

2023 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 European rule of law mechanism, which acts as a preventive tool, deepening multilateral dialogue and joint awareness of rule of law issues. So far, three editions of the Rule of Law Report have been published in 2020, 2021 and 2022.

In the preparation of the first three editions of the Rule of Law Report, the Commission has relied on a diversity of relevant sources, including from Member States, country visits, and stakeholders' contributions collected through the targeted stakeholder consultation [1]. The information provided has informed the Commission's country-specific assessments in preparing the Report. Building on the positive experience from the first three editions of the Rule of Law Report, the Commission is now inviting stakeholders to provide written contributions for the preparation of the 2023 Rule of Law Report through this targeted consultation.

The contribution to be provided should include (1) information on measures taken to implement the recommendations addressed to the Member State in the 2022 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 2022 [2] falling under the 'type of information' outlined in the next section.

The input should be short and concise and summarise information related to one or more of the areas referred to in the template. You are invited to focus on the areas that relate to the scope of work and expertise of your organisation. Existing reports, statements, legislation or other documents may be referenced with a link (no need to provide the full text). Stakeholders are encouraged to make references to any contributions already provided in a different context or to Reports and documents already published. Contributions should focus on significant developments both as regards the legal framework and its implementation in practice.

If you wish to submit information concerning several Member States, you will have to fill-in the questionnaire separately for each Member States (due to the size of the questionnaire). There is no limit to the number of contributions submitted by a single participant. In such cases, you are not required to repeat the information in the section "about you" that is non-mandatory nor the information on horizontal developments.

Please provide your contribution by **20 January 2023**. Should you have any requests for clarifications or encounter difficulties in filling in the questionnaire, you can contact the Commission at the following email

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

[1] For the consultation for the 2022 Report, see https://ec.europa.eu/info/publications/2022-rule-law-report-targeted-stakeholder-consultation_en

[2] Unless the information was already submitted in the consultation for the previous Rule of Law Reports.

Type of information

The topics are structured according to four pillars: I. Justice system; II. Anti-corruption framework; III. Media pluralism; and IV. Other institutional issues related to checks and balances. The replies could include aspects set out below under each pillar. This can include challenges, current work streams, positive developments and best practices:

Legislative developments

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

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

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, heads of independent authorities included in the scope of the questionnaire[1])

Any other relevant developments

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

If there are no changes, it is sufficient to indicate this and the information covered in the contributions for the previous Rule of Law Reports should not be repeated.

[1] 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

Main Areas of Work

- ☐ Justice System
- ☐ Anti-corruption
- ☐ Media Pluralism
- ☒ Other

If "Other", please specify

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

500 character(s) maximum

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 add the country of origin of your organisation

- ☐ Afghanistan

- ☐ Albania
- ☐ Algeria
- ☐ Andorra
- ☐ Angola
- ☐ Antigua and Barbuda
- ☐ Argentina
- ☐ Armenia
- ☐ Australia
- ☐ Austria
- ☐ Azerbaijan
- ☐ Bahamas
- ☐ Bahrain
- ☐ Bangladesh
- ☐ Barbados
- ☐ Belarus
- ☒ Belgium
- ☐ Belize
- ☐ Benin
- ☐ Bhutan
- ☐ Bolivia
- ☐ Bosnia and Herzegovina
- ☐ Botswana
- ☐ Brazil
- ☐ Brunei Darussalam
- ☐ Bulgaria
- ☐ Burkina Faso
- ☐ Burundi
- ☐ Cabo Verde
- ☐ Cambodia
- ☐ Cameroon
- ☐ Canada
- ☐ Central African Republic
- ☐ Chad
- ☐ Chile
- ☐ China
- ☐ Colombia
- ☐ Comoros
- ☐ Congo
- ☐ Costa Rica
- ☐ Côte D'Ivoire
- ☐ Croatia
- ☐ Cuba
- ☐ Cyprus
- ☐ Czechia
- ☐ Democratic Republic of the Congo
- ☐ Denmark
- ☐ Djibouti

