

EUROPEAN ASSOCIATION OF JUDGES

ASSOCIATION EUROPEENNE DES MAGISTRATS

RESPONSE

to the

CONSULTATION QUESTIONNAIRE

by the

EU COMMISSION

for the preparation of the

REPORT on the RULE OF LAW 2023

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## (I) HORIZONTAL DEVELOPMENTS

The EAJ is honoured to respond to this Stakeholder- Consultation.

In order better to inform its response the EAJ requested its member associations in the Member States of the European Union to respond to the questionnaire and has prepared the summary of the responses set out below. The EAJ, which has 44 member associations, among which associations of all 27 EU member states, regularly receives reports from its member associations on the state of the rule of law in their respective European countries. EAJ also may be asked by member associations for support in their endeavours to resist infringements of the independence of the judiciary and the rule of law in their country.

The EAJ greatly appreciates the Commission's inclusion in its last Rule of Law Report. of some concrete recommendations for improvement. It is interesting to see in how far these recommendations have been followed. At first glance almost no member state has fully adopted them, and a few member states appear to have done nothing in response.

Whilst during the previous two years the Covid 19 pandemic had a large impact on the functioning of the judiciary, its immediate effects largely faded away during the year 2022. Most member states resumed applying fully any procedural provisions which had been changed or suspended during the time of the pandemic. Member states which had adopted a regime of emergency laws revoked those extraordinary measures and returned to their normal rules and procedures. Exceptionally, Hungary replaced the covid emergency provisions, which provided the government

with extreme powers, by introducing another state of emergency under the pretext of the war in Ukraine.

During the covid pandemic judicial review in the Constitutional Courts proved effective in many member states, where laws and regulations and executive orders, which had been adopted in view of the pandemic were either upheld or quashed (Germany, Luxembourg, Slovenia).

In almost all member states the use of IT in court proceedings increased and most of the new rules or practices have remained in place even after the restrictions were lifted. Many member states took large steps forward in digitalisation, but often the hasty transformation was incomplete, with deficiencies or gaps in the systems.

Thanks to the jurisprudence of both European Courts, the common European values as laid down in the basic principles of Article 2 TEU and Article 6 ECHR are becoming ever clearer. This helps to safeguard a common understanding which preserves the possibilities of a common space of freedom and security based on mutual trust.

Overall however, developments in Europe remain disappointing. This shows that the adoption of the Conditionality Regulation<sup>1</sup> was necessary, and its consequent application is needed. A central element of the monitoring conducted under the Regulation must be that judgments of the Court of Justice and of the European Court of Human Rights are fully implemented by the states concerned. Unfortunately, there are still large deficits in some countries such as Poland and Hungary.

However, events during the last year also show that permanent vigilance is necessary in all member states. There are member states other than Hungary and Poland to which attention should be directed.

Irregularities or deficits in procedures for the appointment, promotion or transfer of judges are reported by the associations in Bulgaria, France, Germany, Lithuania, Romania, and Slovakia, whilst improvements are reported from Austria, Latvia, Lithuania, Romania. In Finland there is still a large number of non-permanent judges, which can be deemed as a threat to the judges' independence.

So far as influence on Councils for the Judiciary is concerned, Luxembourg and Romania report the introduction of draft laws which would bring positive changes. Negative approaches regarding the composition of the Council are reported from France; the negative situation of the Councils in Bulgaria and Spain remains unchanged; and in Slovakia the possibility of prematurely revoking the term of office of a member of the Council also persists.

As respects disciplinary procedures, the Romanian association of judges reports positive changes and Luxembourg has announced legislative efforts to improve the system. Bulgaria, France and Slovakia claim that the regime for disciplinary proceedings has taken a turn for the worse. Slovakia also reports that information provided by secret service investigations is being used against judges. A similar problem has also been introduced by legal changes in Croatia, where even sitting judges must regularly undergo security checks. A similar situation exists in Romania.

The remuneration of judges is an ongoing point of concern and debate in several member states (for example, Bulgaria, Croatia, Finland, Germany, Lithuania, Romania, and Slovenia) with judges claiming that their remuneration is inadequate.

