European Integration Studies, Volume 21, Number 2 (2025), pp. 239-278.
https://doi.org/10.46941/2025.2.6

BENCE ZSOLT KOVÁCS*

Protection of Human Rights under the ECHR and Central Europe: Romania**

ABSTRACT: In 2024, Romania commemorated 30 years since ratifying the Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), a crucial milestone in its human rights development. This anniversary offers an opportunity to reflect on Romania's integration into the European multilevel system of human rights protection, which fosters convergence across European states. The European Court of Human Rights' (ECtHR) view of the Convention as a "living instrument," combined with Romania's adherence to its evolving judicial practice, has helped the country align with the latest human rights standards, addressing systemic issues such as prison conditions, excessively lengthy judicial proceedings, judicial independence, and property restitution.

This chapter explores the historical evolution of human rights in Romania, focusing on the impact of ECHR ratification on the country's constitutional framework and legislation. It examines Romania's relationship with the Council of Europe and the role of landmark ECtHR cases in shaping national legal reforms. Additionally, the chapter assesses the ongoing challenges in implementing ECtHR standards and highlights the country's progress. Importantly, it discusses the creation of a legal paradigm rooted in democracy, the rule of law, and the protection of human dignity. Ultimately, by Romania's acceptance of international human rights norms, for the first time in the country's history, real content and substance were added to existing nominal or formal guarantees, transforming abstract legal provisions into practical protections.

KEYWORDS: Council of Europe, Convention for the Protection of Human Rights and Fundamental Freedoms, European Court of Human Rights,

* PhD student, Deák Ferenc Doctoral School of Political Science and Law, Miskolc; Intern, Central European Academy, Budapest, Hungary. kovacs.bence@centraleuropeanacademy.hu.

** **The research and preparation of this study was supported by the Central European Academy.**

human rights protection in Romania, precedence of international human rights provisions, judicial practice, legal reforms.

1. Historical Development of Human Rights Protection in Romania: A Contextual Introduction

Human rights have deep historical roots, tracing back to biblical times, ancient Greek philosophy, and Roman law, with figures such as Cicero recognising the natural equality of all humans. Over time, these ideas were reinforced through theological development by thinkers including St. Augustine and St. Thomas Aquinas, and further evolved with the establishment of key legal milestones such as the Magna Carta.[1] However, our modern understanding of human rights was shaped mostly by the Enlightenment, when, for the first time, the universal character of these rights was codified in binding legal instruments such as the American Declaration of Independence (1776) and the French Declaration of the Rights of Man and of the Citizen (1789), which affirmed rights based solely on individuals' inherent human status.[2] For this reason, this section discusses the development of human rights in Romania following the diffusion of Enlightenment ideas into the current territory of the country.

In a paradoxical manner, most reform ideas of the 18th century reached the Romanian Principalities of Wallachia and Moldavia from the south and east rather than from the west. The Phanariot[3] hospodars were the first to adopt modern codifications, reflecting Enlightenment ideals and laying the groundwork for legal reforms.[4] The Russo-Turkish antagonisms of the early 19th century placed the principalities under the joint suzerainty[5] of these

[1] Varga, 2021, pp. 247–248.
[2] *Ibid*, pp. 248–249.
[3] The Phanariots were a class of influential Greek merchants, clerics, and administrators named after the Phanar district of Constantinople, who played a significant role in the administration of the Ottoman Empire as dragomans (interpreters), particularly in the 18th and 19th centuries. They were often appointed to the thrones of Moldavia and Wallachia by the Sublime Porte.
[4] For further information on these codifications, see Veress, 2022, pp. 174-175.
[5] Suzerainty is a special type of international legal relationship wherein a dominant state (the suzerain) exercises authority over a subordinate state. While the latter state may retain limited internal self-governance, it cannot conduct independent foreign policy or enter into international agreements without the suzerain's involvement. The vassal is also typically bound by various obligations – constitutional, fiscal, economic, military, or otherwise – defined on a case-by-case basis. Fazakas, 2024, p. 41. Buza, 1929, p. 230.

empires.[6] The brief Russian occupation from 1828 to 1834 introduced a new administrative framework, marking the principalities as Russian protectorates. Under General Pavel Kiselyov, the Organic Regulations (quasi-constitutional laws) were implemented separately in both principalities, bringing a relatively liberal governance structure compared to both Russian autocracy and Ottoman rule.[7] The French-inspired reform policies of the tsarist elite prompted the emerging Romanian civil society to adopt the French model as a foundation for its future development and Westernisation.[8] The French model continued to prevail in the subsequent legislation of Romania, formally established under this name in 1862, following the union of Wallachia and Moldavia in 1859. The country achieved independence in 1878, marking a significant transition towards modern nationhood.[9]

This historical background is crucial for understanding the development of human rights in Romania. In Western countries, foundational acts such as the Civil Code and Penal Code typically followed the establishment of modern, capitalistic economic orders, reflecting social and economic transformations that have already happened. However, in Romania, the adoption in 1865 of the Civil Code (mostly a translation of the Napoleonic Code of 1804 with some Belgian and Italian influence),[10] and the Penal Code (its main sources were the Prussian Code of 1851 and the French Code of 1810),[11] and finally the 1866 Constitution (codified after Belgian model), preceded this economic shift based on the development of a civil society; rather, these legislations themselves served as the catalysts for these transformations. Initially perceived as alien bodies in the organisation of a mostly rural and agrarian society, they ultimately became the engine of profound societal change. In essence, these acts were revolutionary: they did not merely document social transformations that had already occurred, but rather anticipated and initiated reforms.

The rest of Romanian history regarding human rights protection can be divided into two parts: when reality approached the ideal declared by

[6] Veress, 2024, pp. 274-275.
[7] Djuvara, 2019, pp. 163-164.
[8] Veress, 2024, pp. 281-282.
[9] For more information, see Cernea and Molcuț, 1994, pp. 194-198.
[10] Veress, 2022, p. 178. On the adoption and influence of this piece of legislation, see Veress, 2024.
[11] Cernea and Molcuț, 1994, p. 205.

law, and when the real protection was far from, or independent of, that declared by law.

Between the codification of the aforementioned major acts and the Second World War, the gap between the content of normative acts and actual practice gradually narrowed, although there were some setbacks during the wars. Institutions for the protection of human rights began to emerge. The 1866 Constitution – according to the philosophy of natural law – declared the rights and freedoms of citizens in its second chapter (On the rights of Romanians).[12] However, these prerogatives were granted only to Romanian citizens. Additionally, Article 7 of the Constitution stipulated that only Christians could become citizens, an explicit anti-Islamic and Jewish provision aimed at strengthening the nascent state. According to Hannah Arendt:

> it is hardly an exaggeration to say that Rumania was the most anti-semitic country in prewar Europe […] in 1878, the great powers had tried to intervene, through the Treaty of Berlin, and get the Rumanian government to recognize its Jewish inhabitants as Rumanian nationals – though they would have remained second-class citizens. They did not succeed, and at the end of the First World War [nearly] all Rumanian Jews […] were still resident aliens.[13]

This situation changed only after the peace treaty that concluded the Great War. After the Great Unification that followed the First World War, Romania became a multi-ethnic country. Nevertheless, the Romanian government persisted in its efforts toward nation-building with the aim of creating a unified and homogeneous nation-state. This goal was reflected in the 1923 constitution, which declared Romania a unitary nation-state in Article 1, simultaneously failing to incorporate the minority treaty that Romania had committed itself to at the peace conference in Paris on 9

[12] *Ibid*, p. 215.

[13] Harendt, 2022, pp. 188-189. Halász, 2022, p. 279. The restriction that excluded Jews from being naturalized was lifted following the Berlin Congress in 1878, allowing for individual naturalization under specific conditions. However, this process was cumbersome and ineffective, resulting in only a small number of Jews – just 529 – becoming naturalized citizens by 1913, while also fostering corruption within the system. Oișteanu, 2009, p. 355. For a more balanced perspective on the historical dynamic between the Jewish and Romanian communities, see Boia, 2001, pp. 171-174.

December 1919.[14] Consequently, this period was characterised by the existence of factual and legal differences regarding human rights protection, particularly concerning the treatment of ethnic minorities.[15] This policy led to multiple infringements on the rights of ethnic minorities, who comprised approximately 30% of the Romanian population.[16] In particular, the agrarian reforms in the newly acquired territories played a significant role, as their implementation had a blatant anti-minority character. The deprivation of ethnic and religious minorities from their communal properties served the interest of Romanian nation-building.[17] The Second World War era also witnessed Romania's first dictatorship, during which the persecution of the Jewish population began on ethnic grounds. Romania's policies of anti-Semitic persecution were "*always a step ahead of German developments*."[18]

The period following the establishment of the Soviet-type dictatorship was marked by a radical discrepancy between the content of normative acts and their systemic practice. The oppressive reality starkly contradicted the declared rule of law, despite formal guarantees in the legislation. From 1947 to 1989, civil liberties were systematically violated, and human rights infringements became widespread, including censorship, political persecution, and systemic repression. The most glaring difference between declared human rights and reality was evident in the state of general disenfranchisement. As the economic prosperity promised by the utopian ideology failed to materialise, the totalitarian system sought a new source of legitimacy. This led to an ultra-nationalist shift, moving away from the proclaimed internationalism of communism – a trend observed across Eastern Bloc countries. In Romania, this process was most pronounced, giving rise to the term "national communism", which describes the ideological changes that emerged after the late 1950s.[19] This national

[14] Fazakas, 2023, p. 12.

[15] Securing minority rights in Eastern Europe became a key issue after the First World War, as antebellum borders in this region had fluctuated significantly over the centuries. This instability prevented the establishment of a natural ethnic majority in both the newly created countries and the older states, unlike in Western Europe. The peace treaties concluded in Paris dismantled the multi-ethnic empires, resulting in new states that, despite their diverse populations, sought to assert a distinct national character. Hungarian political thinker István Bibó, in a book written shortly after the Second World War, described this situation as an aspect of the "*misery of small Eastern European states*". Bibó, 2023.

