

2025 Rule of Law Report - targeted stakeholder consultation

Fields marked with * are mandatory.

Introduction

The annual Rule of Law Report lies at the centre of the Annual Rule of Law Cycle, which acts as a preventive tool, deepening multilateral dialogue and joint awareness of rule of law issues. So far, five editions of the Rule of Law Report have been published since 2020.

As every year, the Commission would like to invite the stakeholders to provide contributions to the 2025 Rule of Law Report. On the basis of these contributions and on-going developments, further targeted questions may be shared at a later stage of preparation of the 2025 Rule of Law Report, in particular in the context of country visits, or bilateral contacts.

The Commission invites stakeholders to provide contributions which include:

- (1) information on measures taken to implement the recommendations addressed to the Member State in the 2024 Rule of Law report, as well as developments with regard to the points raised in the respective country chapter and**
- (2) any other significant developments since January 2024^[1] and up to the date of submission falling under the ‘type of information’ outlined below.**

The input should consist of a short summary, if possible in English, covering the areas referred to below. Legislation or other documents may be referenced with a link. Contributions should focus on significant developments since the last Rule of Law Report both as regards the legal framework and its implementation in practice.

If you would like to provide further specific **input related to the single market dimension in the Rule of Law report**, you can also respond to the additional targeted consultation available [here](#).

^[1] Unless the information was already submitted in the input for the previous Rule of Law Reports.

Type of information to be included:

Under each of the four pillars, the replies should include references to the following types of information:

A) Legislative developments

- Newly adopted legislation
- legislative drafts currently discussed in Parliament
- legislative plans envisaged by the Government

B) Policy developments

- Implementation of legislation
- evaluations, impact assessment, surveys
- white papers/strategies/actions plans/consultation processes
- follow-up to reports/recommendations of Council of Europe bodies or other international organisations
- important administrative measures
- generalised practices

C) Developments related to the judiciary / independent authorities

- important case law by national courts
- important decision/opinions from independent bodies/authorities
- state of play on terms, nominations and expired mandates for high-level positions (e.g. Supreme Court, Constitutional Court, Council for the Judiciary, Prosecutor General, heads of independent authorities included in the scope of the request for input[2])

D) Any other relevant developments

- National authorities are free to add any further information, which they deem relevant; however, this should be short and to the point.

Please also indicate whether the developments reported are linked to the implementation of reforms and investments under the RRP, where applicable. To simplify your answers to the questionnaire, **if there are no developments, it is sufficient to indicate this** and the information covered in the contributions for the previous Rule of Law Reports does not need not be repeated.

[2] Such as: media regulatory authorities and bodies, national human rights institutions, equality bodies, ombudsman institutions, supreme audit institutions and, where they exist, transparency authorities.

About you

* I am giving my contribution as

- ☐ Academic/research institution
- ☐ Business association
- ☐ Civil society organisation/NGO
- ☐ International organisation
- ☐ Judicial association or network
- ☐ Media organisation or association
- ☒ Public authority or network of public authorities

☐ Other

* Organisation name

250 character(s) maximum

Federal Institute for the Protection and Promotion of Human Rights (FIRM-IFDH)

Main Areas of Work

- ☒ Justice System
- ☐ Anti-corruption
- ☒ Media Pluralism
- ☒ Checks and Balances
- ☒ Other

If "Other", please specify

Human rights in general

Please insert an URL towards your organisation's main online presence or describe your organisation briefly:

500 character(s) maximum

<https://www.institutfederaledroitshumains.be/en/accueil>

Transparency register number

Check if your organisation is in the transparency register. It's a voluntary database for organisations seeking to influence EU decision-making

* Country of origin

Please indicate the country of origin of your organisation

- ☐ Austria
- ☒ Belgium
- ☐ Bulgaria
- ☐ Croatia
- ☐ Cyprus
- ☐ Czechia
- ☐ Denmark
- ☐ Estonia
- ☐ Finland
- ☐ France
- ☐ Germany
- ☐ Greece
- ☐ Hungary
- ☐ Ireland
- ☐ Italy

- ☐ Latvia
- ☐ Lithuania
- ☐ Luxembourg
- ☐ Malta
- ☐ Netherlands
- ☐ Poland
- ☐ Portugal
- ☐ Romania
- ☐ Slovak Republic
- ☐ Slovenia
- ☐ Spain
- ☐ Sweden
- ☐ Other - please specify

First name

Martien

Surname

Schotsmans

Email Address of the organisation

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*** Publication of your contribution and privacy settings**

You can choose whether you wish for your contribution to be published and whether you wish your details to be made public or to remain anonymous.

- ☐ Anonymous - Only your type of respondent, country of origin and contribution will be published. Organisation name, URL, transparency register number, first name and surname given above will not be published. **To maintain anonymity, please refrain from mentioning the name of your organisation and any details from which your organisation can be identified in the rest of your contribution.**
- ☒ Public - Your personal details (name, organisation name, transparency register number, country of origin will be published with your contribution).
- ☐ No publication - Your contribution will not be published. Elements of your contribution may be referred to anonymously in documents produced by the Commission based on this consultation.

☒ I agree with the personal data protection provisions.

[Specific privacy statement targeted stakeholder consultation 2025 rule of law report.pdf](#)

Questions on horizontal developments

In this section, you are invited to provide information on general horizontal developments or trends, both positive and negative, covering all or several Member States. In particular, you could mention issues that are common to several Member States, as well as best practices identified in one Member State that could

be replicated. Moreover, you could refer to your activities in the area of the four pillars and sub-topics (an overview of all sub-topics can be found below), and, if you represent a Network of national organisations, to the support you might have provided to one of your national members.

Overview topics for contribution

[List of topics - 2025 Rule of Law Report.pdf](#)

Please provide any relevant information on horizontal developments here

5000 character(s) maximum

Introduction

The Federal Institute for the Protection and Promotion of Human Rights (FIRM-IFDH) was created by the Act of 12 May 2019 to provide Belgium with a national human rights institution (NHRI). FIRM-IFDH has been operational since February 2021 and has since been accredited with a B-status by GANHRI, the Global Alliance of NHRIs, in March 2023.

For the last three years, FIRM-IFDH has coordinated the Belgian chapter of ENNHRI's report on the state of the rule of law in Europe. FIRM-IFDH is currently working on the 2025 report. Its thematic focus will be on the protection of human rights defenders and civic space in Belgium, as well as shorter developments on the evolution of the justice system and media freedom.

As was the case last year, the report will be co-authored by Unia, the Interfederal Centre for Equal Opportunities ; Myria, the Federal Migration Centre ; the Combat Poverty Service ; the Central Monitoring Council for Prisons ; the Institute for Equality between Women and Men and the Flemish Institute for Human Rights.

Considering this context, this contribution to the targeted stakeholders' consultation is limited to elements that have not been included in our forthcoming report on the rule of law.

General horizontal developments or trends

The two general horizontal developments are presented do not exhaustively cover relevant horizontal developments within several Member States, nor are they necessarily the main issues for the rule of law. However, they pose clear dangers to the rule of law and would otherwise not have been adequately addressed in this consultation :

1. Non-execution of judgments by State authorities

As discussed at length in FIRM-IFDH's 2023 and 2024 rule of law reports, there currently exists a concerning trend of non-compliance with final/enforceable judgments by Belgian state authorities : the authorities condemned by a tribunal or court simply refuse to comply with the judicial decision. This issue concerns both national judgments – including about ten thousand definitive rulings regarding asylum seekers' right to reception and several key decisions regarding prison overcrowding – and international decisions, by the European Court of Human Rights (ECtHR) and the European Court of Justice.

This issue has been exacerbated since 2023. In ENNHRI's 2024 Rule of Law Report, more than a third of NHRIs within the European Union reported issues with State non-compliance with final judgments. The issue is particularly problematic in Belgium, with some members of the federal government explicitly stating their refusal to implement judicial decisions (see L'Echo, 14 September 2024). In the last months, the European Commission, civil society organisations and independent public human rights institutions have repeatedly stressed out this issue and the risks it creates for society as a whole. Yet, no concrete steps have been taken by the government or parliament to address the non-implementation of judgments, despite apparently recognizing the existence of the problem. Non-implementation of judgments, especially key leading ones,

has been rising for several years in Europe, as found by the Legal and Human Rights Committee of the Council of Europe's Parliamentary Assembly in its 8th, 10th and 11th report on the implementation of judgments by the ECtHR.