The independence of prosecutors has improved in Romania and in Luxembourg there are plans for a constitutional reform which would guarantee the independence of prosecutors. The prosecution service and the role of the General Prosecutor remain as one of the main problems of the Bulgarian justice system. In Spain the appointment of high-ranking prosecutors has become very politicized.

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<sup>1</sup> Regulation 2020/2092

In some countries undue criticisms of and attacks on judges, prosecutors and the judiciary in general continue undiminished (Bulgaria, Croatia, Hungary, Malta, Slovakia, Spain.)

A lack of resources, primarily human resources in the form of judges and staff, has emerged in, among others, Estonia, Finland, Germany, Lithuania, Luxembourg, Malta, Romania, Slovakia, and Slovenia. A new phenomenon in many justice systems is difficulty in finding candidates willing to become a judicial office holder, with the result that available posts remain vacant.

In Bulgaria, Hungary, Latvia, Romania and Slovakia changes of the judicial map have taken place, which the respective associations of judges in Bulgaria, Latvia and Romania consider positive, while the judges' associations of Finland and Slovakia identify some problems. Of interest is the fact that Bulgaria abolished the special criminal court because it provided too much opportunity for political influence, while Hungary introduced rules concentrating pre-trial procedures in cases of major offences relating to the exercise of public authority or the management of public property at one single central court.

So far as the length of proceedings is concerned, positive developments are reported by the associations of judges in Croatia, Latvia, and Slovenia but negative developments are reported by Bulgaria, France, Malta and Slovenia.

The involvement of the judiciary in the process of preparing and enacting laws improved in Bulgaria, Germany, Romania, and Slovakia. However, the associations in Croatia, France, and Spain report either no consultation or a lack of effective consultation, which is said to have contributed to poor quality legislation.

## (II) SUMMARY of ANSWERS to the QUESTIONNAIRE

This summary contains observations of EAJ and its member association regarding the parts I (Justice system) and IV (Other institutional issues related to checks and balances) of the stakeholder consultation form.

### **I. JUSTICE SYSTEM**

#### **A. Independence**

##### **1. Appointment and selection of judges and prosecutors and court presidents (including judicial review)**

Positive developments since 1.1.2022:

Judges including presidents of courts are appointed after a (non-binding) proposal of a Personalsenat, a body composed of judges) was delivered. This was not the case for the president and the vice-presidents of the Supreme Court and for the Presidents of the Administrative VCourts of the Länder. Regarding the appointment of the president and the vice-presidents of the Supreme Court, the Law was amended and a new body, composed of judges was created to deliver proposals for the appointment of these positions. The appointment of the presidents of the administrative courts of the Länder remained unchanged. (BGBl I Nr 205/2022, 29.12.2022). **(Austria)**

The recruitment requirements to become candidate-judges (Richteramtsanwärter\*innen) have been increased and better formalized and the Personalsenat was entrusted with the proposal whom to appoint, which previously was the jurisdiction of the presidents of the courts of appeal. **(Austria)**

Some changes to the procedure of selection of judges: The term of the authority of Selection Commission Members is extended from three to four years; The status of Selection Commission Members will be incompatible with the status of a Judge Qualification Commission Member; As well, a person with a deliberate function, namely, the Chairperson of the Judicial Council or his/her authorised representative will be able to participate in the selection procedure; Development of a test and casus will be carried out by the Division of Case-law and Research of the Supreme Court. **(Latvia)**

Presidents of the Criminal and Civil Divisions of the Lithuanian Supreme Court were appointed in due time now. **(Lithuania)**