- ☐ Dominica
- ☐ Dominican Republic
- ☐ Ecuador
- ☐ Egypt
- ☐ El Salvador
- ☐ Equatorial Guinea
- ☐ Eritrea
- ☐ Estonia
- ☐ Eswatini
- ☐ Ethiopia
- ☐ Fiji
- ☐ Finland
- ☐ France
- ☐ Gabon
- ☐ Gambia
- ☐ Georgia
- ☐ Germany
- ☐ Ghana
- ☐ Greece
- ☐ Grenada
- ☐ Guatemala
- ☐ Guinea
- ☐ Guinea Bissau
- ☐ Guyana
- ☐ Haiti
- ☐ Honduras
- ☐ Hungary
- ☐ Iceland
- ☐ India
- ☐ Indonesia
- ☐ Iran
- ☐ Iraq
- ☐ Ireland
- ☐ Israel
- ☐ Italy
- ☐ Jamaica
- ☐ Japan
- ☐ Jordan
- ☐ Kazakhstan
- ☐ Kenya
- ☐ Kiribati
- ☐ Kuwait
- ☐ Kyrgyzstan
- ☐ Laos
- ☐ Latvia
- ☐ Lebanon
- ☐ Lesotho

- ☐ Liberia
- ☐ Libya
- ☐ Liechtenstein
- ☐ Lithuania
- ☐ Luxembourg
- ☐ Madagascar
- ☐ Malawi
- ☐ Malaysia
- ☐ Maldives
- ☐ Mali
- ☐ Malta
- ☐ Marshall Islands
- ☐ Mauritania
- ☐ Mauritius
- ☐ Mexico
- ☐ Micronesia
- ☐ Monaco
- ☐ Mongolia
- ☐ Montenegro
- ☐ Morocco
- ☐ Mozambique
- ☐ Myanmar
- ☐ Namibia
- ☐ Nauru
- ☐ Nepal
- ☐ Netherlands
- ☐ New Zealand
- ☐ Nicaragua
- ☐ Niger
- ☐ Nigeria
- ☐ North Korea
- ☐ North Macedonia
- ☐ Norway
- ☐ Oman
- ☐ Pakistan
- ☐ Palau
- ☐ Panama
- ☐ Papua New Guinea
- ☐ Paraguay
- ☐ Peru
- ☐ Philippines
- ☐ Poland
- ☐ Portugal
- ☐ Qatar
- ☐ Republic of Moldova
- ☐ Romania
- ☐ Russian Federation

- ☐ Rwanda
- ☐ Saint Kitts and Nevis
- ☐ Saint Lucia
- ☐ Saint Vincent and the Grenadines
- ☐ Samoa
- ☐ San Marino
- ☐ Sao Tome and Principe
- ☐ Saudi Arabia
- ☐ Senegal
- ☐ Serbia
- ☐ Seychelles
- ☐ Sierra Leone
- ☐ Singapore
- ☐ Slovakia
- ☐ Slovenia
- ☐ Solomon Islands
- ☐ Somalia
- ☐ South Africa
- ☐ South Korea
- ☐ South Sudan
- ☐ Spain
- ☐ Sri Lanka
- ☐ Sudan
- ☐ Suriname
- ☐ Sweden
- ☐ Switzerland
- ☐ Syrian Arab Republic
- ☐ Tajikistan
- ☐ Tanzania
- ☐ Thailand
- ☐ Timor-Leste
- ☐ Togo
- ☐ Tonga
- ☐ Trinidad and Tobago
- ☐ Tunisia
- ☐ Turkey
- ☐ Turkmenistan
- ☐ Tuvalu
- ☐ Uganda
- ☐ Ukraine
- ☐ United Arab Emirates
- ☐ United Kingdom
- ☐ United States of America
- ☐ Uruguay
- ☐ Uzbekistan
- ☐ Vanuatu
- ☐ Venezuela