In its 2025 rule of law report, FIRM-IFDH will provide an overview of the evolution of the implementation of specific judgments by the ECtHR, as well as information on the non-execution of national judgments. FIRM-IFDH has also launched a research project regarding non-compliance with final judgments in Belgium. Its first results are expected to be published in 2026.

2. Increased focus on "securitisation" policies

Securitisation was one of the two focusses of ENNHRI's 2024 Rule of Law Report. This term refers to the growing tendency, in several Member States, to disproportionately restrict fundamental freedoms in the name of national security. In 2024, the pre-emptive banning or restrictions of certain protests accelerated, both against specific individuals and certain organisations. The Israeli-Palestinian conflict led to an outpouring of online hatred, as well as to more widespread use of prosecution for glorification of terrorism in some Member States, such as in France and Germany. Furthermore, police data collection is becoming increasingly comprehensive, notably through the widespread use of video surveillance, and this data is increasingly shared, both horizontally (between member states ; via Europol) and vertically (between police and intelligence services, social support services, local and federal authorities, etc.). Undoubtedly, the prosecution of serious offences certainly requires appropriate resources. However, the trend towards securitisation also leads to the application of these methods against peaceful opposition groups or ordinary individuals suspected of less serious offences.

Questions for contribution

Under each pillar, you are invited to provide information on measures taken to implement the recommendations addressed to the Member State in the 2024 Rule of Law report, as well as developments with regard to the points raised in the respective country chapter of the 2024 Rule of Law Report and any other significant developments since January 2024 and up to the date of submission^[3]. Please always include a link to and reference relevant legislation/documents (in the national language and/or where available, in English). **Significant developments** can include challenges, positive developments and best practices, covering both legislative developments or implementation and practices.

Information provided in reply to the first question under each pillar, related to the follow-up to the recommendations, does not need to be repeated in subsequent parts of the questionnaire, but can be cross-referenced in the subsequent questions, where relevant. All other questions are not limited to the recommendations, but as in previous years, cover the entire scope of the Report.

^[3] Unless already covered in the input for the previous Rule of Law Reports.

Member State/enlargement country covered in contribution [only one choice possible]

If you wish to submit information concerning several Member States/enlargement countries, please fill in the questionnaire separately for each country. There is no limit to the number of contributions submitted by a single participant.

- ☐ Albania
- ☐ Austria

- ☒ Belgium
- ☐ Bulgaria
- ☐ Croatia
- ☐ Cyprus
- ☐ Czechia
- ☐ Denmark
- ☐ Estonia
- ☐ Finland
- ☐ France
- ☐ Germany
- ☐ Greece
- ☐ Hungary
- ☐ Ireland
- ☐ Italy
- ☐ Latvia
- ☐ Lithuania
- ☐ Luxembourg
- ☐ Malta
- ☐ Montenegro
- ☐ Netherlands
- ☐ North Macedonia
- ☐ Poland
- ☐ Portugal
- ☐ Romania
- ☐ Serbia
- ☐ Slovakia
- ☐ Slovenia
- ☐ Spain
- ☐ Sweden

I. Justice System

Please provide information on measures taken to follow-up on the recommendations received in the 2024 Report regarding the justice system (if applicable)

5000 character(s) maximum

The 2024 European Commission Report contained three recommendations relating to the Belgian justice system, showing the Commission's increasing concern for the evolution of the justice system in Belgium.

First, the Commission recommended to : "continue efforts to address the structural resource deficiencies in the justice system, taking into account European standards on resources for the justice system". A similar recommendation was already made in 2022, 2023 and 2024. Additional resources for the judiciary remain very much required, as the state of the judiciary continues to be alarming, including with the closure of courthouses due to health risks, excessive workload for its personnel and lengthy proceedings. This question is examined under question 12. "Resources for the judiciary".

Second, the Commission urged the Belgian State to "strengthen efforts to improve the efficiency of justice, particularly to reduce the length of proceedings based on comprehensive statistical data". Again, efforts of public authorities to provide comprehensive statistical data were found wanting, including by FIRM-IFDH in a 2024 analysis of the follow-up of the Bell ECtHR case. This question is examined under section 17. "Length of proceedings".

Third, the Commission recommended to "take measures to ensure compliance by public authorities with final rulings of national courts and the European Court of Human Rights". Here, the Commission highlighted one of the gravest issues regarding the respect of the rule of law in Belgium. As discussed in the general horizontal trends above, compliance with final rulings of national courts and the European Court of Human Rights has not improved over the last year and public authorities have refused to comply with final judgments regarding several new issues, including regarding the financing of civil society and the protection of LGBTQI+ individuals. This issue will also be addressed in our forthcoming chapter on Belgium within ENNHRI's Rule of Law Report.

A. Independence

Appointment and selection of judges, prosecutors and court presidents (incl. judicial review)

(The reference to 'judges' concerns judges at all level and types of courts as well as judges at constitutional courts)

5000 character(s) maximum

Irremovability of judges, including transfers, (incl. as part of judicial map reform), dismissal and retirement regime of judges, court presidents and prosecutors (incl. judicial review)

5000 character(s) maximum

Promotion of judges and prosecutors (incl. judicial review)

5000 character(s) maximum

Allocation of cases in courts

5000 character(s) maximum

An evaluation of the court cases allocation is difficult to make in Belgium, following persistent lack of adequate statistical data on the “disposition time” in civil proceedings, especially in first instance. The “disposition time” refers to “the estimated minimum time that a court would need to resolve a case while maintaining the current working conditions” (see FIRM-IFDH’s 2024 Communication to the Committee of Ministers of the Council of Europe for a reasonable length of judicial proceedings). It provides information concerning the average length of the proceedings.

The State has made efforts to produce statistics on the “disposition time” of Belgian courts and tribunals. However, in a 2022 Rule 9 submission to the Council of Europe’s Committee of Ministers in the *Bell v. Belgium* group of cases, FIRM-IFDH pointed out these data remain unavailable for the time being. In a 2024 follow-up Rule 9 submission, FIRM-IFDH noted that, despite some efforts from State authorities to provide them, statistics on the “disposition time” had again not yet been published.

The State did publish statistics on the “clearance rate”. The clearance rate measures whether a court is capable of handling new cases or whether it is accumulating a backlog. It corresponds to the “ratio between the number of cases resolved and the number of new cases registered” within a court or a tribunal (see FIRM-IFDH’s 2024 Communication). However, the clearance rate data published are somehow lacking : they do not take into account local differences among tribunals within the country or within the same judicial district. This means that even though the overall clearance rate remains above 100%, it does not give a clear picture of the situation in individual tribunals, including those that were historically most affected by an overload of cases and an excessive length of proceedings. In the *Van den Kerkhof* case, the ECtHR noted that the situation was particularly dire in the Brussels judicial district. To our knowledge, the State has not published disaggregated data on each civil tribunal since that Rule 9 submission.

This situation has thus not yet been resolved, despite numerous condemnations by European and national courts and tribunals due to the excessive length of proceedings and despite the European Commission’s 2024 recommendation to provide “comprehensive statistical data”. Lack of transparency remains an important problem leading to difficulties in identifying the causes of the judicial backlog and the impact of efforts aimed at reducing the length of proceedings.

Furthermore, there also remains a lack of adequate statistical data on the redress procedure against the excessive length of proceedings. This procedure enables a litigant to claim compensation when he or she has experienced a judicial procedure that exceeded a reasonable delay. Redress procedures to complain about the excessive length of judicial proceedings should be treated with special diligence by the authorities as, by definition, they follow an already too long procedure. On 5 September 2023, the European Court of Human Rights condemned Belgium for the excessive length of the redress procedure for excessive length of proceedings (*Van den Kerkhof v. Belgium*). For these reasons, FIRM-IFDH considers it necessary for the Belgian State to provide statistical data on the domestic redress procedure against excessive length of judicial proceedings.

FIRM-IFDH recommends that the Commission again requests disaggregated statistical data on clearance rate and all statistics – disaggregated as well as national ones – on disposition time. The data should account for the disparities between judicial districts, include all Belgian judicial jurisdictions and provide specific data on redress procedures for excessive length of proceedings.

Independence (including composition and nomination and dismissal of its members), and powers of the body tasked with safeguarding the independence of the judiciary (e.g. Council for the Judiciary)

5000 character(s) maximum

FIRM-IFDH's mandate includes monitoring Belgian authorities' compliance with European Court of Human Rights decisions. In the Loquifer case (20 July 2021), the European Court of Human Rights found that the absence of remedy against the suspension of a member of the High Council of Justice constituted a violation of the right to access to a court.

