

# 2023 Rule of Law Report - targeted stakeholder consultation

Fields marked with \* are mandatory.

## Introduction

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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](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

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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

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\* 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*

Deutscher Anwaltverein (German Bar Association)

### Main Areas of Work

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

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

*500 character(s) maximum*

www.anwaltverein.de

### 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

87980341522-66

\* 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

Dr. Moritz

Surname

Moelle

Email Address of the organisation (this information will not be published)

[REDACTED]

#### \* 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

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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

*5000 character(s) maximum*



The UN Special Rapporteur for the Independence of Judges and Lawyers noted in this June 2022 Report with concern “a global increase in practices that undermine, limit, restrict and hinder the practice of law.” In this context, the DAV is particularly concerned about some of the European Commission’s legislative proposals and/or acts, including the anti-money laundering package, the Corporate Sustainability Due Diligence Directive, the Sanctions Package against Russia and the Consultation on “aggressive tax-planning” which all in one way or another impair the free exercise of the profession as well as professional secrecy.

## Questions for contribution

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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<sup>[1]</sup>. 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

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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*

The digitisation of the German justice system and adequate staffing remains challenging. The DAV continues to support the strengthening of the judiciary in terms of both personnel and funding. We also call for greater federal support for the German Laender in implementing the digital challenges in financial and practical terms. There are currently discussions between the German Laender and the Federal Government about the financing of the project and the implementation methods of the different projects to improve the current situation in the near future.

## 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*

In the view of the DAV and expressed in its position paper 50/2022 (in German) judicial selection committees have not fulfilled the hopes placed in them. Instead, independent panels of experts should be appointed - at least for higher judicial positions - to make a generally binding appointment proposal. The diversity of the legal professions should be adequately represented in order to preserve the independence of the panel and the neutrality of the decisions to be made by it. Furthermore, a legal definition of the relevant suitability criteria is advisable so that selection decisions can be made more rationally and transparently. Such a selection committee exists on the European level for the judges and the advocates general of the ECJ and the CFI. Before the appointment, a committee of seven persons gives an opinion on the suitability of the nominees (Art. 255 TFEU). Although this opinion is not formally binding, a negative evaluation of a candidate effectively normally leads to exclusion from the selection procedure.

Apparently, current practice is guided by an unofficial understanding among the councils for judicial appointments of the highest Federal Courts that candidates for positions in these courts who are deemed as unqualified will not be considered further during the selection procedure; giving the current judges of a given Federal Court a veto right.

Moreover, it would be desirable if - similar to the Anglo-American system - permeability, i.e. easy switching, between the professions of lawyers and those of members of the judiciary were possible. Particularly in the case of the bar and professional courts, the interaction of professional judges and bar judges has proven to be very positive.

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*

The points raised in our response to last year's consultation remain valid.

The DAV recommends clarifying the set of rules applicable to the return of former mandate holders to the bench, especially regarding the question whether individual duties arising from the continuing public service relationship also continue to apply during the term of office in Parliament and, if applicable, under what conditions statements related to the mandate can have consequences for remaining in the judicial service at a later point in time (see DAV Position Paper 50/2022, pp. 10-11. ). Reference is also made to a case concerning a judge who had made extremist statements during his time as a Member of Parliament and was prematurely retired following a court decision in disciplinary proceedings.

The Federal Government plans to tighten disciplinary laws to make it easier to remove extremist civil servants (incl. judges) from the bench.

This was prompted by the fact that, among others, a judge and other civil servants were suspected of having been involved in the preparation of an extremist coup.

Thus, the Federal German Governments is planning to change the law allowing federal disciplinary authorities to initiate all measures themselves in the future (including the removal of persons from civil service) without having to take disciplinary action at the administrative court first.

Furthermore, the final catalogue of offenses for which a sentence of six months' imprisonment already leads to the loss of civil servant status is going to be supplemented by the offense of incitement to hatred.

The DAV supports the proposal to facilitate a removal, but does not see that the concrete proposals are able to accelerate the proceedings. It would be more effective to build up and concentrate the relevant expertise within the authorities, e.g. through awareness-raising and education.