- ☐ Viet Nam
- ☐ Yemen
- ☐ Zambia
- ☐ Zimbabwe

First name

Surname

Email Address of the organisation (this information will not be published)

* 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 2023 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 2023 Report.pdf](#)

Please provide any relevant information on horizontal developments here



The developments encompassed in this submission point to systematic attacks on the fundamental rights of LGBTI people enabled by the weakening of rule of law and democratic structures. We have kept our inputs relevant to the content asked for by the consultation, and therefore we have not included all fundamental rights violations against LGBTI people, or all restrictions experienced by LGBTI civil society in the respective countries. We have only included them where there is a clear link to the issues of rule of law contained in the consultation.

In 2022 we continued to see the manipulation of judicial processes to attempt to erode the human rights of LGBTI people and their access to justice. Harassment and intimidation of LGBTI people and human rights defenders via the courts continued in a number of countries. Particularly in Poland, the Prosecutor General being also the Minister of Justice has resulted in the misuse of the prosecutor's office to repeatedly appeal verdicts in favour of LGBTI defendants, and the use of prosecutors to intimidate LGBTI people undergoing judicial processes, or the outcome of said processes. In a couple of countries, we also saw politicians attempting to discredit and delegitimise the rulings of courts when the rulings did not align with their political preferences.

In addition, we saw that in countries where the independence of the media has been eroded, there were consistent smear campaigns and negative narratives against LGBTI people, often under the guise of combating so-called "LGBT ideology" or "gender ideology". Smear campaigns are often deployed ahead of elections or anti-LGBT referenda, in which LGBTI people are used as a scapegoat to distract people from government failings, creating fear among society, and against which the government proposes to defend the nation from, in order to win votes. This leads to an environment in which violence and discrimination is enabled, and in which laws violating the fundamental rights of LGBTI people are proposed and often adopted. For example, smear campaigns in Hungary ahead of the national election and referendum on the anti-LGBT amendments of the Child Protection Act, resulted in a significant increase in hate crime and hate speech at the beginning of 2022. The European Commission referred the latter law to the CJEU on 15 July 2022, for breaching a number of EU laws.

Issues related to civic space shifted more towards legislative proposals or policy practices which restrict the functioning of and funding of civil society organisations, such as laws and draft laws banning LGBTI content in the public space, and an attempt in one country to ban foreign funding of civil society organisations, among others. However, smear campaigns, restrictions to the right to freedom of assembly, vandalism of LGBTI themed projects and flags and LGBTI-phobic campaigns continued in a number of countries, and hate crimes against LGBTI people often are not sufficiently investigated. A number of EU countries still do not have hate crime legislation with sexual orientation, gender identity or sex characteristics as aggravating grounds. In some countries which do have such legal protection, it is often not implemented properly by police, prosecutors or even Ombudspersons.

For more information please refer to country specific submissions.

Questions for contribution

The following four pillars (I.-IV.) are sub-divided into topics (A., B., etc.) and sub-topics (1., 2., 3., etc.). For each of the topics and sub-topics, you are invited to provide (1) information on measures taken to implement the recommendations addressed to the Member States in the 2022 Rule of Law report, as well as developments with regard to the points raised in the respective country chapter of the 2022 Rule of Law Report and (2) any other significant developments since January 2022[1]. Please include a link to and reference relevant legislation/documents (in the national language and/or where available, in English) if relevant. Significant developments can include challenges, positive developments and best practices, covering both legislative developments or implementation and practices.

If there are developments you consider relevant under each of the four pillars that are not mentioned in the sub-topics, please add them under the section "other - please specify". Only significant developments should be covered.

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.