In its first action plan addressed to the Council of Europe's Committee of Ministers to comply with the ruling, the Belgian government announced it would amend the coordinated acts on the Council of State in order to provide a new remedy for the suspension of members of the High Council of Justice, which would be brought before the Council of State. In a more recent action report (dated 12/10/23), the government changed its plans, claiming a flexible interpretation of the current law by the Council of State is a better solution in order to provide access to a tribunal, and without removing this possibility for other institutions that are potentially also concerned by the same lack of appeal at the moment. According to the government, no legal changes were necessary to comply with the judgment of the European Court. However, the Judiciary Code has been modified in May 2024 to remove a sentence stating that the revocation of a mandate of the High Council of Justice for serious reasons was not open to any appeal.

At the request of the Belgian government, the Committee of Ministers of the Council of Europe decided in 2024 to close its examination of Belgium's compliance with the case.

Accountability of judges and prosecutors, including disciplinary regime and bodies and ethical rules, judicial immunity and criminal/civil (where applicable) liability of judges (incl. judicial review)

5000 character(s) maximum

In 2023, several law proposals were introduced in Parliament in order to reinforce rules regarding disciplinary procedure applicable to magistrates (DOC 55 3634 ; DOC 55 3675 ; DOC 55 3686, these proposals can be found in French and Dutch at www.lachambre.be). The proposals had in common to reinforce the disciplinary control exercised on the judges, by controlling them more frequently, by creating new bodies tasked with the upholding of the discipline (and sometimes removing the current privilege of the chef de corps) and to allow for new sanctions. One law proposal would have created a permanent disciplinary prosecution office, which would be able to open disciplinary investigations against magistrates and start proceedings before a non-permanent disciplinary tribunal. As with other prosecution offices, the disciplinary prosecution office would not be fully independent from the executive order, even if efforts have been made to improve this aspect compared with other prosecution offices. We refer to FIRM-IFDH's 2024 contribution to the European Commission's Stakeholders Consultation for more details on this issue.

These three law proposals became obsolete following the end of the Parliamentary term in June 2024. However, two of those proposals were reintroduced during the new legislative term (DOC 56 0289 ; DOC 56 0470). Two new proposals specifically concerned with disciplinary proceedings against the chef de corps (the court's president, the public prosecutor or the general prosecutor) were introduced (DOC 56 0531 ; DOC 56 0558). Chef de corps are currently mostly exempted from prosecution based on the disciplinary regulations applicable to magistrates.

These law proposals seem intended to break with the tradition of magistrates' disciplinary proceedings being mostly conducted by the judiciary itself, in order to improve both the effectiveness of the proceedings and its appearance of impartiality to the larger public. They also require that significantly more time is spent on evaluation processes, which could be difficult for the magistrates in a context of limited resources. It would also create overall a more complex procedure. The High Council for Justice has published several advisory opinions on these law proposals, including one in December 2024 which examines the latest law proposal (accessible here on the website of the High Council).

FIRM-IFDH highlights that, while reinforcing the judges' disciplinary obligations could lead to improvements in the justice system, it also risks weakening the separation of powers and the independence of the judiciary. In other European Member States, the creation of permanent disciplinary prosecution offices has sometimes been used to make a judiciary more compliant with the executive's wishes. Similarly, allowing for appeal possibilities against the decision of the chef de corps can certainly lead to less corporatic outcomes, but can also lead to more political interferences. While some guarantees are provided to avoid such an outcome, there remains cause for concern.

Independence/autonomy of the prosecution service

5000 character(s) maximum

Independence of the Bar (chamber/association of lawyers) and of lawyers

5000 character(s) maximum

Significant developments capable of affecting the perception that the general public has of the independence of the judiciary

5000 character(s) maximum

In recent years, a specific court case has made a particularly strong impression on the general public. The Julie Van Espen case concerns the rape and murder of a young woman by a sex offender in 2019. The offender had already been sentenced several times, including a sentence to 4.5 years' imprisonment for rape by the Antwerp Correctional Tribunal, almost two years prior to the incident. He had not been incarcerated while his case was pending before the Antwerp Court of Appeal and the case suffered several delays.

In 2023, Van Espen's parents summoned the Belgian state to appear before the Brussels First Instance Tribunal, citing the systematic failure of the justice system that had led to their daughter's death. On December 19 2024, the First Instance Tribunal found that the Belgian State had committed a fault for which it should be liable, and ordered it to pay a symbolic one provisional euro. The Tribunal specifically pointed out the fact that the Antwerp Court of Appeals had long been understaffed and that the executive branch had repeatedly to hire more judges and court registry personnel, despite being bound by the law to do so. This refusal to appoint more magistrates constituted misconduct, making the Belgian State civilly liable for Julie Van Espen's death.

The Belgian government decided not to appeal, and on December 31st, the First President of the Court of Cassation, the former and current Presidents of the Antwerp Court of Appeal, the Prosecutor-General of the Antwerp Court of Appeal and the former and current Ministers of Justice visited the Van Espen family home to apologize on behalf of the judiciary and the executive branches.

The affair was widely publicized in the media. It was accompanied by political demands to modify the disciplinary regime applicable to magistrates, to allow more effective sanctions against magistrates. However, the First Instance Tribunal pointed out in its ruling that the fault lied not with the individual decisions of the magistrates, but rather with the lack of resources of the Antwerp Court of Appeals at the time.

B. Quality of justice

(Under this topic, you are not required to give statistical information but should provide input on the type of information outlined in the introduction)

Accessibility of courts (e.g. court/legal fees, legal aid, language)

5000 character(s) maximum

Resources of the judiciary (human/financial/material), remuneration/bonuses/rewards for judges and prosecutors, including observed changes (significant and targeted increase or decrease over the past year)

(Material resources refer e.g. to court buildings and other facilities. Financial resources include salaries of staff in courts and prosecution offices.)

5000 character(s) maximum

Following EU Recovery Instrument funding, Belgium's Justice Minister has announced that the additional resources planned by this legislature to strengthen the judiciary amount to 300 million euro per year (including 50 million euro for digitalisation). In both its 2023 and its 2024 contribution to the European Commission's stakeholders' consultation, FIRM-IFDH expressed concerns over the Justice Minister's 'carrot-and-stick' approach to these funds, conditioning the allocation of additional financial resources on the fulfilment of certain objectives. This criticism stemmed from the difficulty of measuring the outcomes, the weakening of the separation of powers induced by such an approach and risks to the quality of the work performed in favour of reaching those objectives. In April 2024, the law proposal for the autonomous management of courts and tribunals that would have implemented this vision was dropped by the Justice Minister due to the lack of agreement with the government. However, the current Justice Minister has indicated he would keep working on another version of the law proposal (see l'Echo, 19 April 2024). However, little data are publicly available at this time to know whether the conditional approach has been maintained in the latest version of this proposal.

Throughout 2024, numerous reports were made on the drastic consequences of the lack of human, material and financial resources for the judiciary. Between August and October 2024, several media organisations reported that the archives of the judicial districts of Liège, Brussels, Mons, Nivelles and Tongeren were damaged due to water leaks, fungi and mold. It led to the end of several criminal investigations since the right to a fair trial could no longer be guaranteed, due to the destruction of the required pieces of evidence and documents. Other reports underline how dire the situation has become. The personnel from the Nivelles courthouse were forbidden to access its archives due to the presence of grave health risks, which led to the impossibility to hold the hearings planned in those cases. As the problem spread, the Nivelles tribunals had to do an emergency relocation following the closure of the whole courthouse building. The brand-new Namur courthouse was not furnished, creating difficulties for the hearings that were supposed to be conducted there.

Not only magistrates' organisations and civil society have been criticizing the lack of resources for the judiciary. In a recent and rare statement, the advisory Committee of the magistrature, the College of courts and tribunals and the College of public prosecutors have criticized plans to reduce the pensions of judges, which could lead to a further degradation of the attractiveness of the function of magistrate, at a time where recruitment of new judges is already facing difficulties. The professional organisation of certified translators and interpreters reported that some of its members had not been paid by the State in months.

The Commission should urge the Belgian State to ensure that the conditionality attached to additional resources does not have the unwarranted effect of threatening the quality of the work of the judiciary as well as the independence of the judiciary, nor impede citizens' effective access to justice. Furthermore, the conditionality should avoid leading to sanction understaffed and underfunded courts and tribunals if they fail to meet the objectives due to a lack of resources. In general, more resources should be allocated to the judiciary in order to ensure that it can carry out its duties in proper and safe working conditions.

