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STATUTORY LIMITATIONS AND THE RULE OF LAW: ROMANIA'S STRUGGLE FOR JUSTICE AND EU ALIGNMENT*

ABSTRACT

Romania's integration into the European Union (EU) has been a catalyst for significant advancements in democracy and the rule of law. However, the country continues to grapple with persistent challenges in ensuring justice and accountability. A critical issue at this moment is the statutory limitation of criminal liability, which frequently undermines efforts to prosecute corruption, abuse of power, and other serious offenses. This article explores the intersection of statutory limitations with Romania's broader struggle to strengthen the rule of law, focusing on the implications for national governance and the EU framework. The misuse of statutory limitations in Romania has created systemic barriers to justice, particularly in cases involving high-profile corruption. Judicial inefficiencies, delayed investigations, and political interference often allow perpetrators to evade accountability, eroding public trust in democratic institutions. This dynamic poses a significant threat to Romania's democratic consolidation and alignment with the EU's foundational values. The article analyzes specific case studies of corruption where statutory limitations have thwarted justice, highlighting their impact on public confidence in the rule of law. Romania's challenges are contextualized within the broader EU landscape, where the rule of law is a cornerstone principle. Mechanisms such as the European Commission's Rule of Law Report and the Cooperation and Verification Mechanism (CVM) have been instrumental in monitoring Romania's judicial reforms and anti-corruption efforts. While these tools have driven some progress on the matter, we still have serious concerns regarding the judicial independence. The article evaluates the role of the EU in addressing these deficiencies, including the potential of the Rule of Law Conditionality Regulation to incentivize member states to uphold democratic principles. The analysis emphasizes the need for comprehensive reforms in Romania to mitigate the detrimental effects of statutory limitations. Legislative measures, such as guarantees for a more independent judicial system, improving judicial efficiency and reducing political and government control over the judicial are proposed as essential steps to prevent justice from being delayed, denied or influenced. By examining Romania as a case study, this article sheds light on the broader implications of statutory limitations for the EU's efforts to safeguard democracy and the rule of law. Ensuring accountability for corruption and other serious offenses is crucial for maintaining public trust, strengthening democratic institutions, and upholding the EU's

values. The findings contribute to ongoing discussions on the role of statutory limitations in shaping the effectiveness of justice systems within the EU, offering policy recommendations to address these pressing challenges.

Keywords: *Statutory limitations; rule of law; judicial reform; European Union integration*

1. INTRODUCTION

The accession of Romania to European Union beginning with 01 of January 2007 is perhaps one of the most significant events in its democratic state existence.¹ This moment is a very important transition toward a democratic governance and enhanced adherence to the rule of law. Therefore, the country has carried out a number of reforms towards the modernization of the country's legal framework to align it to the European Union values. However, Romania continues to face great difficulties in the development of a justice system that can guarantee the full respect of human rights principles. The current and main issue that is challenging these efforts is the statutory limitation of criminal liability² – a legal provision that is meant to prevent the indefinite threat of prosecution, but which in practice has often hampered proper prosecution of corruption, abuse of power, and other crimes. This paper explores how the legal provision related to statutory limitations of criminal liability and the judicial authorities have created systemic barriers to justice, particularly in high-profile corruption cases, where judicial inefficiencies, protracted investigations, and political interference have enabled the responsible to evade justice. Such outcomes not only diminish public trust in the judicial system but also threaten the very foundations of democratic consolidation and the country's commitment to respect the core values of the EU. One of these core values is the principle *Rule of law*,³ that is essential for ensuring democracy, judicial independence and respect for the human rights.

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¹ For more on the subject see, Fuerea, A., *Manualul Uniunii Europene, Ed. a 6-a*, Editura Universul Juridic, Bucharest, 2016, p. 300-318.

