

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

MEDEL (Magistrats Européens pour la Démocratie et les Libertés)

Main Areas of Work

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

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

500 character(s) maximum

<https://medelnet.eu>; <https://twitter.com/MedelEurope>

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

981119221130-18

* 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

Mariarosaria

Surname

Guglielmi

Email Address of the organisation

office@medelnet.eu

*** 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

Most of the alerts contained in the 2024 contribution are still completely valid and furthermore aggravated by the latest developments with regard to attacks on judicial independence and RoL values. These developments build altogether a worrying trend that can no longer be regarded as confined to certain member states. As a common thread linking the contexts and strategies of attacks on judicial independence, institutional intolerance is increasingly emerging towards the judiciary in the implementation of its role of impartial and effective guarantor of fundamental rights and freedoms for all individuals. Attacks on judicial independence can take different forms, ranging from structural reforms aiming at weakening judicial systems and their key institutions- such as High Councils and P. Prosecution- to persistent inaction in addressing systemic deficiencies and to strategies of delegitimization of judicial decisions, of individual magistrates and their associations. Attacks and delegitimization affect as well the role that national judges play as European judges in reaffirming the primacy of EU law; part of this trend is the non-compliance with CJEU judgments and the persistent non-compliance or incomplete implementation of ECtHR judgments. All this describes a systemic attack on the key features of the supranational architecture that should act as the guarantee of the highest level of protection of fundamental rights, based on European and domestic Courts and relying on the role that national judges, acting as European judges and ECHR judges, play in applying supranational sources. The described negative trend is particularly evident in certain areas such as migration and asylum and in national contexts where reforms and policies recently adopted require judicial scrutiny with regard to their compatibility with fundamental rights and the availability of effective judicial protection. We are witnessing attacks by prominent political figures and media against judges dealing with refugees and asylum cases following decisions that do not align with the new government policy - notwithstanding the fact that these are based on constitutional, European and international norms - by means of allegations of pursuing anti-government political agendas. MEDEL reiterated its interventions stressing the risk of a dangerous delegitimization of the judiciary and a prejudice to the trust of the citizens in its impartiality and fairness and in its effective role of impartial guarantor of fundamental rights (<https://medelnet.eu/statement-on-the-recent-attacks-on-the-italian-judiciary-2/>). The negative trend for RoL and judicial independence clearly emerging in a field as migration confirms that tensions and attacks on judicial systems are related to the implementation of regressive policies for fundamental rights and freedoms. As MEDEL highlighted in 2024 contribution, there is thus a proven necessity for strong and effective RoL monitoring tools that could cover the whole spectrum defined by the values of democracy and fundamental rights. A negative trend is as well recorded in terms of attacks against the freedom of expression of judges and judicial associations, pressure on judges and prosecutors related to the exercise of their functions and not adequately addressed systemic deficiencies that jeopardize the independence of the judiciary (<https://medelnet.eu/joint-letter-to-council-of-europe-commissioner-for-human-rights-and-eu-commissioner-for-justice-on-the-situation-of-the-judiciary-in-bulgaria/>; <https://medelnet.eu/medel-statement-on-judicial-independence-and-financial-security/>). MEDEL dedicated much attention to these issues organizing on the eve of the election for European Parliament a cycle of conferences to foster the reflection on the current challenges for democracy in Europe: notably on the RoL crisis experienced in EU and the tools to address it; European migration policies and fundamental rights; the role of the judiciary in the construction and preserving the democratic RoL (<https://medelnet.eu/medel-conferences-on-the-eve-of-the-june-2024-election-for-european-parliament-florence-5-april-2024-rome-12-april-2024-paris-31-may-2024/>; <https://medelnet.eu/medel-conference-on-the-eve-of-the-june-2024-election-for-european-parliament-immigration-in-europe-and-fundamental-rights-which-perspectives-for-the-next-european-legislature-rome/>; <https://medelnet.eu/medel-conference-on-the-eve-of-the-june-2024-election-for-european-parliament-paris-31-may-2024/>; <https://medelnet.eu/medel-questione-giustizia-special-issue-on-democracy-and-the-rule-of-law-in-europe-critical-issues-and-open-challenges-on-the-eve-of-the-europeanelections/>; <https://medelnet.eu/immigration-in-europe-and-fundamental-rights-which-perspectives-for-the-next-european-legislature-medel-questione-giustizia-special-issue-2-2024/>).