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

Member State covered in contribution [only one choice possible]

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

- ☐ 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

I. Justice System

Please provide information on measures taken to follow-up on the recommendations received in the 2022 Report regarding the justice system (if applicable)

3000 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)

3000 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)

3000 character(s) maximum

Promotion of judges and prosecutors (incl. judicial review)

3000 character(s) maximum

Allocation of cases in courts

3000 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)

3000 character(s) maximum

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)

3000 character(s) maximum

Remuneration/bonuses/rewards for judges and prosecutors, including observed changes (significant and targeted increase or decrease over the past year), transparency on the system and access to the information

3000 character(s) maximum

Independence/autonomy of the prosecution service

3000 character(s) maximum

In April 2022 the prosecutor's office joined a civil case brought against Bart Staszewski by the commune of Tuszów for his activism against their anti-LGBT resolution (<http://bitly.ws/zbMC>). Bart regards this as an intimidation attempt (<http://bitly.ws/zbMv>). In June, Minister of Justice and Prosecutor General Zbigniew Ziobro reportedly sent a prosecutor to the home of Jakub Kwieciński and Dawid Mycek, right before the final hearing of the Supreme Administrative Court of their case on the recognition of their marriage conducted abroad in Spain, which they were seeking to get legally recognised in Poland. The couple regard this as an intimidation attempt (<http://bitly.ws/zbMF>).

On 2 March 2021, three activists facing trial for 'offending religious feelings' for painting a rainbow halo over an image of the Virgin Mary in 2019 were acquitted of charges by Judge Agnieszka Warchoła. An appeal was launched against the judgement by Ziobro, and the defendants were acquitted on 12 January 2022. Despite this verdict being final, the Deputy Justice Minister, Marcin Romanowski, has announced they intend to use the extraordinary complaint to appeal again (<http://bitly.ws/zbMI>). Romanowski also publicly opposed the verdict of the Court of Ostrołęka in January 2022 which acquitted the Atlas of Hate defendants from one of the SLAPP trials (see more in section on SLAPPs), saying that the court was being "ideological" (<http://bitly.ws/zbMI>).

In June Ziobro announced he would ask the prosecutor's office to get involved with cases of conservative people being sanctioned under the University of Adam Mickiewicz's new anti-discrimination policy (<http://bitly.ws/zbMX>) and asked the university to withdraw or change its new equality policy as it uses the term "gender identity" (which is in fact an internationally recognised human rights term).

In September, Ziobro requested the Supreme Court to consider that in addition to their parents, trans people should also sue their children and spouse when they want to access legal gender recognition (<http://bitly.ws/zbN3>). Civil society considers this as yet another attack on trans rights. Civil society has also observed throughout the year an increased presence of prosecution delegates in cases related to legal gender recognition, interpreting it as politically motivated and having a chilling effect both on judges and parties involved.

On 27 January 2022, during the trial of a person who was arrested during the August 2020 violent arrests of LGBTI protestors, a police officer revealed that police had been given the order to "detain all LGBT-labelled people, regardless of how they behaved" (<http://bitly.ws/zbN6>), proving the politicised motivation of the arrests and the breach of the right of LGBTI people to publicly assemble. The Polish Ombudsperson published a report after investigating the arrests, which identified degrading treatment, bordering on inhumane treatment in some cases (<http://bitly.ws/zbN7>).

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

3000 character(s) maximum

In July it was discovered that the driver of the homophobic vans referred to in our previous submissions to this report, is a legal adviser (<https://poznan.wyborcza.pl/poznan/7,36001,28703316,jezdzi-furgonetka-i-glosil-ze-geje-sa-pedofilami-ujawniamy.html>). These vans are driven around cities broadcasting slogans warning that the "LGBT lobby wants to teach children" and include calls to "stop paedophilia", with a logo showing a crossed-out rainbow flag.