After a two-year delay, both for the National Institute of Magistracy, as well as for those admitted directly into practice the procedure for admission into magistracy was finally initiated last year, after a two-year delay, which was caused by the executive power and a very slow legislative process after the Constitutional Court had adopted its decision, which squashed two Articles of the previous law. In March 2022, in July 2022 and in October 2022, the Superior Council of the Magistracy initiated a competition for admission into National Institute of Magistracy respectively a new competition for (direct) admission into the magistracy. These 3 contests were organized to fill 580 positions of judges and prosecutors. After a period of three years in which no admission exams or transfers took place, a crisis of human resources was to be expected, seeing as mounting pressure, combined with an uncertainty regarding the statute, determined many judges to retire. Such deficiencies cannot be resolved instantly, and it will take at least 5 years for the system to rebalance. In 2022 also competitions for transfer and competitions for promoting judges or prosecutors to leading positions were organised by the Superior Council of Magistracy **(Romania)**

Regarding the applications, selections and appointment of vice-presidents and section-presidents the Law was amended and improved the procedure and the criteria and requirements for being appointed. **(Romania)**

Negative developments since 1.1.2022:

In principle at relevant law level the procedures of selection and appointment of judges and prosecutors in Bulgaria are clear and more or less transparent, but the composition of the Supreme Judicial Council (SJC) is compromising its independence and there are considerable concerns about the independence of the elected presidents of the courts and prosecutor's offices. **(Bulgaria)**

Some political circles, mostly from opposition parties backed from part of the academia and with significant support from the media advocate returning appointment of judges to the parliament which is partly a point took several times from the President of Supreme Court. Such developments should not be ignored because reality is that principles of independence of judges is not propriety for the Legislator and Executive power regardless which party or coalition has majority in the Parliament. **(Croatia)**

There is a lack of new candidates. President of the Supreme Court declares publicly that there are too many female judges in Estonia. **(Estonia)**

There is still a large number of non-permanent judges, which can be deemed as a threat to the judges 'independence. **(Finland)**

The lay judges in criminal cases are elected and selected by though political nominations. **(Finland)**

In the state (Land) of Baden-Württemberg, the State Minister of Justice in 2022 apparently did not follow the provisions of statute law for the appointment of the President of the Higher Regional Court (Oberlandesgericht) of Stuttgart. The law foresees that if the Minister and the Präsidialrat do not agree on a candidate, they have a conversation with the aim of reaching an agreement, and if they do not get to an agreement, the Minister must decide together with a Judges Election Committee (Richterwahlausschuss), the decision of the latter must be taken as soon as possible, see s. 43 paras 5 and 6 LRiStAG. Instead of following this procedure, the Minister filed a lawsuit at the Administrative Court of Stuttgart. She applied for a statement that the Präsidialrat would have exceeded its competences. On 27<sup>th</sup> June 2022, the Judges Association of Baden-Württemberg expressed its concern ([Klage der Justizministerin gegen den Präsidialrat \(drb-bw.de\)](https://www.klage-der-justizministerin-gegen-den-praesidialrat-dr-bw.de)). In November, the Minister's claim was dismissed in first instance ([https://lrbw.juris.de/cgi-bin/laender\\_rechtsprechung/document.py?Gericht=bw&GerichtAuswahl=VG+Stuttgart&Art=en&Datum=2022&nr=38487&pos=0&anz=55](https://lrbw.juris.de/cgi-bin/laender_rechtsprechung/document.py?Gericht=bw&GerichtAuswahl=VG+Stuttgart&Art=en&Datum=2022&nr=38487&pos=0&anz=55)). **(Germany)**

The National Judicial Council (NJC) reported that certain appointments did not comply with the law, both in relation to the appointment practice of the President of the Curia and the President of the National Judicial Office (NJO). In some cases, the second or third ranked candidate was appointed or transferred without the agreement of the NJC, where the first ranked candidate, who had been proposed for appointment to another post, did not withdraw his application. By this decision the legal power of the NJC was withdrawn. In the Curia it has happened that the candidate ranked fourth in the ranking list of judges has been appointed as a judge in the selection procedure for multiple applications. **(Hungary)**