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

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

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

With the approval by the Chamber of Deputies on 16.1.2025, of the bill presented by the Minister of Justice (n.1917) on the so-called “separation of the careers of magistrates” the first step of the procedure for constitutional reforms has been completed. Actually the reform does not only intervene on magistrates’ career but disrupts the current constitutional framework concerning the judiciary, that -in its tenets and main features -remained unchanged since its adoption, providing a solid guarantee for RoL and judicial independence by:1) stating the principle of the “unity of jurisdiction” (art. 104 Const.) and, thus, shaping the judiciary as a unitary system and setting common guarantees for the external and internal independence of judges and prosecutors; 2) firmly removing prosecutors from the area of influence of the executive and the Minister of Justice, which is only entrusted with competences for the organization and performances of the services related to the administration of the justice; 3) entrusting to the Superior Judicial Council –composed of a majority of members elected by their peers – with the mandate of protecting the independence of the judiciary and all tasks related to the appointments, promotions, transfers and disciplinary proceedings for both judges and prosecutors.

The reform not only splits the Council but weakens the whole self- government system, depriving it of its competences and its representative features, and thus of its full “legitimacy” vis-à-vis the judiciary, that are all crucial for the constitutional role of the Council as guarantor of judicial independence. Specifically:

- by providing for a shift from the current elective system to a system of nomination exclusively by lot: magistrates would be drawn from among all ordinary judges and prosecutors while the lay members would be drawn from a list selected by Parliament; the reform does not meet the European standards requiring that the majority of Council’s members should be magistrates chosen by their peers, guaranteeing the widest possible representation of courts and instances, as well as diversity of gender and regions (CCJE op.24-2021 rec.14; CCPE op.18 -2023 rec.3);

- by transferring the disciplinary powers over (only) ordinary magistrates to a new disciplinary Court (Alta Corte); the reform does not meet the European standards stating that, where they exist, Councils for the Judiciary should be entrusted with disciplinary competences (CCJE op. 27-2024);

- by providing for the composition of the Alta Corte not only the drawing by lot to appoint magistrates (that - as for the 2 new Councils- is not ‘tempered’, since only the 3 lay members appointed by Parliament - in addition to the 3 lay members appointed by the President of the Republic- would be drawn from a list) but the limitation to those who have at least 20 years in office and are or have been judges or prosecutors at the Court of Cassation: although formally not abrogating it, the reform de facto overthrows the other key constitutional principle concerning the judiciary according to which magistrates are distinguished one from another solely on the basis of their functions. The so- called principle of the equal dignity of the functions, introduced by art.107 c. 3 of the Cons. marked a shift of paradigm towards a judicial system where all magistrates are equal, functions are not hierarchically ranked, and the career level attained (and the corresponding salary level) is not related to the function actually exercised.

In this regard, the reform represents the first step for structural reshaping of the judiciary as a hierarchical structure, overthrowing a principle that has been considered as a cornerstone of the independence of magistrates, which requires not only the guarantees and status needed to perform judicial functions without external interferences but also the absence of internal mechanisms that can produce career incentives towards a conformist behavior.

In order to evaluate the magnitude of changes introduced by the reform, it has to be considered that a broader reform is the object of a government bill, aiming at increasing the powers of the Prime Minister with his/her direct election, joined to the election of both chambers of Parliament, composed on the basis of a new majority bonus (see chap. IV).

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

Independence/autonomy of the prosecution service

5000 character(s) maximum

As reported in 2023, a few days after the referendum “for a Just Justice”, held on 12 June 2022, Law n. 71 of 7 June 2022, reforming the judicial system and the High Council for the Judiciary, was approved. The referendum included a set of questions related to several legislative provisions concerning the recruitment, training, and evaluation of prosecutors. Notwithstanding the failure of the referendum, which did not obtain the quorum required to be considered as valid, the law approved by the Parliament eventually obtained the same result, primarily since it reduced from four to one the number of times one can switch between judicial and prosecutorial functions. While the current legislative framework already provided a clear distinction between the functions of judges and those of public prosecutors and increasingly strict limits have been introduced to the possibility of moving from one role to other (in practice, very few magistrates make such a choice) the constitutional reform introduces, under the label of the ‘separation of careers’ a broader far reaching change in the status of prosecution and of the Superior Council.