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

3000 character(s) maximum

On 22 June, Minister of Justice Ziobro publicly criticised the judgement of the Supreme Administrative Court which had the previous day upheld the annulment of four resolutions against so-called “LGBT ideology” adopted by the councils of the municipalities of Serniki, Klwów, Istebna and the City Council in Osiek (<https://www.wnp.pl/parlamentarny/wydarzenia/ziobro-krytycznie-oceniam-wyrok-nsa-ws-uchwal-o-ideologii-lgbt,597111.html>).

The Equal Signs Federation which works locally for LGBTI rights noticed that there are some worrying practices at a local court in Słupsk when it comes to legal gender recognition cases. After a short period of successful and fast processing, the situation started to change and all the cases started to be referred to the same neo-judge. Civil society has suspicions that the designation of cases has been deliberately changed to be processed by this judge and since then all the legal gender recognition cases have been stuck without further developments.

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 under section 2)

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

3000 character(s) maximum

Resources of the judiciary (human/financial/material)

(Material resources refer e.g. to court buildings and other facilities)

3000 character(s) maximum

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

3000 character(s) maximum

Digitalisation (e.g. use of digital technology, particularly electronic communication tools, within the justice system and with court users, including resilience of justice systems in COVID-19 pandemic)

3000 character(s) maximum

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

3000 character(s) maximum

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

3000 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)

Length of proceedings

3000 character(s) maximum

Other - please specify

3000 character(s) maximum

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 2022 Report regarding the anti-corruption framework (if applicable)

3000 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 authorities. Indicate any relevant measure taken to effectively and timely cooperate with OLAF and EPPO (where applicable)

3000 character(s) maximum

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

3000 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

3000 character(s) maximum

B. Prevention

Measures to enhance integrity in the public sector and their application (including as regards incompatibility rules, revolving doors, codes of conduct, ethics training). Please provide figures on their application

3000 character(s) maximum

General transparency of public decision-making, including rules on lobbying and their enforcement, asset disclosure rules and enforcement, gifts policy, transparency of political party financing

3000 character(s) maximum

Rules and measures to prevent conflict of interests in the public sector. Please specify the scope of their application (e.g. categories of officials concerned)

3000 character(s) maximum

Measures in place to ensure whistleblower protection and encourage reporting of corruption.

3000 character(s) maximum

List the sectors with high-risks of corruption in your Member State and list the relevant measures taken /envisaged for monitoring and preventing corruption and conflict of interest in these sectors (e.g. public procurement, healthcare, citizen investor schemes, risk or cases of corruption linked to the disbursement of EU funds, other), and, where applicable, list measures to prevent and address corruption committed by organised crime groups (e.g. to infiltrate the public sector)

3000 character(s) maximum

Any other relevant measures to prevent corruption in public and private sector

3000 character(s) maximum

C. Repressive measures

Criminalisation, including the level of sanctions available by law, of corruption and related offences, including foreign bribery

3000 character(s) maximum

Data on investigation and application of sanctions for corruption offences, including for legal persons and high level and complex corruption cases and their transparency, including as regards to the implementation of EU funds

(Please include, if available the number of (data since 2019): indictments; first instance convictions; first instance acquittals; final convictions; final acquittals; other outcomes (final) (i.e. excluding convictions and acquittals); cases adjudicated (final); imprisonment / custodial sentences through final convictions; suspended custodial sentences through final convictions; pending cases at the end of the reference year)

3000 character(s) maximum

Potential obstacles to investigation and prosecution as well as to the effectiveness of criminal sanctions of high-level and complex corruption cases (e.g. political immunity regulation, procedural rules, statute of limitations, cross-border cooperation, pardoning)

3000 character(s) maximum

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

3000 character(s) maximum

Other - please specify

3000 character(s) maximum

III. Media Freedom and Pluralism

Please provide information on measures taken to follow-up on the recommendations received in the 2022 Report regarding media freedom and pluralism (if applicable)

3000 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

3000 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

3000 character(s) maximum

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

3000 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 (including any rules regulating the matter)

3000 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 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