² Statutory limitation of criminal liability is currently regulated in Law No. 286/2009 regarding the Criminal Code Criminal Code of Romania at art. 154-156, available on [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-REF\(2018\)042-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-REF(2018)042-e)

³ According to the Report of the Secretary General of the United Nations published on 23 of August 2004, titled "The rule of law and Transitional Justice in conflict and Post-Conflict Societies Report", p.4, Rule of law refers to a principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards. It requires, as well, measures to ensure adherence to the principles of supremacy of law, equality before

Over the past couple of years, several high-profile corruption cases have shown how statutory limitations can be exploited to delay or derail prosecutions and so undermining public confidence in the justice system. Moreover, Romania's struggles are set against the broader backdrop of EU governance, where the rule of law remains a cornerstone principle. EU mechanisms, including the European Commission's Rule of Law Report and the Cooperation and Verification Mechanism (CVM), have been pivotal in monitoring judicial reforms and anti-corruption efforts. Our paper will outline the main concerns written by EU officials in the CVM and Rule of law reports related to the Romanian Rule of Law. This paper analyses case studies and takes a close look at how both Romania and the EU tackle these issues, aiming to add something meaningful to the wider conversation about judicial reform and democratic governance. It's all about coming up with practical policy ideas to tackle the downsides of statutory limitations, so Romania's justice system can step up its game in fighting corruption and keeping democratic principles strong. We strongly believe that if Romania adopts an adaptive approach that bridges legislative reform with a scope to create an independent judicial system with no interference from the political side, a sound technological implementation and clear legislative procedures, the way for a more effective justice system will be paved, one that fully aligns with the democratic values and human rights principles that are the heart of the EU construction.

2. STATUTORY LIMITATION ON CRIMINAL LIABILITY: LEGAL FRAMEWORK AND SYSTEMIC ISSUE

Romanian's pursuit to join the EU was the momentum for a much-needed accelerated reform for the harmonization of national laws and principals with the EU standards and rule of law. There is no doubt that the reforms performed after the 2000's have substantially modified the legal landscape a created a much more efficient legal system where the respect for the human rights are mandatory.⁴

the law, accountability to the law, fairness in the application of the law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness and procedural and legal transparency available on <https://digitallibrary.un.org/record/527647?v=pdf>; For more on the rule of law see: Stein, A., *What Exactly Is the Rule of Law?* University of Minnesota Law School, 2019, Volume 185.

⁴ For a detailed analyses on the subject see: Furea, A., *Modificări legislative esențiale adoptate după aderarea României la Uniunea Europeană*, Romanian Academy, Institute of Legal Research "Acad. Andrei Rădulescu", 10 Years Since Romania's Accession to the European Union. Impact on the Evolution of Romanian Law, Bucharest, March 31, 2017, p. 371-381.

Nevertheless, challenges persist, especially in ensuring judicial independence especially in high criminal cases where politicians are involved.

2.1. Legal framework

One of the most important legal reforms that Romania performed are related to the Criminal laws. In 2014, Romania adopted the new criminal Code, which is applicable since 1st of February 2014.⁵ This new code, along with the Penal Procedure Code,⁶ replaced the old criminal codes which had been in place since 1969.⁷ Such a legislative change holds major significance for any state, as it illustrates the evolution and the manner in which society chooses to regulate matters falling within the scope of criminal law while simultaneously safeguarding individual rights. In fact, the importance of enacting legislation in the criminal field is best exemplified by the following quotation: *"The words of criminal law are the keys to prisons. They are the keys to the forbidden city, where an individual is deprived of his most precious asset, personal liberty."*⁸

Despite the fact that the new codes have been in force for 11 years, one of the major challenges Romania faces today concerns the mechanism through which the statute of limitations is regulated and applied by the judiciary. This challenge reverberates not only domestically but also internationally, notably within the context of the European Union, as we will present below.

2.2. Systemic issues

The statute of limitation of criminal liability is understood as the elimination of criminal liability for an offense due to the passage, under certain conditions, of a given period of time, thereby extinguishing the criminal legal relationship arising from the commission of the offense and removing it from the scope of criminal

⁵ Law No. 286/2009 regarding the new Criminal Code, with subsequent amendments and additions, published in the Official Gazette (M. Of.) No. 510 of July 24, 2009.

⁶ Law No. 135/2010 regarding the new Criminal Procedure Code, with subsequent amendments and additions, published in the Official Gazette (M. Of.) No. 486 of July 15, 2010.

⁷ Law No. 30/1968 regarding the Criminal Code of the Socialist Republic of Romania published Official Gazette (M. Of.) No. 147 of November 13, 1968.