In the practice of evaluation of judicial applications, there is a lack of legal regulation of the order of evaluation in cases where several calls for application are evaluated with the same deadline. This regulatory deficiency exists in the case of appointments made by both the President of the NJO and the President of the Curia. In the absence of such regulation, the order of deciding on different position, when candidates have applied for more than one of these positions simultaneously can influence who becomes a judge and who is excluded from this possibility. There are also no rules on the procedure to be followed if several applications are successful. The current practice of the President of the NJO does not allow the candidate to choose the post to which he or she wishes to be appointed. It would be necessary to regulate in the Act on the Status of Judges the criteria and order of evaluation of applications for several posts in the same court, which are published at the same time. When an applicant wins more than one application for a post, the applicant must be given the choice of which post he or she wants to be appointed to, according to the rules written in the law. The legislation on the number of points that can be awarded in judicial competitions has not been amended. **(Hungary)**

This means that candidates with a traditional judicial career are disadvantaged compared with candidates from, for example, the public administration, as the current points system has the effect of seriously distorting the evaluation system. **(Hungary)**

Appointment of the President of the Lithuanian Supreme Court is still pending since September 2019. **(Lithuania)**

The negative situation persists in the appointment of court presidents, where the Minister of Justice has the decisive say, who appoints the majority of the members of the selection committee and is not bound by the result of the selection procedure. He/she can choose any of the first three successful candidates or none. In the event of a dismissal, dismissed President of the Court may bring an administrative action, but this has no practical significance in that it would lead to a reappointment. **(Slovakia)**

Similarly, after the abolition of the institution of the judicial trainee (in the past), the criteria for selecting new judges are very formal still (a disproportionate emphasis is placed on the professional

test, the case study and translation from the foreign language and less on the drafting of judicial decisions and the oral part). There are doubts if this guarantees the selection of the best candidate. **(Slovakia)**

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

Positive developments since 1.1.2022:

Since 1 January 2022, the judge who holds a position of a judge for at least 30 years can take retirement pension regardless of the retirement age stipulated in the country. **(Latvia)**

On 27 April 2022, the Slovak Parliament approved the so-called new court map, under which the 15 current district courts are to be transformed "only" into workplaces, whereas according to the original wording of the law, judges serving in the so-called seat district courts and their workplaces could be transferred to another workplace without their consent, and only based on the work schedule as an act of the court president. After the change of the Ministry of Justice leadership a legislative change was proposed and approved by the Parliament, according to which the change of the place of a judge's office in the work schedule from the seat of the court to its workplace or vice versa can only be made with the prior consent of the judge concerned. Without the consent the change of the place of his/her office may be made only with the prior consent of the Judicial Council if it is necessary for the proper functioning of the court; the proposal shall be submitted to the Judicial Council by the President of the court. **(Slovakia)**

Negative developments since 1.1.2022:

Secondment of magistrates is still a widespread practice, rather than an exception. It is a result from the lack of regular competitions for promotion of judges and prosecutors. The secondment is most often carried out only at the discretion of the relevant president of the court, without observing any objective criteria. The period of secondment lasts 5, 6 and even in some cases over 9 years. For further information regarding this issue might be used the public registry of the seconded magistrates at the website of SJC - [www.vss.justice.bg](http://www.vss.justice.bg) **(Bulgaria)**

Ministry of Justice is preparing draft regarding quick removal of judges from their posts in case of health problems. **(Estonia)**

There was an interference of the Minister of Justice to block the transfer of well-known judges (press articles). **(France)**

The number of secondments based on the decision of the President of the NJC has increased to such an extent that it violates the principles of a meritocratic system of appointments. It leads, by implication, to the creation of contra-legal "probationary" positions for judges. It has been raised that in addition to the two possible grounds provided for in the law, there are in fact other grounds for appointments. Under current practice, there is a risk of overburdening the judge on secondment. There is concern that no additional remuneration is paid for the extra work. It is not transparent why there is a need for years of secondment instead of publishing a call for applications. When applying for a post, seconded judges have an unreasonable advantage over their colleagues, and long-term secondments freeze normal career development. There is no transparency as to the duration of the secondment, nor as to when the seconded judge will retain all or part of his or her original judicial functions. The caseload measurements which should be the basis for secondments are not known.