3000 character(s) maximum

Many media outlets continued to spread hate speech, misinformation and fear about LGBTI people in 2022, including misinformation spread by politicians, under the guise of combating so-called “LGBT ideology” or “gender ideology”. One media outlet even included a special pamphlet dedicated to the “threats related to LGBT ideology” (<https://dorzeczy.pl/kraj/318067/czy-obronimy-nasza-tozsamosc-specjalny-dodatek-w-dorzeczy.html>). In May, a TVP journalist published a recording showing him breaking the LGBT flag that hung next to the Polish flag, and then told TVP viewers about it (<https://natemat.pl/410641,jaroslaw-jakimowicz-zerwal-flage-lgbt-wisiala-obok-flagi-polski>). The National Broadcasting Union decided not to take action (https://miasta.tokfm.pl/miasta_tokfm/7,185051,28993208,zerwanie-teczowej-flagi-z-kamienicy-w-warszawie-fundacja-basta.html). In August the prosecutor’s office decided not to act on complaints brought against the same journalist for hate speech against LGBTI people online (<https://krakow.wyborcza.pl/krakow/7,44425,28820670,jakimowicz-obrzucal-w-internecie-homofobicznymi-wyzwiskami-swoich.html>).

On 1 February 2022, leaked emails of Mariusz Chłopik, informal advisor to Mateusz Morawiecki (<https://wiadomosci.wp.pl/afera-mailowa-kulisy-nagonki-na-lgbt-pada-nazwisko-bonka-6732686743300800a>), revealed that the Polish government was coordinating a hate campaign against LGBTI people from March 2019, having found two celebrities to partake in the campaign, and looking for more (<https://twitter.com/rochkowalski/status/1488493988550164481>). This proves the direct government involvement in anti-LGBT smear campaigns in the media.

After three years of legal battle, the Warsaw District Court ordered the Polish National Television to pay a fine and issue an apology for slandering the LGBT community in a prime time reporting in 2019 (https://kph.org.pl/inwazja_21-06/). The Court affirmed that anti-LGBT content is incompatible with media ethics and reminded of the media’s role to build social awareness.

Transparency of media ownership and public availability of media ownership information, including on direct, indirect and beneficial owners, as well as any rules regulating the matter

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

Rules and practices guaranteeing journalist's independence and safety, including as regards protection of journalistic sources and communications

3000 character(s) maximum

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

3000 character(s) maximum

Access to information and public documents (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)

3000 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

3000 character(s) maximum

A SLAPP case was brought by Kaja Godek against LGBTI and women's rights activist Monika "Pacyfka" Tichy in May 2021, for shouting in a protest about how Kaja Godek does not help disabled children in Poland, whilst she calls for banning abortion (<https://oko.press/pozwala-mnie-kaja-godek-ale-to-my-jestesmy-ofiarami>). Tichy used insulting words against Godek and her organisation. Godek sued Tichy for defamation and insult, and demanded Tichy pay 5.000 PLN (~1.200 EUR) to her anti-choice foundation. The amount is double Tichy's monthly social benefit for an unemployed mother of a child with disability, which is her only income. The first hearing took place in February 2022, and on 14 June 2022 Tichy was found guilty of defamation. The judge asked her to pay 1000 PLN to the Red Cross, and 9000 PLN to cover the court costs and Godek's legal costs. The court costs and Godek's legal costs were covered by KPH's Frontline Defenders Fund. KPH also paid for Tichy's lawyers.

The SLAPP cases against the creators of the Atlas of Hate, an online map tracking anti-LGBT resolutions, continued this year. In October 2022 one municipality dropped its lawsuit, and in December the District Courts of two municipalities dismissed the respective lawsuits. This further highlights the baselessness of the lawsuits and that their main aim is intimidation. Background: the authors of the Atlas of Hate, an online map launched in 2019 that tracks which municipalities have adopted anti-LGBT resolutions (<https://atlasnienawisci.pl/>), are facing 7 court cases, represented by far-right organisation Ordo Iuris. In all of these cases the activists are charged with defamation for sharing facts about the anti-LGBT resolutions. Atlas of Hate won its first case in December 2021. Given the high costs, professional and personal burdens brought about by the cases, and the fact that so far the activists have not lost any cases or complaints, it is clear these cases are designed to silence and intimidate them from pursuing their activism and holding the powerful to account.