⁸ Papa, M., *Fantastic Voyage, În lumea dreptului penal special*, translation into Romanian of the second edition by Ioana-Celina Pașca, Universul Juridic, Bucharest, 2022, p. 24.

law.⁹ This institution is particularly important in the legal system, as it limits over time the possibility and legal obligation to hold accountable those who have committed offenses provided for by criminal law. At the same time, it is subject to a fundamental constitutional principle, namely, the principle of applying the more favorable criminal law, as established in Article 15, paragraph 2 of the Constitution of Romania.¹⁰

Statutory limitations on criminal liability are set out in art. 154 of the Romanian Criminal Code, and refer to limits for prosecution on criminal offenses: eight years for crimes with 5–10-year penalties, and ten years for those exceeding 10 years but less than 20 years penalties. These limits aim to ensure timely justice and legal certainty, a principle shared across EU states. The statute of limitation in criminal trials became a challenge for the judicial system in 2018, when the Romanian Constitutional Court gave the Decision no. 297/2018¹¹ that stated that art. 155¹² from the Penal Code is unconstitutional. Basically, the Court said that “*the legislative solution which provides that the interruption of the term of the statute of limitation in criminal trials upon the performance of any procedural act in question is unconstitutional.*” In the same decision, the Court refers to the fact that the legislative solution provided in the 1968 Penal Code,¹³ according to which the statute of limitation of criminal liability was interrupted by the performance of any procedural act that was required to be communicated to the accused or defendant, is constitutional. This Decision of the Court marks the beginning of an extensive series of ruling that have shaped and influenced the way of ruling on criminal trials. The practice of the courts has been considerably affected, as the interpretation of the decision's effects has resulted in contradictory solutions.¹⁴ As

⁹ Dongoroz, V., Kahane, S., Oancea, I., Fodor, I., Iliescu, N., Bulai, C., Stănoiu, R., Roșca, V., *Explicații teoretice ale Codului penal român, Partea generală, Vol II*, Editura Academiei Republicii Socialiste România, 1970, p. 358.

¹⁰ According with art. 15 paragraph 2 from the Constitution of Romania, “*The law applies only to the future, except in the case of a more favorable criminal or misdemeanor law.*”

¹¹ Published in the Official Gazette (M. Of.) No. 518 of June 25, 2018.

¹² The text provided in Article 155 of the Criminal Code, which was the subject of the Constitutional Court's analysis, was as follows: “*The course of the statute of limitations for criminal liability is interrupted by the performance of any procedural act in the case*”

¹³ According to Article 123 of the 1968 Criminal Code, “*The course of the statute of limitations provided in Article 122 is interrupted by the performance of any act which, under the law, must be communicated to the accused or defendant during the criminal proceedings*”.

¹⁴ The contradictory solutions arose because some courts viewed the Constitutional Court's decision as interpretive, leading them to conclude that the statute of limitations for criminal liability could only be interrupted by an act that must be communicated to the suspect or defendant, as the Constitutional Court had ruled in its decision. On the other hand, other courts saw Decision No. 297/2018 as a simple ruling, and as a result, they determined that the statute of limitations could no longer be interrupted since there were no longer any provisions specifying which acts could trigger an interruption.

a result, a general confusion was created in the judicial system and therefore the rule of law was affected because in similar cases, solutions on the criminal charges were different.

Although the Romanian Parliament had the legal obligation¹⁵ to amend and to correct any legal text that was declared unconstitutional by the Romanian Court, within 45 days from the Decision, no measures were taken. In this context, the vast majority of the criminal courts in Romania implemented the Constitutional Court's decision in accordance with paragraph 34 of the ruling, which stipulated that the statute of limitations for criminal liability is interrupted solely if an official act, as prescribed by law, is communicated to the accused or defendant. However, as will be demonstrated, this interpretation was fundamentally flawed.

After 4 years from the Decision no. 297/2018, the Constitutional Court of Romania pronounced Decision no. 358/2022,¹⁶ which analyzed the remaining text of Article 155¹⁷ of the Penal code. By this decision, the Court not only invalidates the doctrinal position and the majority jurisprudence regarding the nature and effects of Decision no. 297/2018, but also explicitly highlights the legislator's passivity in adapting the norm that was previously declared unconstitutional. Consequently, the Court stated that throughout the entire duration of this period, the legal grounds that allowed for the interruption of the statute of limitations for criminal liability have, in fact, been removed from the normative framework. The main effect of this second Decision was that in most cases concerning corruption offenses, fraud involving European funds, and VAT, the courts have ordered the dismissal of criminal proceedings due to the application of the statute of limitations for criminal liability, in light of the effects of Constitutional Court Decision No. 358/2022. In this regard, it is relevant to highlight that the National Anticorruption Directorate (NAD) closed 557 criminal cases following the application of Constitutional Court Decisions No. 297/2018 and 358/2022¹⁸. In many of these cases, damages