Although the principle of the independence of Prosecutor from the executive is formally confirmed, once the constitutional framework that has hitherto guaranteed this independence - through the principle of the unity of the judiciary and of its system of self-government - will be no longer in place, the door will be open to a radical reorganization in which the Prosecutor can be brought under the control of the executive power.

Several bills submitted to the Chamber of Deputies and the Senate in 2022 and 2023, also referring to the idea of ‘separation of careers’, envisage not only establishing two separate Councils, but (for both of them) increasing the number of lay members and abolishing other constitutional provisions, such as the one stipulating that prosecution is ‘mandatory’. A principle this that implies that the decision whether or not to initiate a criminal investigation cannot be based on criteria of political expediency, nor be subject to vetoes or be guided by directives from the government or parliament.

As has been observed, once prosecutors are no longer part of the judiciary and the bulwarks of prosecutorial independence introduced by the Constitution have come to an end, the establishment of an autonomous self-governing body composed exclusively of prosecutors - in addition to ‘lay’ members - would represent the final step in the creation of a separate body of few and highly specialized civil servants entrusted with the power to investigate and prosecute, responsible for directing the judicial police and the exercise of prosecution, in the form of a self-referential entity within the state structure. And once a “self-referential state power” has been established with such prerogatives, there is the concrete (and unavoidable) risk that the executive power will seize control of it (see opinion on the draft constitutional law issued on 8.1.2025 by the Superior Council for the judiciary par. 3.2. The possible systemic effects of the reform, https://www.csm.it/web/csm-internet/norme-e-documenti/dettaglio/-/asset_publisher/YoFfLzL3vKc1/content/parere-sul-ddl-costituzionale-di-riforma-dell-ordinamento-giurisdizionale-separazione-delle-carriere-e-riforma-del-csm-?redirect=/web/csm-internet/norme-e-documenti/atti-consiliari/pareri-e-proposte-al-ministro)

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

One of the most alarming developments in this last year is represented by the increasing attacks from political actors, representatives of the political majority and holders of government positions, and media outlets on individual judges and prosecutors, related to judicial decisions, proceeding and investigations. As already reported in 2024, judges dealing with refugee and asylum cases have become the main targets of political and media campaigns accusing them of boycotting national migration policies on ideological grounds and of playing a political role, because of decisions deemed not to be in line with the government's new policy on immigration, which has led to further reforms of the legislation in a restrictive sense for the rights of asylum seekers and to the so called Italy- Albania protocol. All this continues along a line started in 2018, when the then Minister of the Interior launched the so called closed-port policy and, simultaneously, a campaign against judges of the international protection announcing that he would blacklist those who participated in conferences and public events on migration, and in general were engaged in cultural activities on these topics. A further level of alarming attacks has been reached following the decisions concerning the application of the Italy-Albania protocol on migration. In October 2024, 6 judges of the Court in Rome did not validate the detention of migrants in Albanian facilities and areas, which are equated to Italian border or transit zones, stating that it was not possible to consider the states of origin of the detained persons as "safe countries" and thus asserting the absence of the necessary precondition for the special border procedure and the detention of migrants. In spite of the fact that the reasoning of the decisions clearly recalled the binding nature of the principles set in the case law of the EU Court of Justice and in EU legislation, namely the Reception Conditions Directive, which were deemed to prevail over conflicting national law with respect to the type of procedure applied by state administrations to examine applications for international protection, judges have been publicly accused by high profile politicians to have exceeded their powers acting for purposes of political opposition to the government. A media campaign followed by naming and shaming of one of the sitting judges for the positions expressed while participating in the public debate as a member of a judicial association on issues concerning migrants and fundamental rights <https://medelnet.eu/statement-on-the-recent-attacks-on-the-italian-judiciary-2/>; <https://www.associazionemagistrati.it/doc/4436/solidariet-a-silvia-albano.htm> The same attacks were reiterated towards other judges for similar decisions and media campaign targeted them with a screening of opinions issued and their private life (https://csmapp.csm.it/web/csm-internet/attualita/comunicati-stampa/-/asset_publisher/YoFfLzL3vKc1/content/csm-approvata-la-pratica-a-tutela-riguardante-un-ordinanza-del-tribunale-di-bologna?

