

DGI Directorate General of Human Rights and Rule of Law

Department for the Execution of Judgments of the ECtHR

F-67075 Strasbourg Cedex

FRANCE

Email: DGI-Execution@coe.int

14th January 2025

COMMUNICATION

In accordance with Rule 9.2. of the Rules of the Committee of Ministers regarding the supervision of the execution of judgments and of terms of friendly settlements

by A.L.E.G. - Association for Liberty and Equality of Gender C. v. Romania

(Application No. 47358/20)

I. EXECUTIVE SUMMARY AND RECOMMENDATIONS

This submission concerns the implementation of the judgment in *C. v. Romania* (Application no. 47358/20) delivered by the European Court of Human Rights (“the Court”, “ECtHR”) on 30 August 2022, which became final on 30 November 2022.¹ In *C. v. Romania*, the Court held that Romania had violated Article 8 of the European Convention on Human Rights (“the Convention”) because of the significant flaws in the criminal investigation concerning Ms. C.’s sexual harassment at the workplace.

This submission is prepared by Asociația pentru Libertate și Egalitate de Gen (A.L.E.G. - Association for Liberty and Equality of Gender) and supported by 21 national NGOs and trade unions.² A.L.E.G. is a Romanian NGO which aims to promote and foster gender equality and combat violence against women, including by operating as an accredited service provider offering specialised counselling to survivors of gender-based violence. Since 2020, A.L.E.G.,

¹ *C. v. Romania*, Application no. 47358/20, Judgment of 30.08.2022, final on 30.11.2022:

<https://hudoc.echr.coe.int/eng#%7B%22appno%22:%5B%2247358/20%22%5D,%22itemid%22:%5B%22001-218933%22%5D%7D>

² Asociația A.R.T. Fusion; Asociația Centrul pentru Inovare Publică; Asociația pentru Apărarea Drepturilor Omului în România Comitetul Helsinki - APADOR-CH; Asociația E-Romnja; Asociația Feminism Romania; Asociația Her Time Ro; Asociația Iele-Sânziene; Asociația Moașelor Independente; Asociația Plural: Asociația Ema, Asociația Sexul vs. Barza; Asociația Novapolis - Centrul de Analize și Inițiative pentru Dezvoltare; Asociația Rădăuțiul Civic; Asociația Centrul de Cercetare și Comunicare Interculturală; Centrul de Acțiune pentru Egalitate și Drepturile Omului (ACTEDO); Centrul FILIA; Centrul Parteneriat pentru Egalitate; Confederația Națională Sindicală CARTEL ALFA; Fundația Tineri pentru Tineri; Societatea de Analize Feministe – AnA; Societatea de Educație Contraceptivă și Sexuală.

The majority of these organisations have supported and been involved in the national campaign “Employers for Respect”, which seeks to strengthen the legal framework on the elimination of violence and harassment in the world of work and implement the International Labour Organisation (ILO) Convention no.190 on Violence and Harassment (C190) domestically. Some of these organisations have been involved in the interministerial working group established by the Prime Minister’s Office to implement C190 following its ratification in the summer of 2024.

in collaboration with other NGOs, unions, and civil society organizations—some of which are also supporting this submission—has been actively advocating for the enhancement of Romania's legal framework and its effective implementation to better protect workers from violence and harassment in the workplace.

Since our last communication to the Committee of Ministers in December 2023,³ Romania ratified the International Labour Organisation (ILO) Convention no.190 on Violence and Harassment (C190), marking an important milestone in addressing harassment and violence in the workplace. Since then, the Government has actively engaged with civil society organizations, trade unions, and business representatives to advance the Convention's implementation. Since early 2024, A.L.E.G. has been an active participant in the interministerial working group on the implementation of C190, coordinated by the Prime Minister's Office. In close collaboration with the Ministry of Labour, this working group has developed a series of proposed amendments to the Labour Code, Law No. 108/1999 on the establishment and organization of the Labour Inspectorate, and Law No. 319/2006 on Safety and Health at Work. These amendments aim to align the legislative framework with C190 standards, including updated definitions of 'harassment,' 'workers,' and 'workplace,' specific obligations for employers to prevent harassment and protect workers, revised sanctions for non-compliance, and enhanced mandates for labour inspectors.