¹⁵ According to Article 147 paragraph 1 of the Romanian Constitution, "*Provisions in laws and ordinances in force, as well as those in regulations, that are found to be unconstitutional shall cease to have legal effect 45 days after the publication of the Constitutional Court's decision, unless, within this period, the Parliament or the Government, as applicable, aligns the unconstitutional provisions with the Constitution. During this period, the provisions deemed unconstitutional are automatically suspended*"

¹⁶ Published in the Official Gazette (M. Of.) No. 565 of June 9, 2022.

¹⁷ After the issuance of Decision No. 297/2018, the wording of Article 155 of the Criminal Code was as follows: "(1) *The course of the statute of limitations for criminal liability is interrupted by the performance of.*" It's important to say that without changes, from the legislative body, to Article 155 of the Criminal Code, it was hardly surprising that the provision would be contested at the Constitutional Court, since it had essentially become unusable.

¹⁸ As stated in the NAD Press Release No. 918/VIII/3 of October 28, 2022 available here: <https://www.pna.ro/comunicat.xhtml?id=11549>

resulting from the committed offenses had already been calculated, amounting to approximately 1.2 billion euros. Furthermore, as indicated by the jurisprudence portal¹⁹ of the Superior Council of Magistracy, between 2022 and 2024, courts ruled to terminate criminal proceedings due to the statute of limitations in approximately 10,000 cases.

In major corruption cases involving politicians or businesspeople with influence over Romania's political system, courts have ruled for the termination of criminal trials, which has further weakened public trust in the judiciary. For example, Darius Vălcov, former Minister of Finance, escaped charges due to the statute of limitations in a case where he was accused of bribery and had been initially sentenced to six and a half years in prison by the first-instance court. Vălcov was accused of demanding 10% of the amounts collected by a businessman's company from the Slatina Municipality over 2.1 million lei during his tenure as mayor. Another significant case in which the criminal proceedings were terminated involved Elena Udrea, former Minister of Regional Development. The High Court of Cassation and Justice ruled to drop the charges against her after the NAD accused her of receiving 5 million dollars in exchange for intervening with the Ministry of Energy on behalf of a businessman. Additionally, in the case of Ioana Băsescu, daughter of former Romanian President Traian Băsescu, she was definitively cleared of charges of incitement to embezzlement and two counts of money laundering in the 2009 election campaign financing case. In the same case, Elena Udrea also saw charges against her dropped on July 11, 2023, including two counts of incitement to bribery and five counts of money laundering. These cases really show how tough it can be to get justice when there is indifference and lack of action from part of the legislative and judicial bodies. It's a serious issue, especially when powerful or well-known people manage to slip through the cracks. Beyond just those individual situations, it also messes with how people view democracy. If people notice that some influential politicians aren't being held accountable, they might start wondering if the system actually works for everyone. And honestly, it makes the justice system look kind of shaky—like maybe the rules don't apply the same way to all citizens.

3. THE EU'S ROLE IN UPHOLDING ROMANIA'S RULE OF LAW

The EU had a great influence in keeping Romania's Rule of law on track ever since the country joined back in 2007. They've used a mix of mechanisms—like

¹⁹ <https://www.rejust.ro/>

keeping a close watch on things, dangling financial incentives, and sometimes turning up the political heat—to make sure Romania sticks to democratic principles, keeps its courts independent, and tackles corruption in an efficient manner. And yes, it's worked to some extent—there's been some real progress worth noting. But it hasn't all been smooth sailing; there've been some rough patches, especially when the EU and Romania's government haven't exactly seen eye to eye. So, while the EU's efforts have definitely made a difference, it's pretty clear that keeping the rule of law strong is an ongoing effort, not something you can just check off and call done.