Training of justice professionals (including judges, prosecutors, lawyers, court staff, clerks/trainees)

5000 character(s) maximum

Digitalisation (e.g. use of digital technology, including electronic communication and AI tools, within the justice system and with court users, procedural rules, access to judgments online)

5000 character(s) maximum

FIRM-IFDH's 2024 contribution to the European Commission's stakeholders' consultation discussed a new draft law introduced by the Belgian government to create a general legal framework for the use of remote hearings in civil and criminal matters. The draft law has been adopted and became the Act of 25th April 2024 on the organization of remote hearings in legal proceedings. The law sets out the circumstances in which videoconferencing may be used, and establishes as a general principle the consent of the parties, with certain exceptions legally defined. The Act also defines the modalities of appeal against such decisions.

FIRM-IFDH has welcomed the legislator's intent to implement videoconferencing in tribunals in a manner that respects due process requirements, praising its reference to the case-law of the Belgian Constitutional Court and the European Court of Human Rights, as well as to the guidelines on videoconferencing in judicial proceedings adopted by the European Commission for the Efficiency of Justice. FIRM-IFDH recommended a number of modifications to the draft law in an advisory opinion (n° 3/2023) published in January 2023, in order to strengthen its human rights framework. Some of these recommendations have been incorporated into the law but others remained absent.

More specifically, the use of videoconferencing must always serve a legitimate aim and its implementation must respect the rights of the parties, particularly the right to a fair trial. The law should include an obligation to collect statistical data in order to compare the length of proceedings using remote hearings with those held in the presence of the parties and the severity of the criminal sanctions, following studies in the United Kingdom showing an increase in the severity of the sanctions with partly online hearings. The right to information of parties should also be strengthened and the law should be more precise in the criteria used to decide the pertinence of using remote hearings.

Use of assessment tools and standards (e.g. ICT systems, including AI-based systems, for case management, court statistics and their transparency, monitoring, evaluation, surveys among court users or legal professionals)

5000 character(s) maximum

Geographical distribution and number of courts/jurisdictions ("judicial map") and their specialisation, in particular specific courts or chambers within courts to deal with fraud and corruption cases.

5000 character(s) maximum

C. Efficiency of the justice system

(Under this topic, you are not required to give statistical information but should provide input on the type of information outlined under section

2)

Developments related to efforts to improve the efficiency of the justice system (e.g. as regards length of proceedings)

5000 character(s) maximum

As discussed under question 5 (allocation of cases in court), length of proceedings remains an important problem in Belgium, due to the underfunding of the justice system.

2023 saw several rulings against Belgium due to the excessive length of proceedings resulting from the lack of resources of the justice system. Violations were found, among others, by the European Court of Human Rights which added to its impressive list (cited in § 104) of decisions on excessive length of proceedings its decision *Van den Kerkhof v. Belgium* (5/9/23), by the Brussels Court of Appeal and the Brussels Family Tribunal. Human rights violations due to excessive length of proceedings were first established by the ECtHR in 2005 and remained a crucial issue in 2024.

In June and in November 2024, the High Council for Justice published an audit of the Brussels Court of Appeals, aiming to identify ways to improve the productivity and to reduce the amount of incoming cases. The High Council has formulated a number of recommendations to that end, including the recruitment of additional judges, limits to the time taken on each case, and to allocate more Brussels cases to other judicial districts.

In June 2024, the Committee of Ministers of the Council of Europe found that the problems related to excessive lengths of proceedings in the Brussels judicial district were of a structural nature. The Committee highlighted some progress made by the State, including the publication of the notices for all vacant positions for magistrates and court registry personnel in February 2024, following a condemnation of the Belgian State by the Brussels Court of Appeals to do so. The Committee also urged the federal government to progress without delay to “finalize the mapping of backlogs and processing times for all jurisdictions, while immediately boosting the resources of the most overburdened, such as the Brussels Court of Appeal, where a significant increase in resources is urgently required”. The Committee also asked the State to provide up-to-date and comprehensive statistics (both the overall total and disaggregated by court of appeal) on clearance rates and disposition times for civil and criminal cases, at first instance and appeal level, including family and criminal matters.

FIRM-IFDH has raised concerns regarding the excessive length of proceedings in a 2022 and a April 2024 communication to the Committee of Ministers of the Council of Europe, as a follow-up of the *Bell v. Belgium* group of cases. In this context, FIRM-IFDH has welcomed the intent of the State to increase the funding of the justice system. However, it also found that more efforts are required to bring the length of proceedings in line with European standards and in conformity with the European Convention of Human Rights. As did the Committee of Ministers of the Council of Europe, FIRM-IFDH argues for the need to have more precise and comprehensive data on the length of proceedings and for this data to be disaggregated by judicial districts, to show clearly the clearance rate per judicial districts, including for family tribunals. More financial resources are necessary for the justice system in general, and in particular for the Brussels Court of Appeals.

Any other developments related to the justice system - please specify

5000 character(s) maximum

In the Belgian chapter of ENNHRI's 2024 Rule of Law report, FIRM-IFDH reported a stark increase in unilateral applications to initiate judicial proceedings (in which only the requesting party is heard) with negative consequences for the enjoyment of certain human rights, such as the right to a fair trial, the right to strike or the right to adequate housing. This trend has continued into 2024, including by several unilateral decisions taken against media organisations, which could pose a severe risk to press freedom. Those lawsuits are examined under question 41.

In the field of labour law, those applications appear to have been less widely used in 2024, probably due to the lack of large-scale disputes between trade unions and retail chains, as occurred in 2023. However, in the meantime, several higher courts have ruled on the dispute. The Constitutional Court has found in a November 2024 decision (n° 123/2024) that the legitimate use of the right to strike did not constitute a cause of absolute necessity that justified the use of emergency unilateral applications to forbid picketing. The Court found that the "ordinary" emergency procedures – that allow the defendant to be represented – were already sufficient to cover the situations brought to its attention, such as the need to restore access to a picketed store.

However, a little more than a month after this decision of the Constitutional Court, the Gent Labour Court found that one of the retail chains had been justified in using the emergency unilateral procedure against the trade unions, arguing that the strike actions had been a threat to the store's property right. The decision of the Labour Court made a reference to the Constitutional Court's judgment, but argued that the picketing of a store – effectively blocking its access for clients and suppliers – was not a legitimate use of the right to strike, thus allowing for the emergency unilateral procedure. This decision clearly contradicts the Constitutional Court's decision, which had held that the blocking of a store's access for clients could constitute a legitimate use of the right to strike. The Labour Court's decision also stands in stark contrast with the 2011 European Committee of Social Rights' decision (C.S.C., F.G.T.B. and C.G.L.S.B. v. Belgium, 13 September 2011). The European Committee found that the failure to summon both parties to the hearing was a violation of the right to a fair trial, and that the recurrent use of unilateral emergency applications to prohibit collective action showed the existence of a structural problem in Belgium.

FIRM-IFDH denounced the renewed use of unilateral applications to curtail human rights in an opinion published on 23 May 2023. The authorities have not yet reacted to put an end to this violation of fundamental rights.

II. Anti-Corruption Framework

Where previous specific reports, published in the framework of the review under the UN Convention against Corruption, of GRECO, and of the OECD address the issues below, please make a reference to the points you wish to bring to the Commission's attention in these documents, indicating any relevant updates, changes or measures introduced that have occurred since these documents were published.

Please provide information on measures taken to follow-up on the recommendations received in the 2024 Report regarding the anti-corruption framework (if applicable):

5000 character(s) maximum

A. The institutional framework capacity to fight against corruption (prevention and investigation / prosecution)

List any **changes** as regards relevant authorities (e.g. national agencies, bodies) in charge of prevention, detection, investigation and prosecution of corruption and the resources allocated to each of these authorities (the human, financial, legal, and technical resources as relevant), including the cooperation among domestic and with foreign authorities. Indicate any relevant measures taken to effectively and timely cooperate with OLAF and EPPO

5000 character(s) maximum

Safeguards for the functional independence of the authorities tasked with the prevention and detection of corruption

5000 character(s) maximum

Information on the implementation of measures foreseen in the strategic anti-corruption framework (if applicable). If available, please provide relevant objectives and indicators

5000 character(s) maximum

B. Prevention

Measures to enhance integrity in the public sector (including as regards incompatibility rules, revolving doors, codes of conduct, ethics)

5000 character(s) maximum

Measures to enhance general transparency of public decision-making (including rules on lobbying, asset and interest disclosure rules, gifts policy, transparency of political party, financing)

5000 character(s) maximum

Measures to prevent conflicts of interest in the public sector. Please specify the features and scope of their application (e.g. categories of officials concerned, types of checks and corrective measures depending on the category of officials concerned)

5000 character(s) maximum

--> For the three previous points, **please also provide information and figures on their application/enforcement**, such as number of detected breaches/irregularities of the various rules in place and the follow-up given (investigations, sanctions, etc.)