[16] Halász, 2022, p. 284.

[17] Fazakas, 2023, p. 13 and 17.

[18] Harendt, 2022, p. 191.

[19] For more details about this process, see Zavatti, 2020, p. 44-45.; Boia, 2001, pp. 76-90.

chauvinist shift resulted in experiments involving the forced assimilation of ethnic minorities or their sale abroad (while, at the same time, Romania was the country most independent from Moscow among the satellite states,[20] as the Soviet army withdrew from it in 1958). The dire situation of minorities was also noted by the Parliamentary Assembly of the Council of Europe (PACE) in multiple acts adopted between 1984 and 1989.[21] These "*vigorously condemned*" the destruction of villages (primarily minority villages) under the guise of systematisation, while stating that Romania "*blatantly disregards*" minority rights and generally "*refuses to recognize the universal nature of human rights*."[22]

The constitutions of the totalitarian era, while containing a catalogue of rights and freedoms, can be regarded as "*unenforceable pledges*".[23] The 1952 Constitution included a chapter on Fundamental Rights and Duties, and the 1965 Constitution similarly contained a section dedicated to rights. However, the institutional mechanisms for implementing these rights and the corresponding incorporation of international standards into domestic law were weak. Although Romania was a party to the United Nations Charter, the International Covenant on Civil and Political Rights (ICCPR) of 1966, and the Helsinki Final Act, these agreements were not treated as binding legislation.[24] In practice, human rights violations committed in the interest of or on behalf of the ruling elite were rarely sanctioned. The 1965 Constitution even stipulated that freedom of expression and the press could not be exercised in a manner contrary to the political establishment or the interests of workers, thus creating deliberately vague limitations that further constrained individual rights.[25]

After the 1989 revolution and the fall of Nicolae Ceaușescu, Romania embarked on a process of democratisation, transitioning to a constitutional democracy. The 1991 Constitution, further amended in 2003, was an

[20] Halász, 2022, p. 271.
[21] Resolution 830 (1984), Resolution 910 (1988) and Recommendation 1114 (1989) of the PACE.
[22] Recommendation 1114 (1989).
[23] Paczolay, 2022, p. 134.
[24] Corlățean, 2014, p. 95. Nicolae Ceaușescu – the plenipotentiary dictator of Romania from 1965 onward – denounced the Soviet military suppression of the Prague Spring in 1968. This stance strained Romania's relations with the Soviet Union, while simultaneously opening avenues for engagement with the West. One significant effect of this was Romania's signing of the ICCPR on 27 June 1968.
[25] Veress, 2020, p. 505.

emanation of this process, laying the groundwork for international integration. During this period, reality started to gradually resemble the enshrined legal regulation.

The dismantling of the totalitarian state initiated renewed respect for human rights. This was reinforced by Romania's aspirations to integrate into the international community, which bound it to align its human rights protections with international standards. In addition to legislative reforms meant to achieve this aim, special institutions for human rights protection, such as the Advocate of the People, the National Council for Combating Discrimination, and, partially, the Constitutional Court, were established. Meeting the expectations of European integration – particularly joining the Council of Europe (CoE) – has been a significant step forward in this regard. Taken together, this process can be termed a success, as Romania managed to reverse its previous poor human rights record.

2. Romania and the Council of Europe: A Human Rights Perspective

Romania's relationship with the CoE has been pivotal in its journey toward international integration, particularly concerning human rights. Romania formally joined the CoE on 7 October 1993, only three days after the Committee of Ministers (CM) issued Resolution no. 37/1993,[26] inviting the country to become a member. The joining act, which included signing the Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights or ECHR) at the first CoE Summit in Vienna, underscored Romania's commitment to democratic values and the rule of law. This accession was essential not only for strengthening Romania's legal and institutional framework but also for fulfilling the prerequisites for membership in the European Union (EU) and NATO. This chapter further explores the historical background of Romania's accession to the CoE and the impact of CoE institutions and mechanisms on human rights development in the country.

The process of accession began earlier, with Romania obtaining "special guest" status at the PACE on 1 February 1991. This transitional status was designed for post-Soviet countries aspiring to join the Council following the fall of totalitarian dictatorships in East Central Europe,

[26] Resolution (93) 37 of the CM.

reflecting their intention to engage with Western democratic institutions.[27] By 16 December 1991, the Romanian government had submitted its official application for membership. This application was subjected to a rigorous evaluation process,[28] including the participation of international observers during the 1992 elections.[29] The CM, regarding its obligation to consult with PACE, by Resolution no. 1/1992,[30] invited PACE to express its opinion on the accession of Romania. The adoption of Opinion 176 by PACE on 28 September 1993,[31] favourably recommending Romania's accession,[32] was followed by the aforementioned formal invitation from the CM.

Upon joining, Romania entered a phase of formal monitoring by PACE, which scrutinised the development of its political and legal systems to ensure compliance with the CoE's core values. In April 1997, PACE acknowledged Romania's progress, concluding the formal monitoring phase

[27] Resolution 917 (1989) on special guest status with the Parliamentary Assembly adopted by the PACE on 11 May 1989, laid down the foundation for the representatives of these states to be able to attend the PACE's plenary sessions. It formulated certain conditions for the invitation to the session (e.g. the implementation and application of "*Helsinki Final Act and the instruments adopted at the CSCE conferences, together with the 1966 United Nations International Covenants on civil and political rights and on economic, social and cultural rights*").

[28] Committee opinions and reports of PACE. [Online]. Available at: https://pace.coe.int/en/files/search?page=1&before=1993&q=Romania (Accessed: September 18, 2024).

[29] The election observation reports of the time. [Online]. Available at: https://pace.coe.int/en/files/6747 (Accessed: September 12, 2024).

[30] Resolution (92) 1 of the CM.

[31] Opinion 176 (1993) of the PACE.

[32] The Opinion of PACE highlights some expectations that Romania did not meet at the time. They recommended the decriminalization of homosexual acts in private between consenting adults (the abolishment of this offence happened only in 2001, by Government Emergency Ordinance no. 89/2001, when Romania prepared for joining the EU, although this can be attributed also to the successful conclusion of the post monitoring process by the CM); beginning the reprivatisation of church properties abusively taken over by the state during the Soviet-type dictatorship (this process also started as a precursor to the EU accession, with the general norms encapsulated in Law no. 501/2002; however, it remains an ongoing issue); PACE urged Romania to implement improvements in conditions of detention and emphasise the adoption of regulations protecting ethnic minorities. As can be seen from the majority of cases where Romania was condemned by the ECtHR, Romania did not conform properly to the majority of these expectations expressed by PACE at the time of accession.

through Resolution 1123[33] and Recommendation 1326. However, Romania was placed under post-monitoring, which entailed continued observation of its democratic development. This phase concluded in May 2002, recognising Romania's significant advancements in legal reforms and human rights protections.[34]

The European Commission for Democracy through Law, commonly known as the Venice Commission, has played a significant role in guiding Romania's constitutional and legislative reforms. At the 47th plenary session of the Commission (July 2001), the Romanian authorities submitted a request for the Commission's co-operation in the revision of the Constitution, particularly with a view to facilitate Romania's accession to the EU. The Commission provided the requested opinions on the draft of the new Constitution,[35] which greatly improved the quality of the adopted form in 2003. Until the EU accession of Romania, the Commission also issued opinions on the law amending the functioning of the Constitutional Court of Romania and draft law on the statute of national minorities living in Romania.[36] After the accession, the judiciary's independence, the justice system's proper functioning, and criminal legislation's amendment were addressed. Even the Romanian Constitutional Court (RCC) references the opinions of the Venice Commission, thus making them mandatory parts of the internal legal order (the decisions of the Court are binding *erga omnes*), mostly in election-related issues.[37]

Additionally, the engagement with the Commissioner for Human Rights (instituted with a resolution of the CM)[38] has been instrumental in

[33] Resolution 1123 (1997) on honouring of obligations and commitments by Romania adopted on 24 April 1997, basically reiterates the same problems as Opinion 176 (1993), stating however that "*Romania has made considerable progress towards the fulfilment of her obligations and commitments since joining the Council of Europe*."

[34] For the process of accession, see the website of the Romanian Foreign Ministry: https://coe.mae.ro/node/1252 (Accessed: 12 September 2024).

[35] Opinion no. 169/2001_rou of the Venice Commission.

[36] Even though Opinion no. 345/2005 was issued, the Law remains unadopted up to this day.

[37] For example, the recent Decision no. 148/2024 of the Constitutional Court of Romania, published in Official Gazette no. 408 of 30 April 2024, wherein the Code of Good Practice in Electoral Matters: Guidelines and Explanatory Report (adopted by the Venice Commission as Opinion no. 190/2002 at its 51st and 52nd sessions on 5-6 July and 18-19 October 2002) is referred to frequently.

[38] Resolution (99) 50 on the Council of Europe Commissioner for Human Rights, adopted by the CM on 7 May 1999.

addressing human rights issues within Romania. The Commissioner conducts regular visits and provides recommendations in its subsequent reports to improve the protection of human rights. Since its first visit to Romania in 2002, the Commissioner has visited four more times. In nearly every report, it has highlighted the marginalisation of the Romani community, shed light on the rampant issue of domestic violence in the country, and indicated multiple measures for the authorities regarding the rights of persons living with disabilities.[39]

The action of the CoE in Romania when it comes to human rights protection can be seen not only in the work of the Venice Commission and Commissioner for Human Rights but also in the conclusions, recommendations, evaluations and reports of other organs, mostly the result of treaties born under the aegis of the CoE. Such organs include the European Committee for the Prevention of Torture[40]; the European Commission against Racism and Intolerance (also born from a resolution of the CM)[41]; the European Committee of Social Rights[42]; the Advisory Committee to the Framework Convention for the Protection of National Minorities[43]; the Group of States against Corruption monitoring organ[44]; and the Group of Experts on Action against Trafficking in Human Beings.[45]

---

[39] For its letters and country reports. [Online]. Available at: https://www.coe.int/en/web/commissioner/country-work/romania?p_p_id=com_liferay_asset_publisher_web_portlet_AssetPublisherPortlet_INSTANCE_PrMGI5az2UNt&p_p_lifecycle=0&p_p_state=normal&p_p_mode=view&_com_liferay_asset_publisher_web_portlet_AssetPublisherPortlet_INSTANCE_PrMGI5az2UNt_redirect=%2Fen%2Fweb%2Fcommissioner%2Fcountry-work%2Fromania&_com_liferay_asset_publisher_web_portlet_AssetPublisherPortlet_INSTANCE_PrMGI5az2UNt_delta=10&p_r_p_resetCur=false&_com_liferay_asset_publisher_web_portlet_AssetPublisherPortlet_INSTANCE_PrMGI5az2UNt_cur=1#p_com_liferay_asset_publisher_web_portlet_AssetPublisherPortlet_INSTANCE_PrMGI5az2UNt (Accessed: 17 September 2024).