3.1. Monitoring and Enforcement Mechanisms in the EU

One of the first mechanism applied to Romania after accession to the EU in 2007 was the Cooperation and Verification Mechanism²⁰ (CVM). The purpose for this procedure was to support and monitor Romania's efforts to address specific shortcomings in judicial reform and the fight against corruption, areas where the country lagged behind other EU member states at the time of its accession. The key objectives for the CVM for Romania focused on four major topics: i) Ensuring a judicial process more transparent and efficient, ii) establish, as foreseen an integrity agency who would have the job of verifying assets, incompatibilities and potential conflicts of interest; iii) to continue the ongoing effort to tackle high level corruption with professional and unbiased investigations; iv) to take further measures to prevent and fight against corruption, especially with the local government. In order to conclude on the efficiency of the CVM mechanism, we analyzed the progress reports published by the European Commission and the conclusions could be summarized as follows: i) in the early years of the mechanism, the initial reports acknowledged some advancements in the key objectives; ii) in the 2018 report, concerns arose as progress reversed, particularly in judicial independence and combating high-level corruptions iii) in the reports published after 2019 it was concluded that Romania renewed its reform efforts, addressing setbacks from 2017-2019, with positive trends noted in 2021 and 2022.

As we know, on 15 September 2023, the European Commission formally closed the CVM, noting that Romania has fulfilled many of the benchmarks and recommendations set under this mechanism. While we cannot ignore the major role of this mechanism to the growth of democracy in Romania, the fact is that Romania is still behind other post-communist EU members. We might add that, as developments show in the recent years, a reversal of progress registered is much

²⁰ Adopted through the Commission Decision 2006/928/EC of 13 December 2006 available here: <https://eur-lex.europa.eu/eli/dec/2006/928/oj/eng>.

likely to happened and the fight against corruption remains vulnerable to obstruction or passivity by parliamentarian from across the political spectrum.

The legislative body's decision not to amend Article 155 of the Criminal Code after the Constitutional's Court Decision no. 297/2018—even while knowing that this could put the judicial system in a very difficult position—can be seen as a reversal of the progress made through the CVM mechanism, which was designed to sustain the ongoing effort to combat high-level corruption with professional and impartial investigations. After the closure of the CVM mechanism, Romania is being monitored under the Rule of Law Cycle as for all Member states. The annual Rule of Law reports assess various areas in all Member States, including the justice system and anti-corruption frameworks. They also cover crucial factors that affect reform capacity and sustainability, such as the quality of legislation and legislative processes, the role of independent institutions in maintaining checks and balances, as well as the conditions supporting civil society, media freedom, and pluralism. For example, the Rule of Law Report for 2023,²¹ although it recognized significant and positive changes on different topics relate to the justice system, it also evidences that the delayed legislative response for the statute of limitation on criminal liability led to the closing of corruption cases and the annulment of convictions. Even if the report does not specifically recommend actions related to our paper subject, we believe the call to implement measures, particularly at an operational level, to address ongoing concerns regarding the time period of investigation and prosecution of criminal offenses aligns with European standard of the Rule of Law and implicitly covers issues related to the statute of limitations on criminal liability.

In my view, several factors have contributed to the challenges faced by the Romanian justice system. Foremost among these is the insufficient personnel within prosecution offices, making harder the effective gathering of evidence needed to ensure justice. This shortage remains a significant issue even nowadays, reflecting the current state of Romania's prosecution bodies. The main reason many cases were dismissed following the Constitutional Court's decision was the inefficient investigation and prosecution processes that allowed the statute of limitations to expire. Furthermore, beyond the issue of personnel shortages is the corruption among high-ranking state officials. These individuals often seek to delay the investigation and prosecution of criminal cases by postponing essential legislative reforms that could enhance the judicial system's efficiency or by influencing judges or prosecutors to delay judicial procedures applicable.

²¹ Published on 5th of July 2023 by the Directorate-General for Justice and Consumers available here: https://commission.europa.eu/publications/2023-rule-law-report-communication-and-country-chapters_en.

Also, the Rule of Law Report for 2024²² highlights the same concern related to the delayed legislative response on the statute of limitation. In addition, the recent report highlights the European Court of Justice (CJEU) ruling on July 24, 2023,²³ which addresses issues related to the limitation of liability. This development follows Decision no. 358/2022 of the Constitutional Court of Romania. Despite this decision, many criminal courts in Romania chose not to dismiss ongoing cases where the statute of limitations had expired, effectively ignoring and refusing to apply the Constitutional Court's ruling. In response, the Brasov Court of Appeal sought a preliminary ruling from the CJEU. The questions asked by the national Court focused on whether national courts are bound by the rulings of the Romanian Constitutional Court, especially concerning the supremacy of European law, and whether non-compliance with these decisions could lead to sanctions against national judges.