There are no rules on the exact selection criteria and procedures for secondments for the purposes of professional development. **(Hungary)**

Not only the president of the National Judicial Office, but also the president of the tribunal has the power to second a judge. These secondments are also extremely numerous and unclear, even though they have a significant impact on the living conditions, workload and even remuneration of judges. The concerns also exist for secondments within the tribunal. **(Hungary)**

In autumn suddenly a debate on the pension system came up, which was determined by the appearance in the public space of a draft emergency ordinance of the Government, which drastically modified the retirement conditions and the amount of the pension. The legislative and executive powers have publicly stated that this draft does not belong to them. But at the same time, the representatives of these powers made statements in support of the need to drastically change the conditions for the retirement of judges. On December 19, 2022, a draft was sent to the Superior Council of Magistracy for consultation, which modifies the legal provisions on the occupational pensions of magistrates. The draft law on the modification of magistrates' pensions was made without consulting the judiciary and at an unexplained and unjustified speed. The courts have been given only 2 days for consultations, while many of the colleagues are on vacation during the winter holidays. This draft violates the principle of non-retroactivity, as well as the right to pension, provided for and guaranteed by the Constitution. The draft contains provisions that change the method of calculation, the procedure and the conditions of retirement even for judges who are already retired. Therefore, the aim is to legislate the recalculation of all pensions of magistrates, even if they ceased their activity 20 years ago and even if their pension was correctly established, in accordance with the law applicable on the date on which they retired. As a response to the instability created regarding the status of judges and prosecutors, a wave of retirements followed. It led to many requests for retirement from the courts of first instance, tribunals, courts of appeal and the High Court of Cassation and Justice. This situation will create serious problems with regard to the efficiency of the judiciary, namely the length of the proceedings, as the manifestly insufficient number of judges will not be able to cope with the requirements regarding reasonable length of proceedings. **(Romania)**

Regarding the status of judges and prosecutors, the new law, which entered into force in December 2022 contains the following obvious setback, consisting in the situations in which the magistrate can be suspended from office, without payment of salary and without the period of suspension constituting seniority in work. According to this law, the magistrate is suspended when he is sent to trial for committing a crime. However, no distinction is made between intentional and unintentional crimes. This includes e.g. the possibility that after a car accident, even without human casualties, judges will be suspended from office. According to the previous law, the measure of suspension was ordered if it was considered, in light of the circumstances of the case, that the dignity of the profession was prejudiced. **(Romania)**

The negative situation persists as the Judicial Council assess a judge's competence, which also includes the reports of the security forces of the state, including the intelligence services, not only for candidates for the post of judge, but also for serving judges, including at all times when they are in the process of promotion. The preparation of the basis for the Judicial Council's decision is carried out by a special unit of the Judicial Council, the 'Section for searching for information on the property status of judges and on judicial competence', which, according to unverified information, as it is not publicly available, employs former members of the Police Force, including the Secret Service. From the point of view of the guarantees of independence, it is a problem (in general) where, on the basis of such information, a judge is prevented from advancing in the career, essentially without adequate justification and a fair trial. **(Slovakia)**

Not considering the negative experiences, when the Supreme Administrative Court was set up in 2021, where the similar procedure led to a lack of judges at the Supreme Administrative Court, judges who

deal with administrative matters in the administrative divisions of the regional courts and apply for a transfer to the new created administrative courts, which will take office on June 2023, will have to undergo an assessment of their judicial competence, although they will deal with the same agenda as before. **(Slovakia)**

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

Positive developments since 1.1.2022:

The promotion procedures of prosecutors doesn't face such difficulties as they exist regarding the promotion of judges. **(Bulgaria)**

In November 2022 amendments to the Law on Courts were adopted (the Law No XIV-1570) introducing changes to the procedure of selection and appointment of judges of regional courts and district courts. The amendments should accelerate filling up of vacating judicial positions. They will come into force in January 2023. **(Lithuania)**