While these developments, along with those highlighted in the Government's Revised Action Plan,⁴ signify progress, they remain insufficient to fully address the root causes of the violations identified in the *C. v. Romania* case. Notably, the legislative process for adopting the proposed amendments has yet to begin. Currently, the Ministry of Labour is circulating the proposals for interministerial review before their submission for parliamentary consideration. Until these critical amendments are adopted, significant gaps persist in the legislative framework, as thoroughly detailed in our previous Rule 9 communication.⁵

II. GENERAL & SYSTEMATIC PROBLEMS IN ADDRESSING HARASSMENT IN THE WORLD OF WORK

Romania's Revised Action Plan should incorporate comprehensive and targeted general measures to address the systemic and widespread issues underpinning the violations identified in the *C. v. Romania* case. Specifically, the plan should adopt a broader approach to workplace harassment, recognizing it not only as a criminal issue but also as a contravention, as outlined in detail in our previous Rule 9 communication to the Committee. This necessitates the full adoption of the proposed amendments developed by the intergovernmental working group to the Labour Code, Law No. 108/1999 on the establishment and organization of the Labour Inspectorate, and Law No. 319/2006 on Safety and Health at Work. It also requires a thorough review of the gaps and weaknesses in policies and institutional practices related to harassment

³ Communication from an NGO (A.L.E.G. - Association for Liberty and Equality of Gender) (11/12/2023) in the case of *C. v. Romania* (Application No. 47358/20), 11 December 2023, [https://hudoc.exec.coe.int/#{%22execidentifier%22:\[%22DH-DD\(2023\)1514E%22\]}](https://hudoc.exec.coe.int/#{%22execidentifier%22:[%22DH-DD(2023)1514E%22]}).

⁴ Revised Action Plan, Communication from Romania concerning the case of *C. v. Romania* (Application No. 47358/20), [https://hudoc.exec.coe.int/#{%22execidentifier%22:\[%22DH-DD\(2024\)1307E%22\]}](https://hudoc.exec.coe.int/#{%22execidentifier%22:[%22DH-DD(2024)1307E%22]}).

⁵ 1492nd meeting (March 2024) (DH) - Rule 9.2 - Communication from an NGO (A.L.E.G. - Association for Liberty and Equality of Gender) (11/12/2023) in the case of *C. v. Romania* (Application No. 47358/20).

and sexual harassment in the workplace, with the system of reference being the recently ratified C190 and its accompanying ILO Recommendation no. 206, as previously highlighted in our Rule 9 submission.

While noting the Government's review on the criminal law and the Ministry of Justice's assessment—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”,⁶ it is important to acknowledge a significant barrier within the current legal framework. Specifically, the criminal law imposes a very short time frame for victims of sexual harassment to lodge a criminal complaint, limited to three months from the day the victim becomes aware of the offense.⁷ This restriction creates a barrier to justice for victims of sexual harassment, and, subsequently, results in severe underreporting of such cases.

Studies,⁸ as well as A.L.E.G.'s direct experience working with survivors of sexual harassment, demonstrate that the time it takes for victims to come forward and file a complaint is often longer and varies greatly, influenced by numerous personal, cultural, and systemic factors. Survivors often need time to process their trauma before they feel ready to report, especially in cases of PTSD. Many also face fears of retaliation (including from their employers), social stigma, or disbelief, which further delay their decision to come forward. For some, there may be a lack of awareness that the behaviour they experienced constitutes sexual harassment or that sexual harassment is a criminal act. Additionally, access to resources such as legal advice, counselling, and supportive networks plays a crucial role in empowering victims to take action. Furthermore, in workplace settings, internal grievance procedures or reporting mechanisms may also result in delays, as victims may initially pursue these channels before considering legal action.

Given these realities, it is essential for the Government to revise and extend the statutory period for lodging criminal complaints related to sexual harassment. Such a measure would better reflect the complexities and challenges survivors face, ensure a more accurate representation of the prevalence of the issue, enable more effective enforcement and prevention strategies, increase accountability of perpetrators, and ultimately deter and reduce such behaviour.

Recommendations:

- **The Government should initiate the legislative process for the harmonization of the legislative framework on harassment in the world of work to C190 standards and adopt the intergovernmental working group's proposed amendments to ensure the full implementation of the C190.**
- **The Government should amend the Criminal Code/Code of Criminal Procedure and extent the three-month statutory period for lodging criminal complaints related to sexual harassment.**

⁶ Revised Action Plan, Communication from Romania concerning the case of C. v. Romania, p. 3.

⁷ Criminal Code, art.223; Criminal Procedural Code, art. 296.

⁸ See, for example, Louise F. Fitzgerald, Suzanne Swan, Karla Fischer, 1995, 'Why Didn't She Just Report Him? The Psychological and Legal Implications of Women's Responses to Sexual Harassment', *Journal of Social Issues*, <https://spssi.onlinelibrary.wiley.com/doi/abs/10.1111/j.1540-4560.1995.tb01312.x>.