[40] For its reports on the *ad hoc* and periodic visits in Romania. [Online]. Available at: https://www.coe.int/en/web/cpt/romania (Accessed: 22 September 2024).

[41] For its reports and conclusions concerning Romania. [Online]. Available at: https://www.coe.int/en/web/european-commission-against-racism-and-intolerance/romania (Accessed: 22 September 2024).

[42] For its reports and conclusions concerning Romania. [Online]. Available at: https://www.coe.int/en/web/european-social-charter/romania (Accessed: 22 September 2024).

[43] For its reports, opinions and resolutions concerning Romania. [Online]. Available at: https://www.coe.int/en/web/minorities/romania (Accessed: 22 September 2024).

In 2006 and 2007, PACE played a critical role in uncovering the existence of Central Intelligence Agency (CIA)-run secret prisons on European soil, where terror suspects were illegally detained and tortured. It was revealed that several CoE member states, including Poland and Romania, had permitted CIA rendition flights and the establishment of these "black sites". These findings were later confirmed by rulings from the ECtHR, which condemned Romania for its involvement, ruling that it had violated human rights laws by allowing secret detentions and torture.[46]

Another interesting facet of the relationship between the CoE and Romania regarding human rights protection is exemplified by the practice of the RCC, which uses the practice of the ECtHR and its interpretation of the ECHR as standards when adjudicating on cases related to human rights.[47] The relationship between the two courts led to major ramifications in the Romanian legal system (*infra*, 4.3.). Furthermore, with this step, the RCC embarked on a journey of contributing to the convergence of constitutional solutions at the European level, while ensuring the alignment of national legislation with European human rights standards.

A crucial moment in Romania's engagement with the CoE was the ECtHR's first ruling against Romania in the *Vasilescu v. Romania*[48] case in 1998, which involved violations of the right to a fair trial and protection of property.[49] This judgment highlighted deficiencies in Romania's judicial system and catalysed further legal reforms. Over the years, the ECHR has played a vital role in Romania's human rights landscape, with numerous cases prompting the Romanian authorities to address issues related to judicial independence, freedom of expression, prison conditions, and property rights (mainly reprivatisation; *infra*, 5.).

Romania's active participation in the CoE was further demonstrated during its presidency of the CM from November 2005 to May 2006. Romania set ambitious objectives to strengthen the CoE's role in promoting democracy, human rights, and the rule of law in Europe. It emphasised the

---

[44] For its reports concerning Romania. [Online]. Available at: https://www.coe.int/en/web/greco/evaluations/romania (Accessed: 22 September 2024).

[45] For its evaluations concerning Romania. [Online]. Available at: https://www.coe.int/en/web/anti-human-trafficking/romania1 (Accessed: 22 September 2024).

[46] *Case of Al-Nashiri v. Romania*, App. No. 33234/12, 31 May 2018.

[47] Benke and Costin, 2016, p. 103.

[48] *Case of Vasilescu v. Romania,* App. No. 53/1997/837/1043, 22 May 1998.

[49] Corlățean, 2010, p. 118.

enhancement of human rights protection mechanisms, particularly in regions where existing systems were inadequate, and advocated for diversity and intercultural dialogue as essential components of stable societies. Romania's leadership during this period highlighted its growing influence within the CoE and its commitment to the broader European agenda of human rights promotion.

3. CoE Human Rights Conventions Ratified by Romania and the National Implementation of the ECHR

The Statute of the Council of Europe, also referred to as the Treaty of London (1949), outlines the core principles of the organisation, which are to promote human rights, democracy, and the rule of law. In order to achieve this aim, the States under the auspices of the aforementioned treaty – members of the CoE – could ratify the treaties drafted by this organisation (they are not bound by these as a result of their membership in the CoE *per se*). Since its founding, the CoE has adopted 207 such treaties, although not all of these are directly related to the protection of human rights. For example, up to this point, Romania has ratified in total 110 treaties developed by the CoE; yet, only 28 of these are related directly to the protection of human rights.[50] The most important of these regional treaties, in the author's opinion, are listed in the table below:

[50] All the data above comes from the website of the Treaty Office of the CoE. [Online]. Available at: https://www.coe.int/en/web/conventions/by-member-states-of-the-council-of-europe?module=treaties-full-list-signature&CodePays=ROM&CodeSignatureEnum=&DateStatus=10-02-2024&CodeMatieres= (Accessed: 12 September 2024).

Table 1 *The date of Romanian signatures, ratifications and means of internal implementation of the CoE human rights treaties*

Title	Signature date	Ratification date	National law
Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR)	07.10.1993.	20.06.1994.	Law no. 30/1994
European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and the 2 additional protocols	04.11.1993.	04.10.1994.	Law no. 80/1994
European Charter of Local Self-Government	04.10.1994.	28.01.1998.	Law no. 199/1997
European Social Charter (revised)	04.10.1994	07.05.1999.	Law no. 74/1999
Framework Convention for the Protection of National Minorities	01.02.1995.	11.05.1995.	Law no. 33/1995
European Convention on the Suppression of Terrorism	30.06.1995.	02.05.1997.	Law no. 19/1997
European Charter for Regional or Minority Languages	17.07.1995.	29.01.2008.	Law no. 282/2007

European Code of Social Security	22.05.2002.	09.10.2009.	Law no. 116/2009
Council of Europe Convention on Action Against Trafficking in Human Beings	16.05.2005.	21.08.2006.	Law no. 300/2006
Council of Europe Convention on the Prevention of Terrorism	16.05.2005.	21.02.2007.	Law no. 411/2006

Source: Author's own editing.

Romania has made three reservations in total to these treaties. The first concerned the ECHR; Romania declared that Article 5 of the Convention did not preclude the application of Article 1 of Decree no. 976 of 23 October 1968, which allowed military commanders to impose disciplinary detention of up to 15 days for military discipline breaches, provided it did not exceed the limits set by current legislation. This reservation was included in the instrument of ratification deposited on 20 June 1994 and was withdrawn by a letter from the Permanent Representation of Romania dated 11 August 2004. Two other reservations were made, one each to the Additional Protocol to the Convention on Cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems, and the CoE Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention).

Arguably, the most important role in the integration of Romania was played by the international human rights instruments related to the protection of minority rights and the ECHR. The former had to solve the minority issues inherited by the 20th century, which loomed as unsolved problems in the 90s. The ECHR, although prohibiting discrimination, seems prone to failure when it comes to the protection of ethnic minorities, as formulated by the current judge of the Court, Péter Paczolay.[51] However, he

[51] Paczolay, 2022, p. 154. For the differentiation in the protection allocated to different minority groups by the Court, see the enlightening article by Nagy, 2023.

also considers the Framework Convention for the Protection of National Minorities to be the "*first legally binding multilateral instrument devoted to the protection of national minorities worldwide*"[52] and the most comprehensive treaty protecting the rights of persons belonging to national minorities in Europe, supervised by a dedicated committee: the Advisory Committee.

In the process of further European integration, the adoption of the ECHR played a crucial role. Since the drafting of the ECHR, it was seen by the Member States of the organisation as the *conditio sine qua non* of joining the CoE; however, the ECHR can be signed only by members of the CoE.[53] This seeming paradox was resolved in the case of Romania, as mentioned *supra*, that is the signing of the Convention happened simultaneously with the accession to the organisation (7 October 1993). At that time, eight protocols were already in force and two were open for signature. Romania signed protocols 2, 3, 5 and 8 at the time of accession; protocols 1, 4, 7, 9 and 10 a month later, and protocol 6 (on the restriction of the death penalty) in December of the same year. The Senate (upper chamber) adopted the ratification decision of the Convention on 18 April 1994, while the Chamber of Deputies (lower chamber), adopted it as Law no. 30 from 18 May 1994, on May 9 of the same year. This Law, published in the Official Gazette on 31 May 1994, made the Convention an integral part of its national legal order. The deposit of the ratification instruments of the Convention and its ten protocols happened simultaneously, on 20 June 1994, this being the official date for the ratification. Since then, Romania has signed and ratified the remaining six protocols to the ECHR.

4. Impact of the ECHR on Romania's Constitution, Legislative Reforms and Practice of the Constitutional Court

This section will explore the influence of the ECHR on Romania's constitutional framework, focusing on the legislative reforms introduced in

[52] *Ibid*, p. 135

[53] This rule appeared *expressis verbis* in Resolution 1031 (1994) on the honouring of commitments entered into by member states when joining the CoE of PACE, adopted on 14 April 1994. It has stated that "*accession to the Council of Europe must go together with becoming a party to the European Convention on Human Rights. It therefore considers that the ratification procedure should normally be completed within one year of accession to the Statute and signature of the Convention*."

response to ECHR standards and the evolving practice of the Constitutional Court in harmonising national law with European human rights principles.