The draft laws on justice, provided for public debate by the Ministry of Justice in the fall of 2020, abolished the principle related to the separation of the judge and prosecutor careers, consecrated by means Law no. 303/2004, in the form currently effective, according to which: „*The judge's career is separated from the prosecutor's career, the judges being unable to interfere with the prosecutor's career and vice-versa.*” After long debates following an Opinion of the Venice Commission and the repeated requests of the judges' associations the draft of the laws on justice was amended in 2022, the separation of the careers of judges and prosecutors being preserved. Therefore, the provisions on the separation of careers are still to be found in the laws of justice that came into force on December 16, 2022. The judges consider this to be a success. **(Romania)**

Negative developments since 1.1.2022:

Following the established practice in the previous years, the Supreme Judicial Council did not hold regular and timely competitions for appointment and promotion of magistrates. Another issue is that the Supreme Judicial Council does not comply with the ranking made by the Selection Boards in the competitions. So far, within the term of this Supreme Judicial Council - which is expired already now – only 3 competitions for the promotion of judges have been completed: 2 concerning promotion of judges in the Supreme Administrative Court and the Administrative Courts, and 1 concerning promotion of judges in the Supreme Court of Cassation - Criminal Division. In several cases the Supreme Administrative Court annulled the decisions on promotion based on procedural deficiencies, including competitions for the Supreme Court of Cassation and Appellate courts, and remitted the cases back to the Supreme Council of Justice, which resulted in even further delays. **(Bulgaria)**

The law still does not provide for any criteria regarding promotion. Promotion decisions are made by the Supreme Court, but they do not contain any motivation. **(Estonia)**

No improvement. The Minister of justice is still in charge of proposing to the High Council for the Judiciary the promotion of 95% of the judges and 100% of the prosecutors **(France)**

The following decision by the president of a Court of Appeal has been made public: the president appointed a judge to a higher position in the court, whose application was not supported by the majority of the College of Judges, while the candidate who was unsuccessful won a very high rate of the majority of the College of Judges. Although the President of the Court of Appeal gave reasons for



her decision, which was not contrary to the law, the losing candidate had no right of review under the current legislation. **(Hungary)**

All the issues indicated in the 2021 report are still relevant (relatively high weight of subjective criteria comparing with other criteria in process of selection of candidates to judicial positions; role of the presidents of courts in the evaluation of the activity of judges and in the promotion of judges; absolute discretion of the President of the Republic in the procedure of the selection of judges without obligation to motivate the decision; lack of clear legal regulation regarding dismissal from judicial position by reason of judge's health). **(Lithuania)**

#### **4. Allocation of cases in courts**

Positive developments since 1.1.2022:

In 2020 a new electronic system for allocation and managing the cases in courts has been introduced by the SJC. The pilot implementation found that the system hindered and delayed the work of the courts and impeded the parties' access to cases, rather than facilitating it. The functionality of the system has been improved in the past year by numerous revisions, mainly due to the voluntary contribution of working groups from judges. **(Bulgaria)**

Ongoing discussions on the possible way-out how to solve inequality of workload in courts of the same instance; the Council of Judges' efforts to find a better solution. **(Lithuania)**

Negative developments since 1.1.2022:

There is still no connection between the electronic system for allocation and managing the cases applied in the Administrative courts and the Supreme Administrative Court and the electronic system for allocation and managing the cases applied in all other courts. **(Bulgaria)**

#### **5. 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)**

Positive developments since 1.1.2022:

Legislative efforts to improve are in progress **(Luxembourg)**

A draft bill on the Superior Council of Magistracy (CSM) proposed important amendments that, if they had entered into force, would have seriously affected the representativeness and the efficiency of this body that is essential to the independence of justice. According to existing Law, the SCM Section for Judges consists of 2 judges from the High Court of Cassation and Justice, 3 judges from the courts of appeal, 2 judges from the county courts (tribunals) and 2 judges from the district courts. The proposed bill intended that the SCM members should no longer be elected depending on the jurisdiction degrees; instead, they should be voted by all the judges. As such, within a procedure as the one proposed through the draft bill concerning Law no. 317/2004, the judges at district courts level, which are the most numerous, but have less experience, would always have a decisive role in choosing all the SCM members, including the High Court of Cassation and Justice ones. Finally this provision of change in the draft law was withdrawn. **(Romania)**

