[RO] Annulment of the electoral process for the election of the President of Romania in 2024

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On 4 December 2024, the "Information Notes" of the Ministry of Internal Affairs – General Directorate of Internal Protection, of the Foreign Intelligence Service, of the Romanian Intelligence Service and of the Special Telecommunications Service, were declassified. These Information Notes had been registered with the Presidential Administration under Nos. DSN1/1741/4.12.2024, DSN1/1740/4.12.2024, DSN1/1742/4.12.2024 and DSN1/1743/4.12.2024. Since, and as a result of this declassification of information, public attention in Romania and beyond has focused on the fairness and legality of the electoral process in relation to the Romanian presidential elections of 2024.

Thus, in an *ex officio* judgment of 6 December 2024, the Constitutional Court (hereinafter "the Court"), drew up File No. 3771F/2024 based on its own report which examined the issues related to the fairness and legality of the electoral process regarding the election of the President of Romania in 2024. These issues were examined in accordance with the provisions of the Romanian Constitution, Law No. 47/1992 on the organisation and functioning of the Constitutional Court and Law No. 370/2004 on the election of the President of Romania. In this regard, pursuant to Article 146, letter f) of the Constitution, the Court is mandated to ensure that the procedure for the election of the President of Romania is properly observed and to confirm the results of the election.

Following the examination of the declassified documents, the Court noted that, according to the above-mentioned information notes, the main concerns around the process for the election of the President of Romania in 2024 were those involving the manipulation of votes and the distortion of equal opportunities for the electoral candidates. This distortion was achieved through the non-transparent use of digital technologies and artificial intelligence in the electoral campaign, in violation of the electoral legislation, as well as through the financing of the electoral campaign from undeclared sources, including online sources.

The Court also found that the free expression of the vote was distorted by the fact that voters had been misinformed by means of an electoral campaign in which one of the candidates was aggressively promoted in circumvention of national electoral law and by misusing the algorithms of social media platforms. In the Court's opinion, the manipulation of the vote was all the more evident as the

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electoral materials promoting one of the candidates did not bear the specific signs of electoral advertising as required by Law No. 370/2004. In addition, the candidate also benefitted from preferential treatment on social media platforms, which had the effect of distorting the voters' expression of their will.

The Court considers that the principle of national sovereignty enshrined in Article 2 (1) of the Constitution, presupposes fair and transparent elections and that the state has a responsibility to prevent any unjustified interference in the electoral process. The Court also noted that, according to the documents analysed, the electoral campaign was marked by massive disinformation, favouring one candidate through digital means that violated the legislation in force. The Court emphasised that the voters' right to be correctly informed had been violated, directly affecting the freedom to vote.

The Court finds that the electoral process was seriously affected by vote rigging, the distortion of equal opportunities for electoral contestants and the improper use of digital technologies and artificial intelligence. The Court finds that some candidates benefitted from non-transparent online promotional campaigns which unduly influenced voter behaviour.

Another significant aspect analysed was the financing of the electoral campaign. The Court held, in this regard, that one of the candidates had violated the electoral legislation on campaign financing for the presidential elections, considering that the statements submitted to the Permanent Electoral Authority by this candidate regarding his campaign budget, which he reported as RON 0.00, contradicted the data presented in the information notes of the Ministry of Internal Affairs – General Directorate of Internal Protection and the Romanian Intelligence Service. However, it is common knowledge that an election campaign entails significant costs and expenses, and the situation under analysis raises suspicions of non-compliance with the legislation on electoral financing, thus violating the principle of transparency and legality in the financing of electoral campaigns.

In conclusion, the Court decided to annul the entire electoral process for the election of the President of Romania in 2024, establishing the need to rerun it in its entirety. The government will have to set a new date for the elections, as well as a new calendar programme, and to ensure compliance with the constitutional principles of legality, fairness and transparency. With this judgment, the Court states that it seeks to restore citizens' confidence in the democratic process and in the state authorities, thus protecting the constitutional foundation of Romania as a constitutional state.

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