## Promotion of judges and prosecutors (incl. judicial review)

*3000 character(s) maximum*

The points raised in response to last year's consultation remain valid.

Further, more transparency and clear legal requirements for evaluations are essential for a non-discriminatory selection of the best candidates in accordance with Article 33 (2) GG and thus for the actual implementation of equal rights for women and men in promotions in the judiciary.

## Allocation of cases in courts

*3000 character(s) maximum*

No specific comments.

## 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*

The comments as contained in our previous reports remain valid.

## 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*

No specific comments.

## 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*

No specific comments.

## Independence/autonomy of the prosecution service

*3000 character(s) maximum*

The points raised in the consultation for the 2021 report remain valid.

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

*3000 character(s) maximum*

The general observations from last year are still valid.

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

3000 character(s) maximum

No specific comments.

## 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

The restrictions on physical presence in courts that existed during the Covid-19 pandemic have ceased to apply. The courts have also expanded the technical possibilities for video hearings to a varying extent in the individual Laender and are making use of them. Currently, a bill is being voted on that will expand the legal possibilities for video hearings and create digital legal application centres that will enable citizens to file applications virtually even at distant courts.

### Resources of the judiciary (human/financial/material)

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

3000 character(s) maximum

The judiciary is currently confronted with several challenges. The baby-boomer generation will retire within the next few years which will increase the need to recruit new personnel in the judicial and prosecution services and as well as non-legal support staff.

The material resources of the judiciary should be improved in view of the requirements of digitalisation. The funds required for this endeavour are currently not sufficiently provided. As under the German Constitution, the Laender are responsible for the provision of funds to the justice system, it is being discussed whether the funds contained within the respective Laender budgets are adequate or whether greater financial and non-financial support is required on the part of the German Federal Government.

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

3000 character(s) maximum

This is a very important aspect. It is essential that justice professionals continuously improve and update their knowledge (technically and legal). This also applies to their support staff. It would be worthwhile considering to include the legal obligations of the Federal Republic of Germany under international human rights law in the curricula.

### 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

Since January 2022 it has been mandatory for lawyers, public authorities and legal persons under public law to submit briefs to the courts – with the exception of the Federal Constitutional Court - exclusively electronically. In the opinion of the DAV, the introduction has generally been successful. Not all courts do yet have an internal e-file system. Thus, in practice, those courts print out incoming electronic correspondence by lawyers in order to scan it to allow further internal processing. One problem is that not all documents, e.g. documents marked as classified, or all file formats can be transmitted to the courts. The DAV demands standardized technology in courts throughout Germany, for example for video conferencing. Further key challenges are the lack of technologically capable personnel (see Hartung/Brunnader/Veith/Plog/Wolters, The Future of Digital Justice, June 2022, p. 9

According to the applicable laws, courts are not obliged to introduce e-file systems until 2026. Various Laender and courts have already introduced their own e-file systems.

In criminal law, the German Bar Association has for a long time called for an audiovisual documentation of the main hearing. Currently, there is no objective recording of the content of the taking of evidence at the level of Regional Court or higher that is accessible to all participants. The Federal Ministry of Justice only recently presented a draft law on the digital documentation of main criminal court hearings. In future, main hearings in the first instance before the Regional and Higher Regional Courts are to be recorded in picture and sound. In addition to the resulting audiovisual files, a typed transcript is also to be created - this will constitute the basis to proceed with the main hearing. The DAV welcomes the draft law as a decisive step towards a modern, technically up-to-date justice system. The DAV will actively participate in the further development of the draft law. In particular, the Federal Government and the Laender must provide the corresponding funds for this priority project.

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*

A working group has been formed for the use of AI in the justice system.

For the use of AI and algorithmic systems in the judiciary, this essentially means that the person who decides must not be replaced or restricted in his or her decision-making task, his or her factual and - in the case of judges also personal - independence and impartiality and in his or her area of responsibility. The fundamental rights of citizens must be upheld and must not be restricted by the use of AI.