4.1. Impact of the ECHR on Romania's Constitution

After the fall of the Soviet-type totalitarian dictatorship in Romania, a new constitution had to be adopted to facilitate the democratic transition of the country and to integrate with the larger European structures. We can be sure about the latter fact, because just eleven days after the referendum that validated the Romanian Constitution, the country applied for membership in the CoE (19 December 1991).[54] Therefore, the Constitution was drafted for the desired CoE membership; this may explain why its second title addressing the fundamental rights and freedoms shows so many similitudes with the ECHR.

An important feature of the new Constitution was that it established the monist system when it came to perceiving international law,[55] "*allowing for the direct application of international law norms in legal relations between individuals*."[56] The monist system entails that the question of supremacy of either the international law or the domestic law must be answered. There is, of course, a polemic in Romanian jurisprudence related to this. However, we can state with certainty that when it comes to international treaties of human rights, they have a supra-legislative character.[57] This is due to how Article 20 was formulated in the 1991 constitution:

> (1) Constitutional provisions concerning the citizens' rights and liberties shall be interpreted and enforced in conformity with the Universal Declaration of Human Rights, with the covenants and other treaties Romania is a party to.
> (2) Where any inconsistencies exist between the covenants and treaties on fundamental human rights Romania is a party to, and internal laws, the international regulations shall take precedence.

[54] Corlățean, 2014, p. 92.
[55] This is still a debated stance in Romanian jurisprudence.
[56] *Ibid*. Article 11 (2) of the Constitution reads as follows: "*[t]reaties ratified by Parliament, according to the law, are part of national law*."
[57] Toader and Safta, 2013, pp. 95–96.

This *expressis verbis* stipulation on the precedence of international regulations is somewhat unique among the constitutions of East-Central European states.[58] However, it can be accepted that this regulation determines that such treaties are to be considered as part of the "*constitutional block*", '*with constitutional interpretative value (meaning that the constitutional provisions must be interpreted and applied in accordance with the provisions of international human rights treaties to which Romania is a party), and priority for application in the event of inconsistency*.'[59] Corollary, persons can refer to these treaties directly before national courts (including the Constitutional Court).[60] Importantly, in its interpretation of Article 20, the RCC – in its first-ever decision referring to the ECHR[61] – affirmed that not only the ECHR but also the practice of the ECtHR carry mandatory interpretative authority.[62]

In 2003, the Constitution was amended and Article 20 (2) was altered in such a manner as to challenge the unconditional priority of international human rights treaties. The new solution accepted their superiority only in cases where the Constitution or national laws didn't comprise more favourable provisions.[63]

---

[58] Lukács, 2022, p. 268.

[59] Stanciu and Safta, 2021, p. 1. Marius Andreescu considers three criteria for comparing legal norms on fundamental rights: the level of legal protection provided, the extent of limits and restrictions imposed, and the degree of state interference allowed. A law is more favourable if it offers strong guarantees for the right, imposes fewer or less stringent restrictions, and limits the state's ability to interfere with its exercise. The greater the protection and the less the state can intervene, the more robust the safeguard of the right or freedom. Andreescu, 2012, p. 213.

[60] In this sense, the RCC reiterated in multiple decisions that: "*the ratification by Romania of the [...] [ECHR], made this Convention part of domestic law, a situation in which the reference to any of its provisions is subject to the same regime as that applicable to the provisions of the fundamental law*." Decision no. 146/2000 of the Constitutional Court of Romania, published in Official Gazette no. 566 of 15 November 2000. Toader and Safta, 2013, p. 96.; Stanciu and Safta, 2021, p. 2.; Andreescu, 2012, p. 214.

[61] Benke and Costin, 2016, p. 88.

[62] Decision no. 81/1994 of the Constitutional Court of Romania, published in Official Gazette no. 14 of 25 January 1995.

[63] From the practice of the RCC, we know of two cases when domestic protection was more favourable than the international. The first relates to the right to pension, which is enshrined in the Constitution but not in any other international treaty. Decision no. 872/2010 of the Constitutional Court of Romania, published in Official Gazette no. 433 of 28 June 2010. Stanciu and Safta, 2021, p. 13. The other case is related to the orality of criminal

The 2003 amendments to the Constitution were mostly aimed at integration with the EU. However, three modifications can be attributed to the desire to comply with the ECtHR judgements against Romania.

The first such alteration is related to the rules on arrest. In light of the condemnation in the cases *Vasilescu v. Romania*[64] and *Pantea v. Romania*,[65] the rules on "*allowing arrest measures to be adopted by a 'magistrate', which included a prosecutor*"[66] [Article 23 (4)] had to be changed because they were deemed contrary to Article 6 of the ECHR. Thereafter, only judges may issue a warrant for arrest measures.

The second constitutional norm which was amended was related to the nonretroactivity of legislation. Article 15 (2) stated that "*[t]he law acts only for the future, with the exception of the more favourable penal law.*" In relation to this article, the RCC decided that this norm must be interpreted in accordance with the practice of the ECtHR, therefore the principle of non-retroactivity should also apply in case of contravention[67] legislation.[68] The RCC made direct reference to the case *Öztürk v. Germany*,[69] wherein the ECtHR laid down this principle with reference to Article 6 of the ECHR. Building on this decision and, implicitly, the ECtHR practice, the article of the Constitution has been redrafted to enshrine the non-retroactivity of the contravention law as well.[70]

The third modification can also be attributed to the practice of the RCC, which has been altered by the practice of the ECHR in the matter of free access to justice and the right to a fair trial.[71] In the currently effective Constitution, this principle is enshrined in Article 21 (3), according to which: "*[a]ll parties shall be entitled to a fair trial and a solution of their cases within a reasonable term.*" This passage was also added during the amendment of the constitution, but earlier, the RCC made multiple

proceedings. Decision no. 641/2014 of the Constitutional Court of Romania, published in Official Gazette no. 887 of 5 September 2014.

[64] *Case of Vasilescu v. Romania*, App. No. 53/1997/837/1043, 22 May 1998.

[65] *Case of Pantea v. Romania*, App. No. 33343/96, 3 June 2003.

[66] Corlățean, 2014, p. 102.; Stanciu and Safta, 2021, pp. 9–10.

[67] A contravention in the Romanian legal system is a form of sanction – a lesser administrative offence than one of a criminal nature.

[68] Decision no. 381/2003 of the Constitutional Court of Romania, published in Official Gazette no. 697 of 6 October 2003.

[69] *Case of Öztürk v. Germany*, App. No. 8544/79, 21 February 1984.

[70] Toader and Safta, 2013, p. 106; Stanciu and Safta, 2021, p. 11.

[71] *Ibid*, p. 9.

decisions quasi-defining the notion of *reasonable term*, based on the practice of the ECtHR.[72]

4.2. Impact of the ECHR on Romania's National Legislation

When it comes to the legislative reforms undertaken in Romania as a result of European integration, their number is impossible to assess because the legislator rarely mentions expressly in the process of drafting a law (for example, in the preamble) that the new rules are also aimed at conforming, for instance, with international standards in human rights protection. Joining the CoE and ratifying the ECHR has many more consequences than can be described in this chapter. The impact of ECtHR judgments in cases against Romania has not been limited to specific cases, yet the effect on the legal system has often been much deeper and wider. Therefore, a few major achievements will be presented, which are considered as such by the CoE.[73]

The CoE has contributed to the decriminalisation of not only homosexual acts in private between consenting adults (*supra*, 2.) but, through the practice of the ECtHR, also to two offences inherited from totalitarian times. The offences of insult and defamation were codified in the Criminal Code of 1968. In 1999, through the case *Dalban v. Romania*,[74] the Court considered that the freedom of expression of the journalist convicted of one of these offences was violated because the matter that he addressed in his "libellous" articles was one of public interest. This judgement triggered multiple legislative reforms. First, through Government Emergency Ordinance no. 58/2002 and Law no. 160/2005, the sanction of prison sentences for these offences was abolished. One year later, by means of Law no. 278/2006, they would have been decriminalised; however, the RCC considered that this would have imperilled the constitutional right to human dignity.[75] Therefore, the two offences remained in effect until the adoption of the new criminal code in 2009, which omitted the criminalisation of these acts.

---

[72] Toader and Safta, 2013, pp. 108–110.

[73] Impact of the ECHR with regards to Romania. [Online]. Available at: https://www.coe.int/en/web/impact-convention-human-rights/romania (Accessed: 17 September 2024).

[74] *Case of Dalban v. Romania*, App. No. 28114/95, 28 September 1999. For more details on how the judgement was enforced in Romania, see Corlățean, 2010, pp. 133–136.

[75] Decision no. 62/2007 of the Constitutional Court of Romania, published in Official Gazette no. 601 of 12 July 2007.

The ECtHR contributed to the dismantling of the inheritance of the dictatorship not only by the aforementioned judgement but also by issuing multiple judgements identifying problems with the process allowing people access to their files collected by the secret police of the totalitarian system (*Securitate*).[76] The interest of the court was raised for the first time in the handling of these files in *Rotaru v. Romania* (*infra*, 5.8.).

Furthermore, the Court had a major impact on the effective reprivatisation of properties to private persons. Romania, through Law no. 247/2005, decided to pursue the principle of *restitutio in integrum* of the properties abusively coercively taken over during the Soviet-type totalitarian era – where this still could be done in nature, and where not, through compensation – but failed to achieve this aim in many instances. The Romanian national courts were flooded with applications asking for these kinds of historical reparations. The many cases which reached the ECtHR prompted Romania to reform its restitution legislation such that the whole process could be finalised. This was mainly done by one legislative act, Law no. 165/2013. Notably, this regulation is only a partial success, as restitution is still an ongoing process in Romania.

In addition, Romania had, and still has, a problem when it comes to combatting domestic violence (*supra*, 2.). In the judgement *Bălşan v. Romania*, the court noted that "*the overall unresponsiveness of the judicial system and the impunity enjoyed by aggressors […] indicated that there was an insufficient commitment to take appropriate action to address domestic violence*."[77] This decision, among several other cases, led Romania to embark on a journey to address the issue of domestic violence more seriously. Consequently, on 13 July 2018, the Romanian Parliament adopted Law no. 174/2018, amending and supplementing the insufficient old law on the prevention and combat of domestic violence.