In my opinion, this preliminary question was unnecessary, as Decision no. 358/2022 was clear and according to Article 147, paragraph 4 of the Romanian Constitution,²⁴ is binding for the Romanian judiciary, as stipulated in. The CJEU's ruling from July 24, 2023, emphasized the principle that offenses and penalties must be clearly defined by law. The CJEU concluded that EU law does not compel Romanian courts to disregard the Constitutional Court's judgments, even if such judgments lead to the dismissal of numerous criminal cases, including serious fraud cases affecting the Union's financial interests, due to the expiration of the limitation period. However, it also decided that Romanian courts cannot apply the principle of *lex mitior*²⁵ retroactively to invalidate the interruption of the limitation period by procedural acts that occurred before the Constitutional Court judgment. Basically, the CJUE ruling confirmed what the Romanian Constitution already stipulates, respectively that the Decisions of the Constitutional Court are binding. When evaluating the efficiency of the Rule of Law Mechanism compared to the Cooperation and Verification Mechanism (CVM), it is clear that non-compliance with the EU Rule of Law can lead to formal financial penalties aimed at enforcing corrective actions. In contrast, the CVM, while lacking direct enforcement

²² Published on 24th of July 2024 by the Directorate-General for Justice and Consumers available here: https://commission.europa.eu/publications/2024-rule-law-report-communication-and-country-chapters_en.

²³ Court of Justice of the European Union, judgment of 24 July 2023, Lin, C-107/23 PPU, ECLI:EU:C:2023:606, available here: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:62023CJ0107>.

²⁴ According to art. 147 paragraph 4 of the Romanian Constitution, "(4) The decisions of the Constitutional Court are published in the Official Gazette of Romania. From the date of publication, the decisions are generally binding and have effect only for the future."

²⁵ Is the principle stipulated in the Romanian Constitution that states that "*The law applies only to the future, except in the case of a more favorable criminal or misdemeanor law.*"

powers²⁶ and relying on political dialogue and recommendations, has effectively fulfilled its purpose, particularly in the case of Romania.

3.2. Potential of the Rule of Law Conditionality Regulation

The Rule of Law Conditionality Regulation is an EU regulation²⁷ that establishes a mechanism allowing the European Union to enforce adherence to rule of law principles among its member states. Adopted in December 2020, this regulation enables the EU to link access to EU funds to the respect of the rule of law. Basically, by this mechanism that is related to the Rule of Law Cycle, the EU budget is protected in cases when breaches of the Rule of Law principals affect or risk affecting the EU financial interests. One of the most promising aspects of this regulation is its ability to detect violations of Rule of law principles. By making access to EU financial resources contingent on compliance with these standards, it provides a strong incentive for governments to prioritize necessary reforms. Countries must align their legal and institutional frameworks with EU expectations to secure funding, which can drive substantial progress in areas like judicial independence and anti-corruption.

The regulation also features an enforcement mechanism that enhances its potential impact. The European Commission is responsible for monitoring compliance, and when it identifies shortcomings, it has the authority to propose measures, including the suspension of funds. The possibility of financial repercussions serves as a powerful tool for the EU, allowing it to address systemic problems in member states effectively, especially those who are dependent on the EU funds. By applying pressure through funding, the regulation may encourage governments to take the necessary steps toward reforming their judicial systems. I believe that the success of this regulation is dependent on consistent and fair enforcement by the European Commission and the Council of the EU. Therefore, the regulation must be applied equitably to all member states, in order to avoid and political sensitivities and concerns among EU member states.

Based on the Rule of Law Reports from 2022 to 2024, Romania may indeed face the risk of sanctions due to insufficient progress in upholding the rule of law.

²⁶ Sedelmeier, U., Lacatus, C., *Does monitoring without enforcement make a difference? The European Union and anti-corruption policies in Bulgaria and Romania after accession*, Journal of European Public Policy, 2020, p. 18. <https://doi.org/10.1080/13501763.2020.1770842>.

²⁷ Regulation (EU, Euratom) 2020/2092 of the European Parliament and of the Council of 16 December 2020 on a general regime of conditionality for the protection of the Union budget published in the Official Journal of the European Union L1 433/1.