Measures to ensure whistleblower protection and encourage reporting of corruption, including their application (i.e. number of reports received, and the follow-up given)

5000 character(s) maximum

Belgium has transposed Directive 2019/1937 into national law through several legal instruments, including two laws at the federal level: the Act of 24 November 2022 (for the private sector) and the Act of 8 December 2022 (for the public sector). Corresponding legislation has also been adopted by the regional and community parliaments.

At the federal level, the legislator opted for a strong protection and support system functioning within a fragmented and sometimes difficult to read material scope. Numerous external channels are tasked with investigation and protection roles. At the public level, the material scope is quite broad, and also applies to the police, with some specificities. Yet, the transposition at the public level has also been incomplete as it still excludes the judiciary, the armed forces and the personnel from both chambers of the federal Parliament from its application. The Belgian government apparently intends to draft specific legislation for those sectors but no proposals have been made public yet. A law proposal introducing a specific regime for parliamentary personnel has been introduced on 16th January 2025 by the President of the House of Representatives (one of the two chambers) but, as he belongs to an opposition party, it is unclear whether the law proposal will be approved. A law proposal However, the directive should by now have been completely transposed for over three years.

For the private sector, the law largely copied the material scope of the directive, which leads to a fragmented situation – where some whistleblowers would be covered by the Whistleblowers' Protection Act and others falling outside its material scope of application. A 2024 EU-wide study of Transparency International comparing whistleblowers' protection regimes praised Belgium's extensive support measures for whistleblowers and strong oversight and enforcement measures but criticised the material scope of the regulations and the limited possible redress in case of retaliation.

The protection and support regime is largely entrusted to two independent human rights institutions:

- The Federal Ombudsman is the residual external channel for the public sector and, in the absence of a more specific external channel, for the private sector. In addition, he acts as the coordinating authority for the external channels for the private sector. He plays a key role in the implementation of protection against reprisals.

- FIRM-IFDH has four specific competences in relation to whistleblowers:

1. It is responsible for providing whistleblowers legal, financial, psychological, IT, media and social reintegration support measures;
 2. it has a general mission to provide information on the protection of whistleblowers to all interested persons;
 3. It has to promote a whistleblower-friendly culture in Belgium ;
- and biennially, it has to evaluate the functioning of the protection framework FIRM-IFDH has received additional funding to conduct these missions, leading to the recruitment of two dedicated staff members .

In December 2024, the Federal Ombudsman and FIRM-IFDH published together a guide for whistleblowers for the public and private sectors, in French and Dutch. The guide explains in accessible language the role and conditions to be considered a whistleblower, and the procedure to introduce a report.

During the first half of 2024, FIRM-IFDH has launched a campaign aimed at the general public to raise awareness on the new whistleblowing regulations. The campaign included , advertising through animated videos on social media, Google and online media ads and the mailing of a leaflet and a poster to stakeholders. Furthermore, FIRM-IFDH has continued its work providing support measures to whistleblowers and information on the relevant regulations to all interested parties. Finally, the Institute has begun an evaluation of the two laws transposing directive 2019/1937, which will be completed by the end of 2025. The evaluation will include a critical review of the personal and material scopes of the two Acts and will include an examination of a number of problematic topics, as well as an assessment of the personal and professional impact of whistleblowing.

Specific measures to enhance transparency, integrity and accountability in sectors with high risks of corruption, with a view to monitor and prevent corruption and conflict of interests, and where applicable measures to prevent and address corruption committed by organised crime groups.

Such high-risk sectors could include: public procurement, including construction, transport/infrastructure, defence, cohesion, agriculture, environment, healthcare, citizen/residence investor schemes, large-scale investments of national interest and the spending of EU funds, urban planning.

5000 character(s) maximum

C. Repression

The legal framework on the criminalisation and sanctions for corruption and related offences, including foreign bribery

5000 character(s) maximum

Official data on the number of investigations, prosecutions, final judgments and the application of sanctions for corruption offences (differentiated by offence if possible). Please indicate whether the cases: involve legal persons; are related to the implementation of EU or national funds; involve high level corruption. Please indicate which data is publicly available and how policy-making is informed by the data

5000 character(s) maximum

Potential obstacles identified in law or in practice to the investigation and prosecution of high-level and complex corruption cases (e.g. political immunity regulation, procedural rules, statute of limitations, cross-border cooperation, pardoning)

5000 character(s) maximum

Information on effectiveness of criminal and non-criminal measures and of sanctions (e.g. recovery measures and administrative sanctions) on both public and private offenders

5000 character(s) maximum

Any other developments related to the anti-corruption framework - please specify

5000 character(s) maximum

The 2024 European Commission Report on the State of the Rule of Law in Belgium underlined concerns regarding corruption linked to organised crime groups and drugs trafficking. Several issues were highlighted by the Report, including the unauthorised access to databases by public officials to obtain data for criminal groups, and the lack of resources and coordination to the integrity policy within the police.

Drugs-related violence has had an increasingly severe impact on the rule of law and human rights in Belgium over the last few years. In 2024, more than 89 shootings took place in Brussels, a 43% increase since the previous year. According to the Brussels prosecutor, most of these shootings were drug-related. Drug-related violence is also prevalent in Antwerp for several years.

This violence has been coupled with growing intimidation against magistrates, journalists and politicians by criminal organisations. In November 2024, the co-presidents of the professional association of investigating judges published a rare opinion in the Flemish daily newspaper De Standaard, denouncing their working conditions, including the fact that several of their colleagues have to live under police protection and one of them has to live in hiding, in a safehouse. Threats have become much more common, coming even from within the prisons. This is a particularly problematic development for investigating judges, as their professional obligation to remain impartial towards the defendants under investigation: may hamper their willingness to file a complaint. These threats, coupled with the lack of structural resources available to the justice system - particularly to face criminal network leaders who often have vast financial resources at their disposal - can cause significant problems for the rule of law and lessen the effectiveness of the fight against drug-related crime.

In view of this situation, the government and parliament have taken a number of initiatives to step up the fight against drugs and organised crime. However, some of these measures themselves have a significant and sometimes excessive impact on the rule of law. For example, the Commission's 2024 report highlights the adoption of the law on administrative enforcement (the 'DIOB law') in February 2024, which enables local authorities to end or suspend the license of certain businesses suspected of providing a cover for criminal activities. In an advisory opinion written to the federal parliament, FIRM-IFDH underlined that the law proposal contained several problematic aspects, including the potential to target a very large number of economic activities, the probable violation of the presumption of innocence and the risk of disproportionate applications of the law. Most importantly, administrative law is a mechanism less suited to combat criminal organisations than criminal law, which also offers much better human rights standards for the defendant. FIRM-IFDH has introduced an action for annulment before the Belgian Constitutional Court against the DIOB law.

Criminal activities, including drug-related violence, do threaten the rule of law. However, the State's response to those threats cannot in its turn undermine the rule of law and excessively restrict human rights. More than ever, there is a need for a human rights-based approach of the fight against organised crime, which means an approach to guarantee the right to security of Belgium's denizens, while respecting the rights of the defendants. Such an approach also recognizes that drug addiction is a public health issue before being a security issue and that any solution to the increasing drug violence must also include more resources for social and health services in order to better prevent drug-related violence and addiction. Finally, such an approach also implies allocating more resources for the judiciary to allow magistrates to fulfill their mission of prosecuting crime.

III. Media pluralism and media freedom

Please provide information on measures taken to follow-up on the recommendations received in the 2024 Report regarding media pluralism and media freedom (if applicable)

5000 character(s) maximum

In its 2024 Report on the Rule of Law in Belgium, the European Commission found that Belgium had made “some further progress on efforts to strengthen the framework for access to official documents, in particular by improving request and appeal processes”. It also repeated a recommendation made in 2022 and 2023 : “[c]ontinue efforts to strengthen the framework for access to official documents, in particular by improving request and appeal processes, taking into account European standards on access to official documents”.