[p_p_auth=5tDHLvHp&inheritRedirect=false&redirect=https%253A%252F%252Fwww.csm.it%252Fweb%252Fcsm-internet%252Fattualita%252Fcomunicati-stampa%253Fp_p_auth%253D5tDHLvHp%2526p_p_id%253D101_INSTANCE_YoFfLzL3vKc1%2526p_p_lifecycle%253D0%2526p_p_state%253Dnormal%2526p_p_mode%253Dview%252](https://csmapp.csm.it/web/csm-internet/attualita/comunicati-stampa/-/asset_publisher/YoFfLzL3vKc1/content/csm-approvata-la-pratica-a-tutela-riguardante-un-ordinanza-del-tribunale-di-bologna?). Prosecutors faced as well attacks launched through media campaigns and public statements by highest levels of government. Without any consideration of the legal arguments raised by prosecutors engaged in a trial involving as defendant a member of the government and of the full compliance of their actions with the procedures provided by the legal system in the case of criminal proceedings against ministers, the statements have re-proposed to the public opinion the accusation of a judiciary playing an active opposition role to the government and its migration policies, in defiance of the principle of separation of powers <https://medelnet.eu/statement-on-attacks-and-interference-against-the-italian-judiciary/>. This context of attacks on magistrates poses a serious risk of delegitimization of the judiciary and of damage to the public trust into it, since the very raison d'être of the judicial function, i.e. the impartial guarantee of everyone's fundamental rights and equality before the law, judicial decisions, trials and investigations are represented as purely politically motivated interventions and expressions of hostility towards the current government. A risk this that is further aggravated by the recent reform that the government introduced with a legislative amendment contained in decree-law no. 145 of 2024, transferring the competence for validation of detentions of asylum seekers from the specialized immigration sections of the first instance Courts to the Courts of Appeal (see B Quality of Justice)

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

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

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

With the amendment to decree-law 145/24, submitted upon its conversion into law (Law No. 187 of 9.12.24), as of 10 January 2025, the competence for the validation of the 'administrative' detention of both applicants for international protection (also for individuals subject to the border procedure), and persons considered as irregular migrants has been transferred from the specialized sections of the first instance Courts to the Courts of Appeal. The law also amends Art. 4 Law No. 14/2024 (ratifying the Italy-Albania Protocol) by attributing jurisdiction to the Court of Appeal for the validation of the detention of asylum seekers transferred to Albania (because they are considered as coming from safe countries of origin). The reform led to critical remarks from a technical point of view insofar as it unreasonably separates the Court competent to judge on the merits of the measures related to the right to asylum (the Specialised Chambers of the first instance Courts) from the Court competent to judge on the lawfulness of the detention applied within the proceedings for the recognition of that same right (the Courts of Appeal). This clashes with the unitary and inseparable nature of asylum issues and related procedures, and it is not in line with the organisational measures adopted in order to ensure the presence of specialised judges in the first instance Courts competent to decide on this matter (see opinion of the Superior Council issued on 4.12.24 https://www.questionegiustizia.it/data/doc/4014/parere-dl_compressed.pdf; <https://www.asgi.it/wp-content/uploads/2025/01/ANALISI-GIURIDICA-La-nuova-strategia-per-i-trattenimenti-.docx.pdf>. Serious concerns have been expressed by the presidents of the 26 Courts of Appeals, since the new competence- introduced as a matter of urgency, with no new staff and without additional resources- is likely to cause further delays and increase in the backlog of cases, that might endanger reaching the objectives of the NRRP <https://www.associazionemagistrati.it/doc/4463/protezione-internazionale-e-corti-di-appello-lindifferenza-del-legislatore-per-lorganizzazione-giudiziaria.htm>

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

Any other developments related to the justice system - please specify

5000 character(s) maximum

The Court of Auditors is the supreme audit institution of the Italian Republic and has jurisdiction over public finances mismanagement cases. Established in 1862, its prerogatives both as public auditor and Court of Law are enshrined in the Italian Constitution (art. 100 and 103), which protects the independence of its members (art. 108).