Basically, the above-mentioned reports, indicate that Romania continues to face significant deficiencies in its judicial system that could, in our view, adversely affect EU financial interests. For instance, the regulation regarding the statute of limitations on criminal liability has already impacted the EU financially, as numerous criminal cases related to VAT fraud and tax evasion were dismissed due to delays in necessary legislative reforms. In this regard, I firmly believe that the EU must take decisive action to safeguard the rule of law. This involves conducting thorough assessments of the current state of rule of law in member states and implementing substantial measures that go beyond mere monitoring.

4. STRENGTHENING THE RULE OF LAW IN ROMANIA: STEPS FORWARD

It is indisputable that Romania has made significant progress in reforming its judicial system, being closely monitored through the CVM mechanism. However, these developments, in my view, still do not fully meet European standards, particularly regarding the assurance of judicial independence and respect for the Rule of law. The Romanian judicial system continues to face major issues that could undermine both the autonomy of the judiciary and public confidence in the judicial system. So, as Romania works toward a stronger justice system and a full alignment with the EU Rule of Law standards, the need for comprehensive reforms of the judicial body is both critical and urgent. The following recommendations aim to address key challenges faced by the judicial system in Romania, fostering greater efficiency, transparency, and public trust.

4.1. Extending the statute of limitations for complex cases

Legislative adjustments are needed to extend the statute of limitations for criminal liability in cases of economic crimes, corruption, and offenses that affect the financial interests of the European Union, especially given the high level of complexity due to the sophisticated fraud mechanisms employed by perpetrators. Such a measure would provide investigative authorities with sufficient time to conduct criminal investigations aimed at establishing the guilt or innocence of the accused. Although the current statutes of limitations for criminal liability are adequate and in line with European legislation, the Romanian judicial system lacks a sufficient number of investigative bodies to handle criminal cases. This shortfall is the primary reason why, in corruption cases, investigations are going very slow, frequently resulting in the statute of limitations being exceeded. Also, the political

influence on these cases, is another reason for which the investigations are not effective and made in timely manner.

4.2. Measures to reduce the workload

Effective measures to reduce the workload on the judicial system are crucial to ensure effective and high-quality rulings. To achieve this, it is imperative to increase the number of judges, prosecutors, and personnel within the investigative bodies responsible for criminal investigations.²⁸ Also, the executive body has to provide logistic and financing for the new personnel. For example, there are Courts in Romania fully staffed, that lack room space to hold court hearings. Without these additional resources, the judicial system cannot deliver timely justice and people end up waiting forever for a fair ruling. Adding more staff would help clear the backlog and get things move faster.

4.3. Keep politics out of the judicial system

Strengthening judicial independence is one of a key factor of the rule of law. In this respect, legislative measures are needed in order to protect judges and prosecutors from political interference. This can include clearer regulations regarding the appointment, promotion and disciplinary measures of judges, ensuring decisions are based on merit rather than political connections. In today's complex and delicate geopolitical environment, it is crucial to recognize that protecting democracy and the rule of law depends on an independent and efficient judicial system. Without this foundation, we risk facing consequences that could undermine the democratic values we have worked so hard to secure in Romania.

4.4. Digitizing the judicial system

Another key reform is the digitalization of the judicial system. The lack of a case management system often burdens and blocks the judicial system. Implementing a modern case management system and prioritizing the digitization of courts records and case files can significantly enhance the efficiency. Although Romania is officially digitized, in practice we still face significant challenges accessing the so-called software solutions implemented by the judicial system. For instance, the

²⁸ For more on the subject, see Rule of Law Report from 2023 available here: https://commission.europa.eu/publications/2023-rule-law-report-communication-and-country-chapters_en.

justice system's web portal²⁹ in Romania encounters numerous flaws and is often non-operational.

4.5. Continuous education of the judicial actors

Lastly, continuous education is necessary for all justice system participants judges, prosecutors, attorneys, and support staff extending far beyond the technicalities of legal knowledge. They have to be equipped with a deep understanding of their social role, as their rulings and actions can profoundly impact a person's life and future. When justice system actors recognize the impact of their decisions, they grow a robust sense of accountability, ensuring rulings are delivered with precision, impartiality, and adherence to ethical standards. Furthermore, this awareness cultivates empathy and emotional strength, empowering them to address the human dimensions of legal disputes with sensitivity and resilience. Ultimately, this commitment to education fortifies the justice system's core. It enhances fairness, strengthens public confidence, and upholds the rule of law as a cornerstone of a just and equitable society.