Other - please specify

3000 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 2022 Report regarding the system of checks and balances (if applicable)

3000 character(s) maximum

A. The process for preparing and enacting laws

Framework, policy and use of impact assessments and evidence based policy-making, stakeholders'[1] /public consultations (particularly consultation of judiciary and other relevant stakeholders on judicial reforms), and transparency and quality of the legislative process

[1] This includes also the consultation of social partners

3000 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)

3000 character(s) maximum

Regime for constitutional review of laws

3000 character(s) maximum

COVID-19: provide update on significant developments with regard to emergency regimes/measures in the context of the COVID-19 pandemic

- judicial review (including constitutional review) of emergency regimes and measures in the context of COVID-19 pandemic
- oversight (incl. ex-post reporting/investigation) by Parliament of emergency regimes and measures in the context of COVID-19 pandemic
- processes related to lessons learned/crisis preparedness in terms of the functioning of checks and balances

3000 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#>)

3000 character(s) maximum

The new Human Rights Commissioner, Marcin Wiącek, has showed his support for the LGBT community on several occasions. On the other hand, he dismissed one of the vice directors in the office, Hanna Machińska, who was actively engaged in Rainbow Night and cases related to human rights defenders. Polish civil society expressed their concern at this decision.

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

3000 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)

3000 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)

3000 character(s) maximum

Follow-up by the public administration and State institutions to final (national/supranational) court decisions, as well as available remedies in case of non-implementation

3000 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 and dissolution rules)

3000 character(s) maximum

Rules and practices having an impact on the effective operation and safety of civil society organisations and human rights defenders. This includes measures for protection 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.

3000 character(s) maximum

Twice in 2022, President Duda vetoed controversial bills (Lex Czarnek & 2.0) aiming to amend the Education Law to give more governmental control over educational institutions and content. Minister Czarnek is looking at submitting a third such bill. Related to this, lists of CSOs were being drawn up that designated various

human rights CSOs, including LGBTI ones, as “harmful to children” (<http://bitly.ws/zbRj>).

On 29 October, Minister of Education Czarnek called principals allowing Rainbow Friday to take place “irresponsible” (<http://bitly.ws/zbRs>). The Ombudsman for Children, Mikołaj Pawlak, called for penalties against LGBTI+ and women’s rights organisations, who did not register on the Sex Offender Register, suggesting that they can be paedophiles (<http://bitly.ws/zbRD>). In October he sent a letter to LGBTI organisation KPH, delivered to their offices by two police officers, asking them to check whether any of their employees are in the register of sex offenders. Since KPH does not work with children, they regard this request as politically motivated, and the use of police as an intimidation method. KPH’s attorneys analysed whether KPH actually is one of the kinds of organisations listed in the law (e.g. working on education, with children etc) and concluded that they are not, since they do not organise any educational activities with minors. The police brought KPH’s Director in for questioning, and while he was being interrogated a police officer attempted to file charges against him. Luckily one of KPH’s attorneys was present and managed to stop this. The police do not know how to treat the case as the charges are not adequate.

On 23 November LGBTI activist Ali Kopacz was arrested for organising a protest against the transphobic policies of his university (<http://bitly.ws/zbRM>). He was convicted for leading a protest by a summary judgment (without trial).

