - 2023 on its official website**. This strategic document outlines key areas for intervention, sets objectives, specifies measures, and identifies responsible individuals. The primary focus areas include initiatives to combat gender-based violence, promote gender equality in leadership and decision-making, enhance gender equality in recruitment and career advancement, and incorporate gender perspectives in research and education. Moreover, within the MAI, the legal and regulatory framework applicable to the field of prevention and combating of any inappropriate behaviour at the organisational level, including those that may take the form of moral harassment in the workplace, is comprehensive and ensures adequate legal protection.

¹² on the establishment of a hotline and an e-mail address for reporting acts/facts of discrimination, harassment or similar treatment directed against the staff of the Ministry of Internal Affairs, as well as for establishing organizational measures.

¹³ to establish measures for the identification and management of potential maladaptive behaviour among the staff of the Ministry of the Interior.

The MAI also mentioned that with regard to the ECHR recommendation on "specialised training on harassment at the workplace from a gender and human rights perspective for authorities/institutions dealing with harassment cases, including judges and police officers", this is currently being addressed by the initial/continuing training structures of the Ministry of Justice/The Public Prosecution/MAI and may be developed in the framework of joint training. The institution further mentioned **that it pays particular attention to this segment of training for its own staff**. Within the framework of professional training, aspects of moral and sexual harassment are included in certain training topics in the field of human rights, with the aim of preventing such acts with anti-social implications, such as hate crimes, issues of discrimination and human rights, defence of human rights and fundamental freedoms, rights of citizens and respect for the principle of equality between citizens, various forms of discrimination and their punishment, discriminatory attitudes and behavior, hate-motivated, human rights and respect for them in police work, international obligations for the investigation of hate crimes, prohibition of torture and ill-treatment, diversity and legal principles to be respected when dealing with people with disabilities, and the role of the police in the fight against racism and xenophobia.

With regard to the protection of victims of sexual harassment, the Ministry of the Interior has mentioned that it is important to take into account the statistics on the number of complaints registered by the Romanian police regarding this crime.

According to data provided by the General Inspectorate of the Romanian Police, the number of referrals between 2015-2024 fluctuated from year to year. **Last year, there was a decrease in referrals, which is attributed to the measures taken by the Romanian authorities, including the Ministry of the Interior, to prevent and combat sexual harassment.**

In this regard, **at the national level, the statistical data available at the level of the General Inspectorate of the Romanian Police** on the number of criminal complaints regarding the offence of sexual harassment, an offence provided for and punishable under Article 223 of the Criminal Code, **showed a decrease from 58 records (in 2019)¹⁴ to 25 records (in 2023)**, reflecting the continued concern for the issue in question. The MAI also stated that the entry into force of *Law 26/2024 on Protection Orders* is an important step in ensuring more effective protection for victims and combating the phenomenon of sexual harassment, and the continuous analysis of statistical data will continue to play an important role in the evaluation and adjustment of policies and measures aimed at preventing and combating this type of crime.

5. The Ministry of Labour and Social Solidarity mentioned that it has completed all the necessary measures for the ratification of Convention 190 of the International Labour Organization, thus Law No. 69/2024 was published in the Official Gazette of Romania No. 285 of 2 April 2024, and that it will enter into force and produce legal effects for Romania one year after the date of registration of the notification of ratification.

¹⁴ the highest number of annual referrals from 2015-2024 to date.

Moreover, an inter-institutional working group (composed of representatives of the Ministry of Labour and Social Solidarity, the Ministry of Family, Youth and Equal Opportunities, the Ministry of Development, Public Works, Administration and other institutions) was set up, coordinated by the General Secretariat of the Government, with the direct participation of trade unions, employers' associations and non-governmental organizations, with the aim of harmonizing national legislation with the requirements of the ILO Convention No. 190.