The *Kövesi v. Romania*[78] case highlighted issues of judicial independence, particularly the vulnerability of prosecutors to political interference. In response to the ECtHR ruling, Romania introduced Law no. 303/2022, which allows prosecutors to challenge their dismissal in court and provides mechanisms for their reinstatement if the dismissal is found

[76] For the supervision of the execution of three such judgements, see Resolution CM/ResDH (2017)237 adopted by the CM on 6 September 2017, at the 1292nd meeting of the Ministers' Deputies.
[77] *Case of Bălşan v. Romania*, App. No. 49645/09, 23 May 2017, point 88.
[78] *Case of Kövesi v. Romania*, App. No. 594/19, 5 May 2020.

unlawful. The law aims to protect prosecutors from undue political pressure and to reinforce the independence of the judiciary in Romania.

The case *Grosaru v. Romania*[79] emphasised the need for clear legal safeguards in minority representation. It involved the misallocation of a parliamentary seat reserved for Romania's Italian minority. Mircea Grosaru, who received the most votes nationwide, was overlooked in favour of a colleague. The ECtHR ruled that Romania's unclear electoral laws violated Grosaru's rights. Consequently, Romania adopted a new parliamentary electoral regulation, Law no. 208/2015, to clarify that parliamentary seats for minority organisations should be awarded based on national vote totals, ensuring more transparent election processes.[80]

4.3. Impact of the ECtHR on the Practice of Romania's Constitutional Court

As previously mentioned, petitioners can make reference directly to the provisions of the ECHR when seeking the unconstitutionality of a legal provision under constitutional review (*supra*, 4.1.). Furthermore, the RCC incorporates the practice of the ECtHR – primarily principles deriving from these rulings – in its own decisions and accepts this as a point of reference when it comes to human rights protection. The RCC has even created certain mechanisms during its adjudication, inspired by the Strasbourg Court's practice. Titus Corlățean expressed the idea that by these types of receptions, the RCC is in reality making a legal import of international standards to domestic law.[81] Interestingly, the ECtHR also makes reference to the decisions of the RCC in cases related to Romania.[82] In this inter-court relationship, a real dialogue emerges.

---

[79] *Case of Grosaru v. Romania*, App. No. 78039/01, 2 March 2010.

[80] For other ramifications of judgements in the Romanian national legal system, see the main achievements according to the Department for the Execution of Judgments of the European Court of Human Rights in 2023. [Online]. Available at: https://rm.coe.int/ma-romania-eng/1680a186bf (Accessed: September 18, 2024).

[81] Corlățean, 2014, p. 102.

[82] For example, the ECtHR referred to the decisions of the RCC in *Case of Brumărescu v. Romania*, App. No. 28342/95, 28 October 1999; *Case of Pantea v. Romania*, App. No. 33343/96, 3 June 2003; *Case of Visan v. Romania*, App. No. 15741/03, 24 April 2008; *Case of Pini and Others v. Romania*, App. No. 78028/01, 22 June 2004; *Case of Cobzaru v Romania*, App. No. 48254/99, 26 July 2007; *Case of Tudor Tudor v. Romania*, App. No. 21911/03, 24 March 2009; *Case of Maria Atanasiu and Others v. Romania*, App. Nos. 30767/05 and 33800/06, 12 October 2010.

Former justice of the RCC, Tudorel Toader, and constitutional law expert, Marieta Safta, expressed that when it comes to the role served by the national constitutional courts in the protection of fundamental rights and freedoms, ECtHR and the Court of Justice of the European Union (CJEU) can be perceived as European constitutional courts.[83] The control of the ECtHR, more specifically, can be seen as a safety mechanism to solve those problems that escape the control of the national constitutional court.[84] Many similarities can be observed between the practice of the ECtHR and national constitutional courts. The legal literature summarises these similarities as follows: both apply similar standards regarding the restriction of fundamental rights, use the proportionality test with comparable legal concepts (such as the rule of law and democracy), and rely heavily on their own earlier judicial practice. Furthermore, both courts emphasise consistency, predictability, and equality in their interpretations of human rights.[85]

The RCC holds the ECtHR's practice in high regard, so much so that in a recent decision, it was referred to as part of the European constitutional heritage.[86] There was a growing tendency in the Constitutional Court's practice to reference the judicial practice of the ECtHR, particularly after the amendment of the Constitution in 2003. This was reflected in the increasing number of decisions that cited ECtHR rulings, the wider range of fundamental rights addressed, and the broader array of referenced judgments. Another trend was the inclusion of ECtHR practice in *a priori* petitions, where laws were reviewed before enactment. In such cases, the Court made more substantial references to ECtHR practice, particularly when discussing legislative techniques that had important consequences for ensuring legal certainty.[87]

Between 1994 and 2003, around 380 decisions of the Constitutional Court were based on the ECHR and ECtHR practice. However, this number was reached within a single year in more recent times. For instance, in 2012,

[83] Toader and Safta, 2013, p. 94.
[84] *Ibid*, p. 95.
[85] Tóth, 2021, pp. 87–89.
[86] Decision no. 2 of 5 October 2024, of the Constitutional Court of Romania, unpublished yet. This is the first decision where the Court mentions expressly European constitutionalism and its heritage.
[87] Toader and Safta, 2013, p. 100.

the Court issued 1,098 decisions, reflecting a significant increase in the use of ECtHR references.[88]

An analysis of the Constitutional Court's practice reveals that, in petitions assessing potential infringements of fundamental human rights, it also tends to evaluate the compatibility of national legislation with the principles articulated by the ECtHR and, by extension, with the provisions of the ECHR. On the one hand, referencing this judicial practice promotes a uniform interpretation of fundamental human rights and freedoms, thereby enhancing legal certainty. On the other hand, this reliance on the ECtHR's practice may marginalise national specificity, potentially overlooking unique local contexts and legal traditions.[89]

Toader and Safta consider that there are certain domains wherein the practice of the ECtHR has influenced decisively the practice of the RCC.[90] Among these, the mechanism determining the quality of legislation (to ensure legal certainty), namely, laying down the necessary requirements of legislature, is of an utmost importance. The RCC, referring to *Rotaru v. Romania*[91] and *The Sunday Times v. United Kingdom*,[92] identified four such requirements: "*clarity, precision, foreseeability and predictability in order to enable the subject of the law concerned to conduct himself in such a way as to avoid the consequences of non-compliance with them*."[93] Since this decision, this has been a constant mechanism (test) employed by the RCC when adjudicating on *a priori* or *a posteriori* petitions.

The RCC often makes reference to the case *Marckx v. Belgium*[94] when adjudicating in cases related to principle of equal rights.[95] In some instances, the RCC reconsidered its settled practice in light of the ECtHR judgements. For example, with regards to the right to defence, the criminal procedural provisions prohibiting the representation of the defendant in court in the case of offences for which the penalty prescribed by law is imprisonment

[88] *Ibid*.
[89] Tóth, 2021, p. 91.
[90] Toader and Safta, 2013, pp. 101–116.; Corlățean, 2014, pp. 102–105.
[91] *Case of Rotaru v. Romania*, App. No. 28341/95, 4 May 2000.
[92] *Case of The Sunday Times v. United Kingdom*, App. No. 6538/74, 26 April 1979.
[93] Decision no. 61/2007 of the Constitutional Court of Romania, published in Official Gazette no. 116 of 15 February 2007.
[94] *Case of Marckx v. Belgium*, App. No. 6833/74, 13 June 1979.
[95] Toader and Safta, 2013, pp. 106–108.

for more than one year were found unconstitutional.[96] These are only a few examples of how the "invisible constitution" (i.e. the practice of the RCC) was influenced by the ECtHR and its interpretation of the ECHR.

5. ECtHR's Practice Regarding Romania and Landmark Cases

Since the accession of states from the former Eastern Bloc to the CoE and, therefore, to the ECHR, the caseload of ECtHR expanded swiftly. A report that examined the statistics from the setting up of the Court in 1959 to 2020, found 1,578 judgements pronounced in cases against Romania. Here, it should be reiterated that the ECHR entered into force in 1994 in Romania, so the number is given by 26 years of practice. However, this number places the country after Turkey (3,742 judgements; ECHR in effect since 1954), Russia[97] (2,884 judgements; ECHR in effect between 1998–2022) and Italy (2,427 judgements; ECHR in effect since 1955), but before Ukraine (1,499 judgements; ECHR in effect since 1997), Poland (1,197 judgements; ECHR in effect since 1993), France (1048 judgements; ECHR in effect since 1974) and Greece (1,047 judgements; ECHR in effect since 1974).[98] This overrepresentation in the statistics compared to the population of Romania is likely to remain the same, as the most recent Annual Report of the ECtHR mentions the fact that in 2023, "*75% of pending applications concern the same five States as those listed in 2022, namely Türkiye (23,400 applications), the Russian Federation (12,450), Ukraine (8,750), Romania (4,150) and Italy (2,750).*"[99] However, the number of pending cases involving Romania shows a faster decreasing trend in the period 2020–2024 than the CoE average.[100]

---

[96] Decision no. 145/2000 of the Constitutional Court of Romania, published in Official Gazette no. 116 of 15 February 2007. It cited the cases *Case of Poitrimol v. France*, App. No. 14032/88, 23 November 1993; *Case of Lala v. the Netherlands*, App. No. 14861/89, 22 September 1994, and *Case of Pelladoah v. the Netherlands*, App. No. 16737/90, 22 September 1994.

[97] After its expulsion from the CoE on 16 March 2022, the Russian Federation ceased to be a party to the ECHR on 16 September 2022. The ECtHR retained jurisdiction to handle applications against Russia for actions or omissions that took place prior to the latter date.

[98] *ECHR Overview 1959–2020*, 2021, pp. 8–9.