The importance of a fair and effective justice system cannot be overstated. Beyond punishing wrongdoers, it protects individuals from abuses of power, resolves disputes impartially, and upholds the principles of democracy. In Romania, where the echoes of a communist past still linger in collective memory, the justice system is a symbol of progress a promise that the rule of law will prevail over corruption, favoritism, or political agendas. When courts operate with integrity and efficiency, they send a clear message: no one is above the law, and every citizen has a voice. In times of crisis whether economic downturns, political scandals, or social unrest this reliability becomes even more vital, offering stability when other systems falter.

Romania's justice system has come a long way, but the journey is far from over. The stakes are high: a judiciary that works well strengthens democracy, boosts economic growth by fostering a predictable legal environment, and gives every citizen a fair shot at justice. Conversely, a system that falters risks deepening distrust and division. By committing to continuous improvement—faster courts, independent judges, and a focus on the public good—Romania can build a justice system that not only meets European standards but also earns the pride and trust of its people.

²⁹ www.portaljust.ro

5. CONCLUSION

Romania's integration into the European Union has marked a significant turning point in its pursuit to a democratic state and adherence to the rule of law. This journey has catalyzed notable advancements, yet persistent challenges, particularly the statutory limitation of criminal liability, continue to hinder the nation's ability to ensure justice and accountability. As explored throughout this article, these limitations have created systemic barriers, especially in high-profile corruption cases, where judicial inefficiencies, protracted investigations, and political interference have enabled perpetrators to evade prosecution. The consequent erosion of public trust in the justice system not only jeopardizes Romania's democratic consolidation but also its alignment with the EU's foundational values. The legal framework governing statutory limitations, shaped by the 2014 Criminal Code and subsequent Constitutional Court decisions—most notably Decisions No. 297/2018 and No. 358/2022—has inadvertently facilitated the dismissal of numerous cases. High-profile examples, such as those involving Darius Vălcov, Elena Udrea, and Ioana Băsescu, underscore how these limitations have been exploited, allowing influential figures to escape accountability despite initial convictions or substantial evidence. This has amplified public disillusionment, raising critical questions about the judiciary's capacity to deliver timely and equitable justice, particularly in complex cases impaired by political influence.

Within the broader EU context, Romania's struggles are subject to rigorous oversight through mechanisms like the Cooperation and Verification Mechanism (CVM), which concluded in 2023, and the ongoing Rule of Law Cycle. These tools have driven progress, yet the closure of the CVM and the transition to broader EU monitoring frameworks signal that Romania must now sustain its reform momentum independently. The EU's Rule of Law Conditionality Regulation, linking access to funds with rule of law adherence, emerges as a potent incentive. However, the delayed legislative response to statutory limitation issues—resulting in the closure of cases with damages exceeding 1.2 billion euros, as reported by the National Anticorruption Directorate—highlights the urgency of addressing these deficiencies to avoid financial repercussions and fully integrate into the EU's democratic framework.

To surmount these challenges, comprehensive reforms are imperative. Legislative adjustments to extend statutes of limitations for complex cases, such as corruption and economic crimes, would grant investigative authorities adequate time to pursue justice. Reducing judicial workload through increased staffing—judges, prosecutors, and investigators—coupled with logistical support, is essential to expedite case resolutions. Strengthening judicial independence via transparent

regulations on appointments, promotions, and disciplinary actions would shield the judiciary from political interference, a persistent threat to its integrity. Furthermore, modernizing the system through effective digitalization and prioritizing continuous education for judicial actors would enhance efficiency, accountability, and public confidence.

In conclusion, Romania stands at a pivotal juncture. The progress achieved since its EU accession is commendable, yet the systemic issues surrounding statutory limitations demand immediate and resolute action. By implementing the proposed reforms extending limitation periods, bolstering judicial resources, safeguarding independence, and embracing technological and educational advancements—Romania can fortify its justice system and align fully with EU standards. This endeavor transcends mere compliance with external expectations; it is about building a judiciary that ensures justice is accessible, impartial, and effective for all citizens. A robust and independent justice system is the bedrock of a resilient democracy, and Romania's success in this regard will not only benefit its society but also reinforce the EU's collective commitment to upholding the rule of law across member states. The opportunity for transformative change is within reach—Romania must act decisively to secure a future where justice prevails and democratic values endure.

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