A reform bill (AC 1621, “Modifiche alla legge 14 gennaio 1994, n. 20, al codice della giustizia contabile, di cui all'allegato 1 al decreto legislativo 26 agosto 2016, n. 174, e altre disposizioni in materia di funzioni di controllo e consultive della Corte dei conti e di responsabilità per danno erariale”), proposed by members of the parliamentary majority and supported by the Government is currently being discussed in the lower Chamber of Deputies.

The bill significantly reduces civil servants' liability for damages caused to the State and other public entities, limiting compensations to a maximum amount of twice the annual salary (the Court can already sentence the defendant to a reduced compensation, e.g. 1.000 € for an ascertained damage of 10.000 €, considering all circumstances of the case).

It also enables Government bodies to ask the Court to preliminary validate specific measures and acts, thus excluding liability for all damages caused by such measures if the Court doesn't formally reject them within 30 days.

As prescribed by the law, on 30 October 2024, the Court released a formal opinion (<https://www.corteconti.it/Download?id=35360c40-751d-49a0-8d80-7ef0899d203f>) on the reform Bill, criticizing several of its measures as inefficient and impractical. The Associazione Magistrati della Corte dei conti, the association representing almost all of the Court's magistrates since 1949, launched a permanent collective protest (stato di agitazione) over the bill, denouncing it as a threat to the Court's main function: to protect public finances in the interest of all citizens.

Moreover, an amendment (n. 2.06) was recently presented by the parliamentary majority that would abolish 14 territorial offices of the Court of Auditors and severely limit the independence of its prosecutors: the Attorney General (Procuratore Generale) of the Court will be given the power to veto all acts by other prosecutors.

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

In July 2024 the Parliament approved the bill abrogating the offence of abuse of public office and significantly limiting the scope of the offence of trading in influence.

As reported in 2024, this reform distances Italy from the international legal framework aimed at strengthening the safeguards against corruption and collateral crimes, thus opening a significant gap in the protection of legality and in the fight against all forms of corruption and serious deviation from the standards of behaviour applicable to public officials.

The Court of Florence was the first in September 2024, followed by other courts, to submit a twofold issue of constitutional legitimacy with regard to: 1) the failure to comply with the obligations stemming from international law and, in particular, from the 2003 UN Convention against Corruption (Merida Convention), deriving from the conflict between the abolition of the crime of “abuse of office” and Art. 19 of the Convention, specifically addressing the “Abuse of functions”, according to which “[e]ach State Party shall consider adopting such legislative and other measures as may be necessary to establish as a criminal offence, when committed intentionally, the abuse of functions or position, that is, the performance of or failure to perform an act, in violation of laws, by a public official in the discharge of his or her functions, for the purpose of obtaining an undue advantage for himself or herself or for another person or entity” and art. 7 “[e]ach State Party shall, in accordance with the fundamental principles of its domestic law, endeavour to adopt, maintain and strengthen systems that promote transparency and prevent conflicts of interest”; 2) the serious gaps in the protection of the general standard of “good administration” and of the impartiality of administrative action in a system in which abusing public power to the detriment of the citizen or to one's own or others' advantage is no longer a criminal offence, without this being “compensated” by the introduction of administrative or other safeguards to prevent misconducts and possible conflicts of interest.

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

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

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

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

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

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

5000 character(s) maximum

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

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

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

5000 character(s) maximum

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 draft bill presented by the government (DDL 935, approved in June 2024 by the Senate on first reading), by introducing the direct election for the Prime Minister, would lead to a radical change of the structure of the parliamentary system and to a significant weakening of President of the Republic as guarantor of constitutional balances.

Specifically, in the new system ensuring the election of the President of Republic politically homogeneous with the governing majority (the Parliament would be composed with a majority bonus), the appointment of the constitutional judges – not only those elected by Parliament but also those appointed by the President of the Republic – (and 3 members of the Alta Corte according to the reform of the High Council, see chap.I) will take place in the political and cultural orbit of the parliamentary majority; similar risks of alignment with the government majority will occur on the side of the Superior Council(s) for the judiciary, not only because of a less articulate and pluralistic composition of the lay members appointed by the Parliament but also as a consequence of the genetic link of the President of the Republic as President of the Council (s) with the government majority. As pointed out in an appeal by constitutionalists

(<https://www.questionegiustizia.it/articolo/appello-costituzionalisti-premierato>), even a small minority could take control of all institutions, without any more counterweights and checks; Parliament would no longer represent the country and would become a mere service structure of the government, thus destroying the separation of powers and the President of the Republic would be transformed from a guarantor and a guardian of constitutional procedures to a mere “state notary”.