[99] *Annual Report 2023 of the European Court of Human Rights, Council of Europe*, 2024, p. 6.

[100] For the current number of pending applications per country and their annual evolution. [Online]. Available at:

Of the 1,578 judgements relating to Romania up until 2020, the Court found at least one violation of a fundamental freedom or right in 1393, no violation in 77, 38 cases ended in a friendly settlement or striking-out, and other judgements were pronounced in 70 cases. In 2023, the Court processed 3,441 applications related to Romania, with 3,041 being declared inadmissible or struck out. It issued 74 judgments (concerning 400 applications), with 58 judgments identifying at least one violation of the ECHR.[101]

Notably, the judgements that found violations in the last 30 years can be integrated into a pattern. The multitude of cases do not translate to multiple forms of violations, as most violations of human rights are repetitive. In the practice of the Court, besides repetitive cases, leading judgements,[102] which are more challenging to implement than regular cases, are also distinguishable as they typically necessitate changes to laws or practices to prevent the recurrence of similar violations. Until 2020, Romania has mostly violated Articles 3 (prohibition of torture) and 6 (right to a fair trial) of the ECHR, and Article 1 (right to property) of Protocol 1 according to the judgements of the Court.[103] This cannot be considered exceptional, as it fits the constant practice of the Court, wherein nearly 40% of violations have involved Article 6, addressing the fairness (16.79%) or length (20.86%) of proceedings, and over 16% have concerned serious breaches of Articles 2 and 3, relating to the right to life and the prohibition of torture and inhuman or degrading treatment. A 2018 study addressing the Court's practice between 2007 and 2017 also confirms that the main leading cases are all related to these violations. The most frequent human rights

https://public.tableau.com/app/profile/echr/viz/Analysis_statistics/Overview (Accessed: September 25, 2024).

[101] *Press Country Profile: Romania*, 2024, p. 1.

[102] The Glossary of the ECtHR defines a repetitive case as "*relating to a structural and / or general problem already raised before the Committee in the context of one or several leading cases*" and leading cases as that "*which has been identified as disclosing a problem, in law and/or practice, at national level, often requiring the adoption by the respondent State of new or additional general measures to prevent recurrence of similar violations. If this new problem proves to be of an isolated nature, the adoption of general measures, in addition to the publication and dissemination of the judgment, is not in principle required. A leading case may also reveal structural/systemic problems, identified by the Court in its judgment or by the Committee of Ministers in the course of its supervision of execution, requiring the adoption by the respondent State of new general measures to prevent recurrence of similar violations*." *Glossary of the ECtHR.*

[103] *ECHR Overview 1959–2020*, 2021, p. 9.

violations in Romania include inadequate detention conditions, particularly due to overcrowding and lack of access to sanitary facilities (Article 3); non-enforcement of judgments (Article 6); excessive length of proceedings, both in criminal and civil cases (Article 6); and the failure to protect private property (Article 1 of Protocol 1).[104]

As of January 2024, nearly half (49%) of the leading judgments issued by the Court in the past decade remain unimplemented, totalling 1,326 pending judgments overall. The average pending time for the implementation of these leading judgments is six years and eight months. Specific to Romania, there are 115 leading judgments awaiting implementation, with an average pending time of five years and five months, representing 59% of leading cases from the last ten years that still await proper implementation.[105] When it comes to the philosophy – the *raison d'être* – behind the ECHR, another aspect should be mentioned. According to Péter Metzinger, external judicial control has arisen because of a certain evolution of the rule of law, to address serious injustices that may not have been remedied, or may even have been caused, by a final judgment within a national legal system. The ECtHR is one of the organs serving this purpose, therefore, it:

> is not empowered to directly remedy (annul) the act of the State (judgment, law) breaching the human right of the party, but it may order pecuniary compensation. Legal certainty and justice are so reconciled in a way that the public act causing the harm remains valid and enforceable, while the individual harm gets material compensation.[106]

Furthermore, if such a judgement happens to be *ultra vires*, in an exaggeration of the rule of law principle to the detriment of the principle of democracy (entailing pluralism as a value), that would amount to legal imperialism.[107] However, the ECtHR has shown with its practice so far that it is not prone to judicial activism, and tries to adjudicate on the basis of the values universally accepted by the states under the auspices of the ECHR.

---

[104] Reichel and Grimheden, 2018, pp. 277–279; Corlățean, 2010, p. 115.
[105] European Implementation Network, Countries. [Online]. Available at: https://www.einnetwork.org/countries-overview (Accessed: 12 September 2024).
[106] Metzinger, 2022, p. 19.
[107] *Ibid*, pp. 20–21.

Protocol 14 of the ECHR (entered into force in 2010) opened the possibility of issuing pilot judgements[108] to address systemic or structural dysfunctions in human rights protection in a more efficient manner. Till date, the ECHR has delivered two pilot judgements regarding Romania and multiple semi-pilot judgments.[109] In both pilot judgements, the issues from the aforementioned repetitive and leading cases were addressed. The first one from 2010,[110] refers to the "*systemic problem with the inefficient restitution or compensation mechanism*"[111] of properties abusively nationalised or confiscated by the state prior to the fall of the Soviet-type dictatorship in 1989 (aka. the right to property). The second pilot judgement is from 2017,[112] and deals with the overcrowding and precarious conditions in prisons (aka. the prohibition of torture).[113]

The following pages explore several landmark cases concerning Romania, carefully selected for their influence on national courts and their relevance to key legal topics. In the author's view, the significance of the *Spasov v. Romania* case is profound, as it opened a novel channel between the application of EU law and the protection of fundamental rights under the ECHR, particularly through the right to a fair trial (in a way, it further developed the Bosphorus doctrine).

---

[108] According to the Glossary of the ECtHR, "*[w]hen the Court identifies a violation which originates in a structural and / or systemic problem which has given rise or may give rise to similar applications against the respondent State, the Court may decide to use the pilot judgment procedure. In a pilot judgment, the Court will identify the nature of the structural or systemic problem established and provide guidance as to the remedial measures which the respondent State should take. In contrast to a judgment with mere indications of relevance for the execution under Article 46, the operative provisions of a pilot judgment can fix a deadline for the adoption of the remedial measures needed and indicate specific measures to be taken (frequently the setting up of effective domestic remedies). Under the principle of subsidiarity, the respondent State remains free to determine the appropriate means and measures to put an end to the violation found and prevent similar violations*." *Glossary of the ECtHR*.

[109] For the enumeration of these until 2020, see Verga, 2020, pp. 41–42.

[110] *Maria Atanasiu and Others v. Romania*, App. Nos. 30767/05 and 33800/06, 12 October 2010.

[111] Verga, 2020, p. 42.

[112] *Rezmiveș and Others v. Romania*, App. Nos. 61467/12, 39516/13, 48231/13 et al., 25 April 2017.

[113] For the short description of these two judgements, see Verga, 2020, pp. 41–42. or *Press Country Profile: Romania*, 2024, pp. 21–22.

5.1. Spasov v. Romania[114]

The *Spasov v. Romania* case revolves around a Bulgarian fisherman, Mr. Spasov, who was charged by Romanian authorities with illegal turbot fishing in Romania's exclusive economic zone. Despite his claim that EU law allowed him to fish under a Bulgarian license and that his nets complied with EU regulations, Romanian courts initially applied national law, which imposed stricter requirements. The case became more complex when the Romanian Court of Appeal overturned a lower court's decision, asserting that Romanian law, not EU law, governed fishing in the zone, leading to Spasov's conviction and subsequent appeals.

Mr. Spasov appealed to the ECtHR, claiming that his right to a fair trial under Article 6(1) of the ECHR had been violated because the Romanian courts had misapplied EU law and refused to refer the matter to the CJEU for a preliminary ruling. The ECtHR found in his favour, concluding that the Romanian courts had committed a "*manifest error of law*" by disregarding EU law, which had been clarified by the European Commission. The court ruled that this misapplication constituted a denial of justice, thereby violating Spasov's right to a fair trial.

The Spasov case is significant because it establishes a new connection between the application of EU law and the right to a fair trial under the ECHR. The ECtHR's ruling opens the door for individuals to challenge the misapplication of EU law in national courts through human rights claims, framing such errors as violations of fundamental rights. This case introduces the concept that the improper handling of EU law by domestic courts can lead to recourse in the ECtHR, raising important implications for the relationship between the two legal systems and their coaction in protecting human rights across Europe.[115]

5.2. Rezmiveș and Others v. Romania[116]

In the pilot judgment *Rezmiveș and Others v. Romania*, the ECtHR examined the precarious conditions of detention in Romanian prisons and police detention facilities. The applicants reported severe issues such as

[114] *Spasov v. Romania*, App. No. 27122/14, 6 December 2022.

[115] For more information on the case, see Nagy, 2024. For a detailed discussion on the issue of the European Union's accession to the European Convention on Human Rights, see Voiculescu and Berna, 2023, pp. 195–200.

[116] *Rezmiveș and Others v. Romania*, App. Nos. 61467/12, 39516/13, 48231/13 and 68191/13, 25 April 2017.

overcrowding, inadequate sanitary facilities, lack of hygiene, substandard food, dilapidated equipment, and the presence of rats and insects in their cells. Under Article 3 of the ECHR, the Court concluded that the conditions of the applicants' detention subjected them to hardships beyond the unavoidable level of suffering inherent in imprisonment. Recognising that these issues were not isolated incidents but part of a broader, systemic problem affecting the Romanian prison system, the Court decided to apply the pilot-judgment procedure.

Romania had to implement general measures – including both preventive and compensatory measures for affected individuals – to address the structural dysfunction within its prison system. The examination of similar applications not yet communicated to the Romanian Government was adjourned, while those already communicated would continue. Romania was required to submit a detailed implementation timetable for these measures, in cooperation with the CM, within six months of the judgment becoming final.