6. The **Labor Inspectorate** reported that, according to its competence, **the institution periodically carries out thematic inspections within the National Companies**, aimed at ensuring the compliance by employers and employees with the provisions of *Law no. 202/2002 on equal rights and equal treatment between women and men, republished, with subsequent amendments and additions*, and verifies how employers fulfill their obligation to ensure compliance with the principle of non-discrimination and the elimination of any form of violation of dignity at work.

7. **The National Agency for Equal Opportunities (ANES)**, mentioned that **moral harassment in the workplace has been regulated since 2020 by Law No. 167/2020 for the amendment and supplementation of Government Ordinance No. 137/2000 on the prevention and sanctioning of all forms of discrimination, republished**, with subsequent amendments and additions as well as for the completion of Article 6 of *Law No. 202/2002 on equal opportunities and equal treatment between women and men*.

8. In order to provide support to public institutions and private companies in the implementation of legislation and public policies in the field of combatting harassment, **the Ministry of Family, Youth and Equal Opportunities, through ANES, has promoted a regulation, respectively H.G. 970/2023 for the approval of the Methodology on preventing and combating harassment based on gender, as well as moral harassment at work.**

This regulation provides the methodological framework and represents a **working tool for equal opportunities experts/technicians and employees with responsibilities in the field of equal opportunities and equal treatment between women and men**. The document has been developed in full accordance with the specific problems faced by employees, which require specific intervention. Thus, the methodology addresses **concrete measures of action to prevent and combat moral harassment in the workplace, bringing innovations in terms of how the principle of gender equality is reflected in public policies**. The above-mentioned law also regulates a model guide on preventing and combating harassment on grounds of sex and harassment in the workplace. It thus transposes **guiding principles, the legal, conceptual and methodological framework, roles and responsibilities, means of resolution and sanctions in order to support both employees and employers in managing the phenomenon of harassment based on sex and bullying in the workplace**.

Regarding the monitoring of the enforcement of the above-mentioned methodology, **ANES** mentioned that the institutions and authorities of the central and local public administration are required to draw up an annual report on the implementation of the provisions and submit it to ANES. In addition, according to *Government Decision No. 970/2023*, the Ministry of Labour and Social Solidarity, through the Labour Inspectorate, **controls the application of the provisions of the Methodology and submits annually to ANES cases of non-compliance with its provisions.**

On the topic of access to legal and psychological assistance, the ANES mentioned that, **according to the provisions of *Law 970/2023*, the victim has the right to be assisted by a counsellor within the institution/employer during the process of resolving the complaint/assessment.** The victim may be assisted by a trade union or employee representative during the complaint/assessment procedure. Furthermore, ANES pointed out that a committee set up to deal with cases of harassment must ensure that the victim is informed of the possibility of seeking legal or psychological counselling. In this context, employers are obliged to find the necessary solutions and resources to provide psychological counselling to victims.

At the same time, ANES mentioned that, by *Order no. 173/65/3042/C/2021*, the *Methodology for multidisciplinary and interinstitutional assessment and assistance in the supply of assistance and protection services for victims of crime* was approved. The aim of the methodology is to improve multidisciplinary and interinstitutional assistance in the provision of support and protection services to victims of crime, to ensure respect for the rights of victims of crime and for the principles of information, support and protection of victims of crime.

With regard to the collection of data on moral harassment in the workplace, a series of externally funded projects have been approved at ANES level, proposing a series of concrete actions and measures to ensure the means and tools necessary for the correct application of the legislation, namely the creation of a platform for the digitalization of the procedure for monitoring the application of Government Ordinance No. 970/2023. This will create an integrated data system on the phenomenon of moral harassment in the workplace.

IV. Conclusions

In the light of the foregoing, as no further individual measures can be taken and all necessary and general measures have been adopted in this case, **the Government kindly asks the Committee of Ministers to close its supervision of the execution of this judgment with regard to the individual measures in the case of *C. v. Romania*.**

At the same time, the Government respectfully draw the Committee's attention to **the progress achieved with regard to the general measures required in this case. Finally, the Government will continue to inform the Committee on any relevant developments in this case.**