Alas, after several draft laws examined by the federal Parliament and a limited reform passed in 2023, there appears to be little political will to reform the access to documents regime, despite the shortcomings of the current system. A short overview of the recent developments and the criticism leveled at the current system is included under question 42 “access to official documents by the public at large and journalists”. The topic will also be examined in the FIRM-IFDH and its partners’ 2025 rule of law report.

A. Media authorities and bodies

(Cf. Article 30 of Directive 2018/1808)

Measures taken to ensure the independence, enforcement powers and adequacy of resources (financial, human and technical) of media regulatory authorities and bodies

5000 character(s) maximum

Conditions and procedures for the appointment and dismissal of the head / members of the collegiate body of media regulatory authorities and bodies

5000 character(s) maximum

Existence and functions of media councils or other self-regulatory bodies

5000 character(s) maximum

Belgium has two main self-regulatory bodies for journalists: the Dutch-speaking Raad voor de Journalistiek (RvJ) and the French-speaking Conseil de déontologie journalistique (CDJ). Both bodies have a similar structure, with a complaint mechanism based on a professional integrity charter, itself derived from the Global Charter of Ethics for Journalists, and some limited disciplinary powers over journalists and media organisations. Both councils are composed of representatives of journalists, media editors and civil society, each accounting for about a third of its council members.

In 2024, the CDJ launched its first public campaign aimed at improving its name recognition among the general public and reaffirming the link between journalistic integrity and trustworthy information.

A specific rule of law issue concerns the French-Speaking CDJ. The CDJ has a notoriously strained relationship with the other body regulating French-speaking broadcast media, the Conseil supérieur de l’

audiovisuel (CSA). Contrarily to the CDJ, the CSA is not a self-regulatory body but an independent administrative authority whose members are nominated by the Parliament. The CSA has to control whether broadcast media respect the legal provisions applicable to them. The CSA can also levy more powerful sanctions against media organisations it has found to be in breach of the relevant legislation. The issue appears to be related to the repartition of competences between those two organisations. While the CSA controls the conformity with the law, the CDJ controls the respect of the integrity framework. the precise repartition of their competences is defined by the decree of the French-speaking Community of 30 April 2009.

However, the differences between legal and ethical provisions are often difficult to make, leading some media to be subjected to a double control from both the CDJ and the CSA for the same issue. In July 2024, the CDJ joined a proceeding against the CSA before the Council of State, initiated by the French-speaking public media RTBF. The CDJ argues that the CSA is impeding on the competences of the CDJ by adjudicating issues relating to the integrity framework applicable to the journalists. The case is still pending.

B. Safeguards against government or political interference and transparency and concentration of media ownership

Measures taken to ensure the fair and transparent allocation of state advertising

5000 character(s) maximum

Safeguards against state / political interference, in particular:

- safeguards to ensure editorial independence of media (private and public)
- specific safeguards for the independence of heads of management and members of the governing boards of public service media (e.g. related to appointment, dismissal), safeguards for their financial and operational independence (e.g. related to reporting obligations and the allocation of resources) and safeguards for plurality of information and opinions
- information on specific legal provisions and procedures applying to media service providers, including as regards granting/renewal/termination of licenses, company operation, capital entry requirements, concentration and corporate governance

5000 character(s) maximum

Transparency of media ownership and public availability of media ownership information, including on direct, indirect and beneficial owners

5000 character(s) maximum

C. Framework for journalists' protection, transparency and access to documents

Rules and practices guaranteeing journalists' independence and safety, including as regards protection of journalistic sources and communications, referring also, if applicable, to follow-up given to alerts lodged with the Council of Europe's Platform to promote the protection of journalism and safety of journalists

5000 character(s) maximum

As FIRM-IFDH reported in its 2023 and 2024 Stakeholders' consultation, Belgian journalists have been confronted with increased violence in recent years, as highlighted in surveys, studies and parliamentary discussions. In June 2023, the French-speaking (AJP) and Flemish (VVJ) professional Journalists' Associations published their third study "Portrait of Belgian journalists" surveying almost 1400 journalists on a variety of subjects, including threats and violence they had experienced. 55,8% of journalists reported having been confronted with transgressive behaviours, including verbal violence (41,3%), threats and intimidation (29,2%), sexually transgressive behaviours (7,1%) and physical violence.

The picture gets considerably darker when distributed by gender: 64,1% of female journalists reported having been targeted by transgressive behaviours, compared with 51,4% of men. The difference is mainly due to much more prevalent forms of sexual transgressive behaviours (experienced by 18,6 % of female journalists, compared to 1,2% of male journalists), discrimination (experienced by 14,8% of female journalists compared to 4,4% of male journalists). Physical violence also appears to have a gendered component: twice as many men as women were victims (6,6 % to 3,2%). Concern over increasing online intimidation against female journalists, especially women of colour, arise as well.

This situation is particularly problematic given that there are significantly more male than female journalists : 2/3rd of journalists in Belgium are male, a noticeable difference with comparable countries such as France (45% of female journalists) or Italy (42%). The gender imbalance considerably worsens for older journalists: women constitute slightly more than half (51,7%) of journalists under 35 years old, this drops precipitously for next age category (35-44) with 35,7% to 64,3%. Only 22,6% of journalists over 55 are female. The median age for a journalist in Belgium is 46 years old. This drop does not seem to be only – or principally – attributed to past exclusions of female journalists, since there are slightly more female journalists in the 45-54 age bracket than in the 35-44 one. The threats and experiences of violence and the difficulty to combine journalism with a family life – in a society where women still undertake the lion share of household and child-rearing tasks – are likely to be contributing factors.

Several alerts were made to the Council of Europe's Platform to promote the protection of journalism and safety of journalists in 2024, including three that remain active as of writing this contribution :

- An alert regarding political intervention, following criticisms expressed publicly by the French-speaking Media Minister regarding a reportage by the public broadcast media RTBF.
- Belgian police raided the premises of two Kurdish-language media outlets, at the request of the French national anti-terrorist prosecutor's office. The search resulted in extensive damage to the premises (including the destruction of the doors and of some suspended ceilings) and equipment (damaged LED screens, power cables and broadcast cables), as well as the seizure of computers. The two media are suspected by the French public prosecutor's office of being linked to the Kurdish nationalist movement PKK, declared a terrorist organization in France but not in Belgium. The Belgian government has yet to react to this alert, despite its publication in May 2024.
- The last one concerns the use of preventive censorship by courts and tribunals, and is discussed in detail under question 41– on SLAPP and lawsuits against journalists.

Furthermore, not all threats, intimidation attempts and acts of violence of journalists lead to an alert on the Council of Europe's platform, as discussed under section 39.

The phenomenon of violence and intimidation against journalists could benefit from further investigations,

including by gathering more information on the origin of the threats they face and the potential disparate impact based on gender, origin or other protected grounds against discrimination.

Law enforcement capacity, including during protests and demonstrations, to ensure journalists' safety and to investigate attacks on journalists

5000 character(s) maximum

In 2024, an important legal change allowed for the better protection of journalists. The new Criminal Code was adopted in February 2024 and will enter into force in April 2026. It now contains a provision including journalists among those professionals performing a societal function – e.g. medical professionals, police officers – against whom violence may lead to harsher sentences (art. 79). The murder (art. 103 bis), incitement to suicide (art. 109 and 110), torture (art. 115/1), inhumane treatment (art. 122/1) and violence (art. 189) against a journalist will be more severely punished than against a person not exercising such a societal function. Furthermore, these legal changes could also lead to better data collection regarding violence against journalists. Until now, violence against journalists was not specifically registered as such within the police nomenclature, and the General National Database does not include information on the number of registered complaints. Following the legal recognition of journalists as professionals performing a societal function, the police could be encouraged to better identify them as such in the database, allowing for better data collection and reporting.

However, multiple incidents regarding journalists lead to concern regarding their safety. In 2024, numerous alerts were introduced or pending at the Council of Europe's Platform to promote the protection of journalism and the safety of journalists, related to violence against journalists in Belgium, such as :

- Belgian journalists being attacked by football supporters in Belgium, in the context of the 2022 FIFA World Cup ;
- Death threats against a North-Macedonian journalist in Belgium by political proponents of a Hungarian politician ;
- Several journalists being the target of online harassment;
- As well as several instances of political intimidation.