5.3. Creangă v. Romania[117]

The noteworthy case of *Creangă v. Romania* dealt with a Romanian police officer, Mr. Creangă, who was deprived of his liberty during a large-scale criminal investigation to dismantle a petroleum trafficking network. The ECtHR examined his detention under Article 5 of the ECHR, which guarantees the right to liberty and security. On the one hand, the Court found that Mr. Creangă's deprivation of liberty on 16 July 2003, between 12 noon and 10 p.m., violated Article 5(1). During this time, he was deprived of his liberty without a legal basis. On the other hand, the Court held that there was no violation regarding his deprivation of liberty from 10 p.m. on 16 July 2003, to 10 p.m. on 18 July 2003, as this detention period was considered lawful in light of the circumstances and applicable legal framework at the time.

5.4. Maria Atanasiu and Other v. Romania[118]

In the pilot judgment *Maria Atanasiu and Others v. Romania*, the ECtHR identified a systemic issue with Romania's inefficient mechanism for restitution or compensation for properties nationalised during the

[117] *Case of Creangă v. Romania,* App. No. 29226/03, 23 February 2012.
[118] *Case of Maria Atanasiu and Others v. Romania*, App. Nos. 30767/05 and 33800/06, 12 October 2010.

communist regime. The applicants, whose properties had been confiscated, faced lengthy delays and significant obstacles in the Romanian restitution process. The Court found violations of Article 6(1), right to a fair hearing, for Mrs. Atanasiu and Mrs. Poenaru due to the prolonged legal proceedings, and violations of Article 1 of Protocol No. 1, protection of property, concerning all three applicants because of the ineffective restitution system. As this was a pilot judgment, the Court temporarily suspended similar cases to allow Romania time to implement general measures and address the shortcomings in the restitution process. Romania was granted an extension for the implementation to ensure compliance with the ECHR.

5.5. Lupeni Greek Catholic Parish and Others v. Romania[119]

The *Lupeni Greek Catholic Parish and Others v. Romania* case is of particular interest, and centred on a request for the restitution of a place of worship that originally belonged to the Greek Catholic Church but was transferred to the Orthodox Church during the totalitarian regime. The applicants sought to reclaim the property, arguing that they were treated unfairly in the restitution process. The ECtHR found no violation of Article 6(1) regarding the right of access to a court. However, it identified violations of Article 6(1) due to breaches of the principle of legal certainty and the excessive length of the proceedings. The Court determined that the applicants experienced delays that undermined their right to a fair hearing and legal certainty in the restitution process. Additionally, the Court ruled no violation of Article 14, prohibition of discrimination, in conjunction with Article 6(1) regarding the applicants' access to a court compared to the Orthodox parish. It determined that it was unnecessary to separately examine the complaint about alleged discrimination concerning other Greek Catholic parishes, as the relevant issues had already been addressed.

5.6. Radovici and Stănescu v Romania[120]

Radovici and Stănescu v. Romania concerned the applicants' prolonged inability to use property that had been confiscated by the state and later legally returned to them. Despite this legal restitution, the applicants were unable to evict a tenant occupying the flat, preventing them from fully

[119] *Case of Lupeni Greek Catholic Parish and Others v. Romania*, App. No. 76943/11, 29 November 2016.
[120] *Case of Radovici and Stănescu v Romania*, App. Nos. 68479/01, 71351/01 and 71352/01 joined, 2 November 2006.

enjoying their property rights. The ECtHR ruled that there was no violation of Article 1 of Protocol No. 1, protection of property.

5.7. Tătar v. Romania[121]

In *Tătar v. Romania*, the case involved pollution from a company's cyanide-based gold mining process in Baia Mare. The applicants claimed that the pollution—particularly the use of cyanide—posed serious risks to their health and the environment. The ECtHR found a violation of Article 8 of the ECHR, the right to respect for private and family life, ruling that Romanian authorities failed to adequately protect the applicants from the environmental risks posed by the mining operations.

5.8. Rotaru v. Romania[122]

In *Rotaru v. Romania*, the applicant claimed an inability to refute what he alleged to be false information contained in a file archived by the Romanian Intelligence Service (SRI). He had been sentenced to one year in prison in 1948 for criticising the communist regime. The ECtHR found a violation of Article 8 of the Convention, stating that the SRI's retention and use of information about the applicant's private life were not legally justified. The Court noted that public information could be considered part of private life when collected and stored by authorities, especially if it pertained to an individual's distant past. Furthermore, the Court identified gaps in Romanian law regarding the types of information that could be archived and the conditions under which it could be retained. It concluded that the lack of clear guidelines on the exercise of discretion by public authorities led to a violation of Article 13, the right to an effective remedy, as the applicant was unable to contest the information or its validity.

5.9. Bragadireanu v Romania[123]

The case of *Bragadireanu v. Romania* was found to be "*the most central and most interconnected case, which concerned conditions of detention (Article 3) and length of the procedure (Article 6)*."[124] The case concerned the conditions of the applicant's detention and the treatment he received while incarcerated. Mr. Bragadireanu claimed that he had been subjected to

[121] *Case of Tătar v. Romania*, App. No. 67021/01, 27 January 2009.
[122] *Case of Rotaru v. Romania*, App. No. 28341/95, 4 May 2000.
[123] *Case of Bragadireanu v. Romania*, App. No. 22088/04, 6 December 2007.
[124] Reichel and Grimheden, 2018, p. 277.

overcrowded and unsanitary conditions, poor ventilation, inadequate food, and poor medical care, violating his rights under Article 3 of the ECHR, which prohibits inhuman or degrading treatment.

The court examined the conditions of Mr. Bragadireanu's detention and found that they did indeed violate Article 3 of the Convention. The judgment stressed that the cumulative effects of overcrowding, lack of basic facilities, and the poor health care system in Romanian prisons were sufficient to meet the threshold for inhuman or degrading treatment. Consequently, the court ruled in favour of Mr. Bragadireanu, leading to a judgment requiring Romania to address these conditions and potentially compensate the applicant.

6. Concluding Thoughts

Historically, Romania has a very bad human rights record. The regulation sometimes moved away, and sometimes moved closer, to the reality. From the time human rights first appeared in law, until the First World War, a positive process of modernisation took place. In spite of anti-Semitism, reality was approaching regulation. After the Great Unification, Romania became a multi-ethnic country, which in turn wanted to continue on the path of nation-building to create a united and homogeneous nation-state. This kind of policy led to multiple violations of the rights of ethnic minorities, who made up around one-third of the country's population. However, real advances in human rights were often hampered by political instability and authoritarianism. The period of the Second World War also saw the first dictatorship. The persecution of the Jewish population on ethical grounds in Romania is a well-known fact.

Under the post-war Soviet-style totalitarian dictatorship, there were glaring differences from the human rights declared in law. A state of general disenfranchisement was the everyday reality. The regime's policies shifted from internationalist socialism to national chauvinism, particularly in the 1960s and 1970s, resulting in efforts to forcibly assimilate ethnic minorities. After the fall of the dictatorship, the dismantling of the totalitarian state began in various ways. Respect for human rights came to the fore, and reality once again began to approach the law. Among other things, meeting the expectations of European integration has been a major step forward in the protection of human rights. One of the cornerstones of this was the accession to the CoE and the signing of the ECHR in 1993.

Romania's relationship with the CoE has been crucial for its integration into European institutions, particularly in the realm of human rights and democratic governance. After a rigorous evaluation process that included monitoring its elections and legal framework, Romania's accession to the CoE marked a commitment to democratic values, helping it meet the prerequisites for joining the EU and NATO. The Venice Commission and other CoE bodies provided guidance on constitutional and legal reforms, while the ECtHR played a significant role in addressing deficiencies in Romania's judicial system. Romania's active role within the CoE, including its presidency of the CM in 2005–2006, underscores its commitment to aligning with European standards in human rights, the rule of law, and democracy.

Romania has ratified 110 CoE treaties, 28 of which focus on human rights, with the ECHR being particularly significant. The ECHR was signed and ratified simultaneously with Romania's CoE membership, marking a crucial step in Romania's European integration. Other key human rights treaties include the European Social Charter,[125] the Convention on Action Against Trafficking in Human Beings, and the Framework Convention for the Protection of National Minorities. Romania has made three reservations to CoE treaties, including one related to military detention under the ECHR. While the ECHR plays a central role in Romania's legal system, particularly in addressing discrimination, its impact on protecting ethnic minorities has been questioned, although other instruments such as the Framework Convention for National Minorities are seen as more effective.

The ECHR significantly influenced Romania's post-communist Constitution and its legislative reforms, especially in the protection of fundamental rights. Romania adopted a monist system, allowing international human rights treaties to take precedence over national laws in cases of conflict, as articulated in Article 20 of the 1991 Constitution. This principle – unusual for Eastern Europe – was reinforced by the RCC, which affirmed the binding nature of both the ECHR and the practice of the ECtHR. Constitutional amendments in 2003, largely motivated by European integration, brought further alignment with ECHR standards. These changes addressed issues such as arrest procedures and the non-retroactivity of contravention law, incorporating ECtHR rulings into Romanian law, and

[125] For a detailed discussion on the Charter and its general characteristics, see Voiculescu and Berna, 2023, pp. 541–551.

significantly shaping constitutional norms to ensure compliance with international human rights obligations.

The ECHR has also impacted Romania's national legislation and the practice of its Constitutional Court. Numerous legislative reforms were driven by ECtHR judgments, such as the decriminalisation of defamation, improving property restitution processes, and strengthening judicial independence. The RCC has integrated ECtHR principles into its rulings, frequently referencing its judicial practice to ensure legal consistency, predictability, and alignment with European human rights standards. This close relationship between the RCC and the ECtHR fosters uniformity in the interpretation of rights; however, it can also marginalise local legal specificities. Over time, the RCC has used ECtHR practice to review legislation prior to its enactment, ensuring greater legal certainty and improving the quality of laws, while adopting proportionality tests and legal concepts similar to those applied by the Strasbourg court. In this way, it contributes to a culture of human rights and to the convergence of human rights at the international level.