III. LAW ENFORCEMENT MONITORING AND DATA COLLECTION

As outlined in our previous Rule 9 communication, the legal framework addressing workplace harassment generally lacks concrete provisions for the systematic monitoring and evaluation of its implementation. While we note the Government’s reference to the information provided by the Prosecutor’s Office attached to the High Court of Cassation and Justice, specifically regarding the thematic control conducted in 2021 across all prosecutor’s offices to assess the legality and consistency of decisions made in 2020 concerning sexual harassment offenses, the scope of such efforts is currently insufficient.

Although this control and the subsequent actions taken represent a positive step forward, it is important to note that the review of cases from 2020 represents an outlier due to the COVID-19 pandemic and the accompanying stay-at-home policies, which significantly reduced workplace interactions and, consequently, instances of workplace sexual harassment that were reported and, ultimately, investigated. This unique context suggests that the number of mishandled cases identified during the review may not accurately reflect the systemic challenges within the legal and enforcement framework during typical years.

We remain deeply concerned about the overall approach to monitoring law enforcement. Given the alarming prevalence of gender-based violence, including sexual violence, in Romania—placing the country among the lowest rankings within the European Union—such reviews, conducted on an ad-hoc basis, fail to provide a consistent mechanism for oversight.⁹ Regular and systematic evaluations are essential not only to assess the efficiency of the legal framework but also to improve the public policy and the measures taken to address and reduce the prevalence of such offenses.

While welcoming the Government’s reference to the Prosecutor’s Office of the High Court of Cassation and Justice plan to have “in the future” the collection of all statistical data operational through the implementation of the ECRIS-V program,¹⁰ we note that such data collection would be limited to *reported* cases. As stated in our previous communication, a major problem in developing effective anti-harassment policies is the lack of systematic, disaggregated and regular data collection that goes beyond reported cases, to better understand the scope and trends of harassment in the world of work. The current legal framework do not provide for a data collection and recording policy, and at the national level, there are no in-depth studies on the extent and specificity of harassment in the world of work.

Recommendations:

- **The Government should develop and adopt a policy of regular thematic monitoring of law enforcement in harassment cases, including sexual harassment.**
- **The Committee should ask the Government to provide further information about its plans to collect “all statistical data”, which are to be made operational through**

⁹ European Institute of Gender Equality, Gender Equality Index 2024 (Violence), <https://eige.europa.eu/gender-equality-index/2024/compare-countries>.

¹⁰ Revised Action Plan in the case of C. v. Romania, DH-DD(2024)1307, p.6.

the implementation of the ECRIS-V program, including regarding details of the extent to which the data will be disaggregated.

- **The Government should develop and adopt a policy of systematic, regular and disaggregated data collection, including by gender, age, occupation, nationality and other protected identity criteria of persons affected by harassment, as well as forms of harassment/violence.**
- **The Government should instruct the National Institute of Statistics (“INS”) to conduct national surveys on harassment in the world of work every three years in order to understand the full magnitude of harassment in the world of work, without limiting monitoring of solely reported cases, so that policy interventions target the most vulnerable workers and working sectors.**

IV. CONCLUSION AND RECOMMENDATIONS

The ratification of C190 represents a significant and positive step forward; however, the legal framework, public policies, and institutional practices aimed at eliminating harassment in the world of work require comprehensive reform. Such reform is necessary to effectively prevent and combat sexual harassment in the workplace and to provide robust protections for victims. To date, the action plan submitted by the national authorities has not outlined a clear strategy to address the root causes of these issues.

In light of all this, the Committee of Ministers should:

- **Maintain the C. v. Romania case under enhanced supervision.**
- **Request the Romanian authorities to update the Revised Action Plan with targeted and specific general measures aimed at improving laws, public policies and institutional practices on eliminating violence and harassment in the world of work and strengthening their implementation, in line with the standards set by the International Labour Organisation (ILO) Violence and Harassment Convention, 2019 (C190).**
- **Request the Romanian authorities to adopt the amendments proposed by the C190 interministerial working group to the Labour Code, Law No. 108/1999 on the establishment and organisation of the Labour Inspectorate, and Law No. 319/2006 on Safety and Health at Work, and extend the statutory period for lodging criminal complaints related to sexual harassment.**
- **Request the Government to formulate and implement a comprehensive policy for regular thematic monitoring of law enforcement practices in harassment cases, including sexual harassment, and adopt a robust framework for the systematic collection and analysis of disaggregated data on harassment.**
- **Schedule the case for examination on the Committee’s agenda for one of its Human Rights meetings in 2026.**

CONTACT INFORMATION FOR THIS SUBMISSION
contact@aleg-romania.eu