Several alerts also concerned violence by the police against journalists, including a journalist being peppersprayed while covering an anti-vaccine protest, a police house search of a journalist following an investigation into corruption allegations in Sint-Truiden and the administrative arrest of two French journalists who were filming a protest in Antwerp, where they were held for nine hours. Journalists at ZIN TV, in Brussels, reported being the subject of political pressures, intimidation and a politically-motivated police investigation of their professional premises, due to having hosted a conference on the criminalisation of Palestinian voices in the European Union four months earlier. This last situation has not yet led to an alert to the Council of Europe's platform.

In its 2022 parallel report to the United Nations Committee on the Elimination of Discrimination against Women, co-written with the Combat Poverty Service and the Central Monitoring Council for Prisons, FIRM-IFDH made two recommendations to improve journalists' safety :

- 1) Facilitate data collection on the number of complaints regarding violence against journalists in the police's General National Database ;
- 2) Include specific measures to fight all types of on- and offline violence against female journalists in national action plans, paying special attention to intersectional vulnerabilities. Currently, the 2021-2025 National Action Plan against Gender Violence identifies female journalists as particularly vulnerable to cyberviolence, but does not include specific measures.

Those recommendations remain relevant today.

Lastly, Belgium's transposition of the GDPR regarding the processing of personal data for journalistic purposes (art. 85 GDPR) has been criticised by the legal doctrine. Belgium opted for a strict definition of the notion of journalist, which is now contrary to the case law of the European Court of Justice (*Buivids v. Datu valsts inspekcija*, C-345/17). Under Belgian law, only persons who are subject to "journalistic ethics" (*déontologie/deontologische regels*) are able to invoke the exemptions provided for journalists by the GDPR. A law proposal introduced in 2022 (DOC 55 2694) attempted to amend the 2018 Belgian Data Protection law, bringing it in line with European case law. In 2024, FIRM-IFDH published an advisory opinion on this law proposal, welcoming the proposal while suggesting it should still be broadened in order to avoid confusion and fully transpose the ECJ judgment. The law proposal was not voted and became obsolete in June 2024, at the end of the Parliament's term.

Access to information and public documents by public at large and journalists (incl. transparency authorities where they exist, procedures, costs/fees, timeframes, administrative/judicial review of decisions, execution of decisions by public authorities, possible obstacles related to the classification of information)

5000 character(s) maximum

Publicity of official documents currently requires a complex procedure, placing little emphasis on the proactivity of the administration (principle of active publicity) to make documents more easily accessible. Three different publicity regimes co-exist at the federal level, and two different appeal bodies exist to challenge the refusal of access to documents by a federal authority, namely the Commission d'accès et de réutilisation des documents administratifs (CADA) and the Commission fédérale de recours pour le droit d'accès à l'information en matière environnementale. Yet those two appeal bodies' rulings are not binding for the public authorities. The effectiveness of this system has been criticized and efforts are required in order to improve the right of access to public documents. Regional appeal bodies also exist for access to documents within the competences of the Regions or the Communities, whose decisions are generally binding.

Little progress has been made in the last year on this issue, despite the recommendation issued by the European Commission in its 2023 and 2024 rule of law report on Belgium. Two law proposals were pending before the Parliament and would have brought some important changes to the access to information framework. They unfortunately became obsolete following the end of Parliament's term, in June 2024.

Another legislative proposal, brought forward by the government, was adopted by the Parliament on the 18th of April. FIRM-IFDH wrote an advisory opinion pointing out that the proposal did too little to address the most pressing issues regarding access to public documents. In its 2024 report on the rule of law in Belgium, FIRM-IFDH notes among other recommendations that "[the already existing] appeal body should be given a broader mandate, more resources and decision-making powers". This recommendation followed several advisory opinions since 2022 calling for a reform of the legal regimes for access to public information and documents. FIRM-IFDH believes simplification of these different federal regimes is crucial to guarantee the right to access public information. Simplification would require adopting one joint appeal procedure for all publicity regimes in a clear and easily accessible legislative text. FIRM-IFDH also recommends merging and reforming the two appeal bodies in a unified Commission or reforming the currently existing CADA in several important ways :

- it should be given decision-making powers, on top of its current advisory powers, on access to administrative documents;
- its resources should be increased;
- its decisions should be systematically published and its independence guaranteed by law;
- there should be a legal obligation to either consult or inform the Commission of any draft legislative amendment relating to the publicity of the administration.

Furthermore, the procedures for effective access to documents are relatively long in Belgium. This is

particularly detrimental to journalists who often need swift access to certain documents due to publishing deadlines. It would be advisable to provide an emergency procedure, allowing a decision to be obtained within a shorter period of time if the circumstances justify this.

On a more positive note, the Parliament adopted in March 2024 a proposal ratifying the Tromsø Convention on Access to Official Documents. Similar legal proposals have also been adopted by the Flemish Parliament (for the competences of the Flemish Community and the Flemish Region), and the Parliaments of the French-speaking Community, of the German-speaking Community, the Parliament of the Brussels Region and of the Brussels-based COCOF and COCOM. Yet it appears that the federal law has not yet been published and that the Walloon Region still needs to adopt its own legislation before the ratification can formally happen. FIRM-IFDH repeatedly pleaded in favour of the ratification of the Tromsø Convention and will continue to follow the evolution of the law and related legal proposals in the coming months.

Lawsuits (incl. SLAPPs - strategic lawsuits against public participation) and convictions against journalists (incl. defamation cases) and measures taken to safeguard against manifestly unfounded and abusive lawsuits

5000 character(s) maximum

The protection of civic space, including from SLAPP's directed at human rights defenders and journalists, is one of the topics highlighted in the forthcoming 2025 report of FIRM-IFDH and its partners on the rule of law in Belgium. In addition to the information in this report, the following section highlights some evolutions regarding SLAPP and convictions against journalists, as well as discusses some specific cases.

In 2024, several worrying trends regarding the protection of journalists against frivolous lawsuits and other actions aimed at limiting the right to information became exacerbated. In October 2024, the two professional organisations representing (French-speaking and Flemish) journalists published a statement underlining the return of preventive censorship in Belgium. It highlighted in particular a recent judgment against the daily newspaper Le Soir and its affiliated media, forbidding it to publish an article regarding a candidate to the local elections occurring a few days later. The judgment was granted based on an unilateral emergency procedure without hearing Le Soir's side, and without reading the litigious article. Le Soir has initiated proceedings on the merits (the only available appeal) before the same tribunal, which are still ongoing. The article has thus not yet been published. The Belgian Interior Minister initiated another lawsuit in 2024 to force Sudmedia to delete some information regarding the Qatargate scandal from its archives, and to forbid its future use by any other media organisation. Those two requests were rejected by the tribunal in late 2024, the judge noting that they were "radically contrary to article 25 of the Constitution" (guaranteeing press freedom).

Finally, in March 2024, the Gent Court of Appeal squashed an earlier ruling that had forbidden the publication of embarrassing information regarding the president of the Flemish socialist party.

The professional organisations also expressed concerns regarding the use of procedures before the Brussels commercial tribunal to censor information prior to its diffusion. The commercial tribunal is not a familiar venue for legal questions regarding press freedom and its acceptance of the case could create a precedent for legal actions aiming to censor media organisations using the Commercial Code. Other SLAPP's or threats were registered in 2024, including the complaint introduced by the mayor of Andenne, a city in the French-speaking community, against Wilfried and Boukè Media for an investigation regarding local corruption, which is still pending in 2025.

Several academics specializing in press freedom, such as Philippe Frumer, shared their concern regarding these developments. The secretary-general of the European Federation of Journalists called the record

number of legal actions “unprecedented”. It also led to an alert regarding Belgium to the Council of Europe’s Platform to promote the protection of journalism and safety of journalists. Preventive censorship is forbidden by the Belgian Constitution, and legal actions aiming to suppress information prior to their publication have long remained quite rare.

In 2023, FIRM-IFDH was given a mandate by the Justice Ministry to become Belgium’s focal point on SLAPP. FIRM-IFDH has started to collect and share information regarding SLAPP. It joined the Belgian anti-SLAPP working group. It published information regarding SLAPP on its website in three languages (Dutch, French and English) and welcomed in a press release the adoption of the EU anti-SLAPP directive. Furthermore, the threat of SLAPP and related actions was one of the focusses of FIRM-IFDH’s 2024 report on the protection of human rights defenders. 24% of the 159 responding organisations reported having been threatened by or having been the subject of some form of legal intimidation, including SLAPP, between 2020 and 2022. FIRM-IFDH is currently advocating for a strong transposition of the EU anti-SLAPP directive.