Polish Ministers continued to use discriminatory speech against LGBTI people this year. For example, Przemysław Czarnek, Minister of Science and Higher Education stated numerous times that so-called “LGBT ideology” is destructive (<http://bitly.ws/zbRR>); Kaczyński continued to attack LGBT people, particularly trans people, in his political speeches (<http://bitly.ws/zbRZ>); President Duda also used speech discriminatory against LGBTI people by talking about the importance of the traditional conservative family, among others (<http://bitly.ws/zbS7>).

Various acts of vandalism against rainbow flags or symbols took place again this year in Poland.

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)

3000 character(s) maximum

The EU Common Provisions Regulation requires effective mechanisms to be in place to ensure compliance of EU fund planning, implementation and evaluation with the Charter of Fundamental Rights, and the principle of non-discrimination. It specifically states that members of the monitoring committees should include “relevant bodies representing civil society, such as environmental partners, non-governmental organisations, and bodies responsible for promoting social inclusion, fundamental rights, rights of persons with disabilities, gender equality and non-discrimination.” However, this autumn, Ordo Iuris - an organisation which actively works against sexual and reproductive rights, gender equality and fundamental rights of women and LGBTI people - was pre-selected in Poland as a member of the ESF+ monitoring committee and selected as a member of two monitoring committees of programmes financed under the Cohesion Fund: European Funds for Smart Economy 2021-2027 (https://www.poir.gov.pl/media/113221/Sklad_instytucjonalny_KM_FENG_2021_2027.pdf) and European Funds for Digital Development 2021–2027 (<https://www.gov.pl/attachment/f8c07aef-8cf5-4a09-9396-aed9808dce38>), for the thematic groups on fundamental rights.

The President of Ordo Iuris, Jerzy Kwasniewski also sits on the board of the Confederation of Non-Governmental Initiatives of the Republic (Związek Stowarzyszeń Konfederacja Inicjatyw Pozarządowych Rzeczypospolitej, KIPR). The President of KIPR, Paweł Kwaśniak, coordinated the anti-LGBT Family

Charters, and testified as a witness against the Atlas of Hate in one of the SLAPP lawsuits brought by local authorities and supported by Ordo Iuris (see more under section III. C. above). KIPR has been elected to the following EU funds monitoring committees: European Funds for Infrastructure, Climate and Environment 2021-2027 (https://www.pois.gov.pl/media/113342/Sklad_KM_FEnIKS_2021_2027_20230112.pdf); European Funds for Eastern Poland 2021-2027 (https://www.polskawschodnia.gov.pl/media/113319/Sklad_KM_FEPW_110123.pdf); European Funds for Digital Development 2021-2027 (<https://www.gov.pl/attachment/f8c07aef-8cf5-4a09-9396-aed9808dce38>); Technical Assistance for European Funds 2021-2027 (https://www.popt.gov.pl/media/113419/Sklad_KM_PT_FE_2021_2027_2023_01_13.xlsx); Regional Operational Program Podlaskie (<https://podlaskie.eu/resource/1752/9599/2.+Za%25C5%2582acznik+do+uchwa%25C5%2582y+-+wyniki+wybor%25C3%25B3w.pdf>).

Rules and practices on the participation of civil society organisations and human rights defenders to the decision-making process (e.g. measures related to dialogue between authorities and civil society, participation of civil society in policy development and decision-making, consultation, dialogues, etc.)

3000 character(s) maximum

E. Initiatives to foster a rule of law culture

Measures to foster a rule of law culture (e.g. debates in national parliaments on the rule of law, public information campaigns on rule of law issues, contributions from civil society etc.)

3000 character(s) maximum

Other - please specify

3000 character(s) maximum

In December a minister in the Prime Minister's Office, Michał Wójcik, announced plans to amend the Family and Guardianship Code to ban the adoption of children by same-sex couples. The draft will be submitted to Parliament in 2023 (<https://www.radiomaryja.pl/informacje/do-sejmu-trafi-projekt-uniemozliwiajacy-adopcje-dzieci-przez-pary-homoseksualne/>).

Contact

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