A. The process for preparing and enacting laws

Framework, policy and use of impact assessments and evidence based policy-making, stakeholders'[1]/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

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

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

A new bill 1236 (formerly 1660) on security, presented by the government (Ministers of Interior, Justice and Defence), has been approved last September by the Chamber of Deputies, and is currently debated in Senate. It introduces more than 20 new criminal offences and aggravating circumstances, such as preparatory acts to terrorist offences or arbitrary occupation of property, as well as new forms of preventive administrative measures.

Human rights organisations in Italy and across Europe raised the alarm for the potential impact on freedom of expression, assembly, and protest. The Opinion issued on 27.5.24 by OSCE-Odhir, analyzing the bill (n. 1660, then n. 1236) in light of compliance with international human rights standards, observed that the majority of the provisions carry the potential to undermine the fundamental tenets of criminal justice and the rule of law: new offences framed in broad and vague terms; several provisions fail to adequately uphold the principle of proportionality of criminal sanctions, particularly in cases of potential disruption of traffic or violence against public officials, "risking creating a chilling effect on the exercise of human rights and fundamental freedoms by individuals"; of particular concern is the treatment of passive resistance by prisoners, "which may be deemed disproportionate, especially when utilized as a means of punishing peaceful expression of dissent". https://legislationline.org/sites/default/files/2024-05/2024-05-27%20-%20Opinion_Italy_Draft%20Law%20on%20Public%20Security%20-%20final.pdf

Coe Commissioner for Human Rights, on 16 December 2024, asked the Senate to refrain from adopting the bill, unless it is substantially amended to ensure that it complies with Council of Europe human rights standards (<https://rm.coe.int/letter-to-president-of-the-senate-italy-by-michael-o-flaherty-council-/1680b2e8d7>), stressing that it introduces offences that are defined in vague terms and other severe restrictions, thus creating room for arbitrary and disproportionate application, affecting activities that represent a legitimate exercise of freedom of peaceful assembly or expression. The Commissioner also points to some provisions that "restrict the rights of people in prisons or detention centres, who may have limited recourse to institutional avenues to defend their rights" and measures that "appear specifically designed to target environmental protesters, including young human rights defenders."

As already reported in 2024, Decree Law No. 1/2023, converted into Law 15/2023, introduced a very restrictive policy with regard to NGO activities in support of refugees, migrants, victims of human trafficking. By modifying former Decree Law No. 130/2020 on migration and security (later converted into Law 173/2020), often referred to as "refugee-raker", it introduced harsh rules on NGO rescue ships. These inter alia criminalised certain aspects of humanitarian NGO work and introduced a code of conduct for rescue at sea, with aspects that may hinder life-saving activities. Following the entry into force of the new code for sea rescue in 2023, NGOs and independent voices in the public debated highlighted the patent violations of international covenants and reported how the new rules entail the risk of hampering humanitarian organisations from operating at sea to save migrants from the serious dangers they face. This warning was upheld by the Council of Europe and international Experts (Letter of CoE Commissioner for Human Rights to the Italian Minister of Internal Affairs, 26.01.23 www.coe.int/en/web/commissioner/-/the-italian-government-should-consider-withdrawing-decree-law-which-could-hamper-ngo-search-and-rescue-operations-at-sea; Opinion of the Expert Council of the CoE Conference of INGOs, 30.01.23 (<https://rm.coe.int/expert-council-conf-exp-2023-opinion-italy-30-jan-2023-en/1680a9fe26>; Report of Independent Expert on human rights and international solidarity and the Special Rapporteur on the human rights of migrants, on 31 May 2024 <http://www.marinacastellaneta.it/blog/wp-content/uploads/2024/08/Human-rights-Defenders.pdf>)

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

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

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

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

rule-of-law-network@ec.europa.eu