Any other developments related to media pluralism and freedom - please specify

5000 character(s) maximum

1. Clarifying the right to filming police officers

In order to establish instances of illegitimate police violence, video footage produced by the victim or by bystanders can be crucial evidence. It can also be used in order to exonerate police officers that have been targeted by malicious complaints. While Belgian legislation does not prohibit the filming of police officers if this is done in the public interest, a number of incidents have been reported pertaining to citizens – and even journalists – filming police officers, despite its protection as an element of freedom of expression. A notable case is the one of Ibrahima Barrie, a twenty-three-year-old man who died in police custody after having been arrested for what bystanders said was his attempt to film police officers who were conducting Covid-related checks. In another incident, police seized camera equipment and erased footage of journalists, who had explicitly identified themselves as such. The police officers were later convicted for theft. In the context of this event, the Flemish Journalists’ Association (VVJ) stated that, as a general rule, it is not forbidden to film the police during their work, and that the seizure of camera equipment and the erasure of footage by police is not allowed.

Many prominent human rights organisations in Belgium – including the French- and Dutch-speaking Human Rights Leagues and Amnesty International – assert that the exercise of the right to film police officers, as part of the right to freedom of expression, is a fundamental safeguard against illegitimate violence by police officers. In practice, however, this right is often disregarded and the exercise thereof prevented, especially when citizens are forced to hand over their phones or other devices to the police.

In 2022, a law proposal was introduced in Parliament regarding the protection of personal data used for journalistic ends, which would also have created a legal framework in order to improve legal security on this issue. In an advisory opinion dated from January 2024, FIRM-IFDH welcomed the proposal while recommending some changes, including the adoption of a specific legal instrument rather than changes to the law regulating personal data protection. This would have improved legal certainty. Unfortunately, that law proposal became obsolete due to the June 2024 elections, and no comparable law proposals have been introduced in Parliament since then.

2. A new criminal provision prohibiting the disclosure of state secrets

In February 2024, the Belgian Parliament adopted a new Criminal Code. The Code contains a new provision

expanding the scope of the prohibition to share state secrets (arts. 564, 582 et 586). Another law, the Act of 27 March 2024, has also incorporated those provisions into the current (soon-to-be former) Criminal Code.

In a 2023 advisory opinion, FIRM-IFDH expressed its concern regarding this new offence. It argues the introduction of a new criminal offence was insufficiently motivated and that it was difficult to control whether the changes were proportionate to a legitimate goal, if the government does not provide this information. The definition of a State secret is also overly broad and threatens the legality principle due to its lack of a clear definition of a number of key concepts and its potentially broad application. Furthermore, the reception, copy, divulgation or transmission of a State secret is already a criminal offence under the current (old) Criminal Code (art. 119, 119/1, 119/2). This new offence is particularly problematic for journalists, as it could lead to the prosecution of journalists that may have brought to the attention of the public some important malfunctions within public authorities.

In October 2024, the two professional journalist bodies in Belgium – the Vlaamse Vereniging van Journalistes and the Association des journalistes professionnels, joined by the Ligue des droits humains – introduced a request for annulment of this provision before the Constitutional Court. They allege a number of violations, including the legality principle, the potentially heavy penalties even for relatively minor offences, etc. The decision of the Constitutional Court is expected early 2026.

IV. Other institutional issues related to checks and balances

Please provide information on measures taken to follow-up on the recommendations received in the 2024 Report regarding the system of checks and balances (if applicable)

5000 character(s) maximum

The EU Commission did not make any particular recommendation to Belgium regarding checks and balances.

ENNHRI's 2025 rule of law report will have a main focus on the protection of human rights defenders and of civil society. FIRM-IFDH and its partner organisations will contribute to this report with a chapter on the state of the rule of law in Belgium.

Other issues – such as the independence and functioning of the NHRIs, the state of the freedom of the press or the judiciary – will also be examined, albeit more briefly. Our 2024 research on the protection of human rights defenders (“Room for Human Rights Defenders”) will be explained in more detail.

A. The process for preparing and enacting laws

Framework, policy and use of impact assessments and evidence based policy-making, stakeholders' public consultations (including rules and practices on the transparent participation of civil society to policy development and decision-making processes), and transparency and quality of the legislative process both in the preparatory and the parliamentary phase

[1] This includes also the consultation of social partners

5000 character(s) maximum

Rules and use of fast-track procedures and emergency procedures (for example, the percentage of decisions adopted through emergency/urgent procedure compared to the total number of adopted decisions)

5000 character(s) maximum

Rules and application of states of emergency (or analogous regimes), including judicial review and parliamentary oversight

5000 character(s) maximum

Regime for constitutional review of laws

5000 character(s) maximum

B. Independent authorities

Independence, resources, capacity and powers of national human rights institutions ('NHRIs'), of ombudsman institutions if different from NHRIs, of equality bodies if different from NHRIs and of supreme audit institutions

(Cf. the website of the European Court of Auditors: <https://www.eca.europa.eu/en/Pages/SupremeAuditInstitutions.aspx#>)

5000 character(s) maximum

Relevant issues regarding the Belgian national human rights institutions (NHRIs) will be addressed in our forthcoming Rule of Law report. Hence, FIRM-IFDH will not be comment further on the following questions regarding independent authorities.

Statistics/reports concerning the follow-up to recommendations by National Human Rights Institutions, ombudsman institutions, equality bodies and supreme audit institutions in the past two years

5000 character(s) maximum

Relevant issues regarding the Belgian national human rights institutions (NHRIs) will be addressed in FIRM-IFDH and its partners' forthcoming Rule of Law report. Hence, FIRM-IFDH will not comment further on the following questions regarding independent authorities.

C. Accessibility and judicial review of administrative decisions

Transparency of administrative decisions and sanctions (incl. their publication and rules on collection of related data)

5000 character(s) maximum

Judicial review of administrative decisions: short description of the general regime (in particular competent court, scope, suspensive effect, interim measures, and any applicable specific rules or derogations from the general regime of judicial review)

5000 character(s) maximum

Rules and practices related to the application by all courts, including constitutional jurisdictions, of the preliminary ruling procedure (Art. 267 TFEU)

5000 character(s) maximum

Implementation of final judgments by the public administration and State institutions and follow-up given to supranational judgments, including decisions from the European Court of Human Rights, as well as available remedies in case of non-implementation

5000 character(s) maximum

D. The enabling framework for civil society

Measures regarding the framework for civil society organisations and human rights defenders (e.g. legal framework and its application in practice incl. registration, transparency and dissolution rules)

5000 character(s) maximum

The framework for civil society organisations and human rights defenders are the main topic examined in FIRM-IFDH and its partners forthcoming Rule of Law report. Hence, FIRM-IFDH will not comment on the following questions regarding human rights defenders and refers to its report.

Rules and practices having an impact on the effective operation and safety of civil society organisations and human rights defenders. This includes measures to protect them from attacks – verbal, physical or on-line –, intimidation, legal threats incl. SLAPPs, negative narratives or smear campaigns, measures capable of affecting the public perception of civil society organisations, etc. It also includes measures to monitor threats or attacks and dedicated support services, as well as available remedies

5000 character(s) maximum

The framework for civil society organisations and human rights defenders are the main topic examined in FIRM-IFDH and its partners forthcoming Rule of Law report. Hence, FIRM-IFDH will not comment on the following questions regarding human rights defenders and refers to its report.

Organisation of financial support for civil society organisations and human rights defenders (e.g. framework to ensure access to funding, and for financial viability, taxation/incentive/donation systems, measures to ensure a fair distribution of funding)

5000 character(s) maximum

The framework for civil society organisations and human rights defenders are the main topic examined in FIRM-IFDH and its partners forthcoming Rule of Law report. Hence, FIRM-IFDH will not comment on the following questions regarding human rights defenders and refers to its report.

E. Initiatives to foster a rule of law culture

If there have been developments related to initiatives to foster a rule of law culture, please specify, which (e.g. debates in national parliaments on the rule of law, public information campaigns on rule of law issues, contributions from civil society, education initiatives, etc.)

5000 character(s) maximum

Several developments regarding the fostering of a rule of law culture will also be examined in FIRM-IFDH and its partners forthcoming Rule of Law report.

Any other developments related to the system of checks and balances - please specify

5000 character(s) maximum

Supporting document upload

If you would like to submit any supporting document(s) to your contribution, please upload your file(s) here

Contact

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