A supportive use of AI and algorithmic systems is technically conceivable in highly standardised proceedings (legal aid and cost decisions), where judgemental decisions are less common.

This is one result of the working group. The participation of the legal profession in this debate and the development of a uniform standard is desirable. In various Laender, digitisation projects are being conducted to test possibilities of greater digitisation, e.g. in the collection and processing of large amounts of data.

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*

An increase in the thresholds for the value in dispute at the local courts and questions of an allocation of special areas of law to individual courts irrespective of the value in dispute are currently under discussion.

## 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*

The observations made in the three previous reports remain valid. Proceedings before the German Federal Constitutional Court can take several years; there are cases pending before the Court for six to seven years. With regard to administrative court proceedings, the main obstacle still is the length of proceedings, which has not decreased following the end of the pandemic situation in Germany.

The factors for the duration of court proceedings outside of impairments due to the special effects caused by the Covid-19 pandemic is indirectly being examined as part of a research project being conducted on behalf of the Federal Ministry of Justice. The task of the research commission is to examine the decline in the number of incoming cases between 1997 and 2017 by 44.4% at the district courts and by 27.2% at the regional courts. The research report is supposed to be published this year and will cover the various factors of judicial proceedings, e.g. the costs, the duration, the perceptions of those affected on the effectiveness, etc.

### Other - please specify

*3000 character(s) maximum*

## II. Anti-Corruption Framework

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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*

No specific comments.

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

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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

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

In the Federal Republic of Germany, the concept of SLAPPs has so far received little public attention; there are neither robust studies on the prevalence of abusive lawsuits against public participation in Germany, nor a jurisprudential debate on the conditions of possibility for SLAPPs in (procedural) law. But recently, reports of alleged SLAPPs have been accumulating in this country as well. (see e. g. <https://verfassungsblog.de/die-eu-schlagt-zurueck/>)

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*

The frequently occurring insufficient time limit for associations to take part in public consultations on statutory projects, which we already criticised in our previous two submissions only improved partially and not with regard to all federal ministries.

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*

With the factual end of the pandemic situation, this question is no longer relevant.

Regime for constitutional review of laws

*3000 character(s) maximum*

The points addressed in our contribution to last year's report are still valid.

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*

The following developments are to be mentioned:

The Federal Constitutional Court (BVerfG) has ruled that the obligation to provide proof of vaccination against the coronavirus for staff in healthcare and nursing facilities is constitutional; in particular, the protection of vulnerable people takes precedence over the complainants' right to physical inviolability and freedom of occupation (BVerfG 1 BvR 2649/21).

Currently, no emergency regime applies. The so-called "epidemic situation of national scope" expired in November 2021 and was not extended. Since then, temporary regulations on permissible protective measures in the Infection Protection Act have applied and continue to apply. At present, essentially the obligation to wear a face mask (e.g. in public transport) or to present a corona test (e.g. when entering a nursing home) in certain situations still apply. These rules will expire on 7 April 2023.

In November 2022 the Federal Administrative Court (Bundesverwaltungsgericht) gave its first verdicts on protective measures against COVID-19. It held on the one hand that a curfew in Bavaria in March 2020 was disproportionate and on the other hand that the closure of gastronomic establishments in Saxony in April 2020 was justified.

## 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

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

Laws have been promulgated electronically since 01 January 2023 and are being published at [www.recht.bund.de](http://www.recht.bund.de) so that they are immediately available to the public.

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*

The last years' observations do apply.

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*

No specific comments.

## 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*

No specific comments.

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*

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*

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*

It is important to emphasize that promoting a culture of the rule of law requires more than debates in parliaments and civil conversations. Only education and social participation can sustain a constitutional state in the long run. People who are left alone, who are no longer represented in politics, and who speak only of "those up there" turn away from the rule of law and ultimately from democracy. In the end, the culture of the rule of law is directly linked to the matter of social justice.

Other - please specify

*3000 character(s) maximum*

## Contact

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