Romania has the highest number of human rights violations in the EU according to court judgement. While the downward trend in the number of applications in recent years is encouraging, the proliferation of repetitive and leading cases raises structural problems, particularly with respect to Articles 3 and 6 of the ECHR and Article 1 of the First Protocol. These were also highlighted by the Court in its two pilot decisions. The implementation of leading cases is lower than average; however, as there are more leading cases (more structural changes would be needed), the number of leading cases implemented is also higher. Implementing key reforms, Romania has made significant progress in aligning its domestic laws with European human rights standards. Nevertheless, challenges remain, particularly in areas such as judicial independence, prison conditions, fairness and length of judicial proceedings, and property restitution. Landmark cases at the ECtHR have played a pivotal role in shaping the country's approach to human rights, reflecting both achievements and ongoing struggles in fully implementing the ECHR's protections.

Romania's engagement with the ECtHR and the broader CoE human rights framework has been instrumental in its post-totalitarian transformation. By ratifying the ECHR, it strengthened fundamental rights that protect citizens from state interference, which are the basis of any democratic system, as they limit the power that, if unchecked, leads to

abuse. The ECtHR's real role in Romania's legal development was that it helped give substance (real content) to the preexisting forms (the domestic human rights provisions) for the first time in the country's history.

Bibliography

[1] Andreescu, M. (2012) ‘Aplicarea dispozițiilor art. 20 din Constituția României, republicată, în materia recursului penal reglementat de dispozițiile art. 141 alin. (1) teza a doua din Codul de procedură penală’, *Dreptul*, 2012/13, pp. 207–219.

[2] Arendt, H. (2022) *Eichman in Jerusalem. A Report on the Banality of Evil*. Dublin: Penguin Classics.

[3] Benke, K., Costin, A. (2016) ‘Curtea Constituţională, Consecinţe ale receptării jurisprudenţei Curţii de Justiţie a Uniunii Europene şi a Curţii Europene a Drepturilor Omului în jurisprudenţa Curţii Constituţionale în materie administrativă’, *Revista Română de Drept European*, 2016/3, pp. 85–107.

[4] Bibó, I. (2023) *A kelet-európai kisállamok nyomorúsága*. Budapest: Trubadúr Könyvek Kiadó.

[5] Boia, L. (2001) *History and Myth in Romanian Consciousness*. Budapest: Central European University Press.

[6] Buza, L. (1929) ‘A Szentszék nemzetközi jogi helyzete a lateráni egyezmény szerint’ *Magyar Jogászegyleti Értekezések*, 1929/20, pp. 219–242.

[7] Cernea E., Molcuț, E. (1994) *Istoria statului și dreptului*. București: Casa de editură și presă Șansa.

[8] Corlățean, T. (2010) ‘Executarea unor hotărâri pronunţate de Curtea Europeană a Drepturilor Omului împotriva României’, *Revista Română de Drept European*, 2010/6, pp. 115–143.

[9] Corlățean, T. (2014) ‘The Constitution of Romania as an Instrument for Incorporating International Standards of Human Rights Protection’, *Revista de Drept Public*, 2014(n.s.), pp. 91–105.

[10] Djuvara, N. (2019) *O scurtă istorie ilustrată a românilor*. București: Humanitas.

[11] Fazakas, Z. J. (2023) 'Az első világháború utáni román agrárreform mint a nemzetállam kiépítésének eszköze', *Jogtörténeti Szemle*, 2023/1, pp. 13–19; https://doi.org/10.55051/JTSZ2023-1p11.

[12] Fazakas, Z. J. (2024) *A Vastörvény: A román nemzetállam mint alkotmányos értékválasztás, annak továbbélése a román totális államokban és a nemzeti kisebbségek*. Kolozsvár: Forum Iuris.

[13] Halász, I. (2022) 'National and Ethnic Minorities' Legal Position in East Central Europe Between 1789 and 1989', in Sáry, P. (ed.) *Lectures on East Central European Legal History*. Miskolc: Central European Academic Publishing. pp. 271–288; https://doi.org/10.54171/2022.ps.loecelh_11.

[14] Lukács, K. (2022) 'The System of Sources of Law', in Csink, L., Trócsányi, L. (eds.) *Comparative Constitutionalism in Central Europe*. Miskolc–Budapest: Central European Academy Publishing, pp. 255–272; https://doi.org/10.54171/2022.lcslt.ccice_14.

[15] Metzinger, P. (2022) 'In the Shadow of Legal Imperialism: The Supremacy of EU Law over the Member States', in Osztovits, A., Bóka, J. (eds.) *The Policies of the European Union from a Central European Perspective*. Miskolc–Budapest: Central European Academic Publishing. pp. 13–54; https://doi.org/10.54171/2022.aojb.poeucep_1.

[16] Nagy, Cs. I. (2023) 'A diszkriminációtilalom diszkriminatív alkalmazása: hogyan hajtott fejet Európa a monoetnikus nemzetállam előtt', *Fundamentum*, 27(2-3), pp. 20–31.

[17] Nagy, G. (2024) *Case of Spasov v. Romania: the Relationship Between the Application of EU Law and the Right to a Fair Trial* [Online at the *Central European Researchers' blog*]. Available at: https://www.ceaclaw.org/post/case-of-spasov-v-romania-the-relationship-between-the-application-of-eu-law-the-right-to-fair-trial (Accessed: 9 September 2024).

[18] Oișteanu, A. (2009) *Inventing the Jew: Antisemitic Stereotypes in Romanian and Other Central-East European Cultures*. Lincoln-London: University of Nebraska Press.

[19] Paczolay, P. (2022) 'Protection of Human Rights—The Role of the ECHR' in: Raisz, A. (ed.) *International Law From a Central European Perspective*. Miskolc-Budapest: Central European Academic Publishing, pp. 133–155; https://doi.org/10.54171/2022.ar.ilfcec_7.

[20] Reichel, D., Grimheden, J. (2018). 'A Decade of Violations of the European Convention on Human Rights: Exploring Patterns of Repetitive Violations', in: Benedek, W., Czech P., Heschl, L., Lukas, K., Nowak, M. (eds.) *European Yearbook on Human Rights*. Intersentia, pp. 267–286; https://doi.org/10.1017/9781780688008.

[21] Stanciu, L. D., Safta, M. (2021) *Raport of the Constitutional Court of Romania, Czech Republic: XVIII Congress of the Conference of European Constitutional Courts*. [Online]. Available at: https://www.cecc2017-2020.org/fileadmin/Dokumenty/Pdf/Questionnaire/National_Reports/English/Romania_-_Questionnaire_XVIII_Congress_of_CECC_eng.pdf (Accessed: September 7, 2024).

[22] Toader, T., Safta, M. (2013) 'Dialogul între Curtea Constituţională a României şi Curtea Europeană a Drepturilor Omului', *Dreptul*, 2013/9, pp. 93–121.

[23] Tóth, Z. J. (2021) ‘Interpretation of Fundamental Rights in Central and Eastern Europe: Methodology and Summary’, in: Tóth, Z. J. (ed.) *Constitutional Reasoning and Constitutional Interpretation*. Budapest–Miskolc: Ferenc Mádl Institute of Comparative Law–Central European Academic Publishing, pp. 9–98; https://doi.org/10.54237/profnet.2021.zjtcrci_1.

[24] Varga, Cs. (2021) *Rule of Law. Contesting and Contested*. Budapest: Ferenc Mádl Institute of Comparative Law; https://doi.org/10.47079/2021.csv.rolcac.

[25] Veress, E. (2020) ‘A szovjet típusú diktatúra jellemzői’, in Veress, E. (ed.) *Erdély Jogtörténete*. Budapest–Kolozsvár: HVG-Orac Könyvkiadó–Forum Iuris Könyvkiadó, pp. 502–506.

[26] Veress, E. (2022) ‘Private Law Codifications in East Central Europe’, in Sáry, P. (ed.) *Lectures on East Central European Legal History*. Miskolc: Central European Academic Publishing. pp. 167–205; https://doi.org/10.54171/2022.ps.loecelh_8.

[27] Veress, E. (2024) ‘Hét-hét érv az „idegen” jog átültetése ellen és mellett. Az 1864. évi román polgári törvénykönyvről’, *Jogtudományi Közlöny*, 2024/6, pp. 273–282; https://doi.org/10.59851/jk.79.06.1.

[28] Verga, C. M. (2020) ‘Pilot Judgments Delivered by the European Court of Human Rights against Romania’, *Logos Universality Mentality Education Novelty: Political Sciences and European Studies*, 6(2), pp. 38–46; https://doi.org/10.18662/lumenpses/6.2/22.

[29] Voicu, M. (2021) *Curtea Europeană a Drepturilor Omului – 60 de ani de funcţionare: doctrină şi jurisprudenţă actualizată şi sistematizată: România – 25 de ani de jurisdicţie CEDO*. Bucureşti: Universul Juridic.

[30] Voiculescu, N., Berna, M. B (2023) *Tratat de drepturile omului*. București: Universul Juridic.

[31] Zavatti, F. (2020) ‘Between History and Power. The Historiography of Romanian National-Communism (1964-1989)’, *Cuadernos de Historia Contemporánea*, 42, pp. 39–58; https://doi.org/10.5209/chco.71890.

[32] *Annual Report 2023 of the European Court of Human Rights, Council of Europe*. 2024. [Online]. Available at: https://www.echr.coe.int/documents/d/echr/annual-report-2023-eng (Accessed: 15 September 2024).

[33] *ECHR Overview 1959–2020*. 2021. [Online]. Available at: https://www.echr.coe.int/documents/d/echr/Overview_19592020_ENG (Accessed: 15 September 2024).

[34] *Glossary of the ECtHR* [Online]. Available at: https://www.coe.int/en/web/execution/glossary (Accessed: 12 September 2024).

[35] *Press Country Profile: Romania* [Online]. 2024. Available at: https://www.echr.coe.int/documents/d/echr/CP_Romania_ENG (Accessed: 15 September 2024).