There is still no change but it is still an issue of concern, and the question of whether Sweden should create a Council for the Judiciary is still under review by a parliamentary committee. **(Sweden)**

Negative developments since 1.1.2022:

The independence of the judiciary in Bulgaria is still seriously compromised by the composition of the Supreme Judicial Council (SJC), which is dominated by a large majority of members elected by the National Assembly and prosecutors. The SJC is composed of 25 members, who should be elected among legal practitioners with high professional and moral qualities and at least fifteen years of practice. The Judges' College (JC) has 14 members, including the President of the Supreme Court of Cassation and the President of the Supreme Administrative Court (ex officio members). The Prosecutor's College (PC) has 11 members, including Prosecutor General (ex officio member). The National Assembly elects 11 members, 6 of whom - for the JC and 5- for the PC. Judges elected from among their peers constitute only 6 members of the SJC(JC). The number of such Prosecutors is 4, and only 1 is Investigator elect from among their number. All prosecutors and investigators are subordinate to the Prosecutor General (before and after the five-year term of the Council). Formally in the JC of the SJC there is a majority of judges – 8 out of 14 members are judges (actually even some of the members elected by the National Assembly are judges, which raises questions as to their independence and impartiality). In practice only 6 of the members of the JC are elected by judges. The Presidents of the Supreme Courts are elected by the Plenary session of the SJC with qualified majority of 2/3 (17 members). Thus, they can be elected with only the votes of the PC (11) plus the votes of the political quota in the JC (6). It could be easily checked that the members of the PC and the members of the JC elected by the National Assembly still vote unanimously with the Prosecutor General in most cases. Paradoxically, in this way also the election (or actually the appointment) of the Presidents of the Supreme Courts in Bulgaria is determined. The most important decisions for the judiciary and its independence are decided by the Plenary session of the Supreme Judicial Council. The Supreme Judicial Council is the body tasked to safeguard the independence of the judiciary. In cases of violation of the independence of the judiciary SJC has the right of public proclamation. SCJ did not react of each and every violation of the independence of judges and explored different approach in similar cases. **(Bulgaria)**

The non-judicial members of the Council are directly appointed by political authorities. They already represent a short majority in the Council and the government wish they would be more of those personalities and less judges and prosecutors. **(France)**

The problem of the in-balanced relation between the National Council of Judges and The National office for the Judiciary, the necessity to strengthen the role of the Council remains unchanged. In September 2022 a detailed proposal of the Council of legal amendments was forwarded, which so far was not followed. **(Hungary)**

Members of the Council of Judges (it consists only of acting judges) are not experienced at the political level. It might be an obstacle for the best representation of judiciary interests **(Lithuania)**

There has been no change, the President, Vice-President, and members of the Judicial Council can still be dismissed at any time before the expiry of their term of office and without giving reasons. This constitutional change raises serious concerns, particularly for the members of the Judicial Council, who are nominated by the President, the Government and Parliament and who make up half of its members (9/18). This constitutional change was subject to review by the Constitutional Court of the Slovak Republic. However, the Constitutional Court concluded that it could only declare a constitutional law incompatible with the Constitution in the case of an extreme interference with the material core of the Constitution, which is not the case when the provisions concerning the establishment, status, creation and competence of the Judicial Council are concerned. **(Slovakia)**

The situation of lack of renewal of the members of the General Council of the Judiciary that lasts for more than 4 years persists. The solution would be to change the election system so that they are chosen by the judges themselves. Instead of this, it is intended to increase the risk of politicization of the body, reforming the law and establishing a regime of reduced parliamentary majority for its appointment, which would allow the government party to designate its candidates exclusively. **(Spain)**

**6. 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).**

Positive developments since 1.1.2022:

In 2022 the National Judicial Council drafted the Code of Ethics for Judges, after consulting judges and taking into account their comments. The Hungarian Association Judges also participated in the work of the committee responsible for the drafting of the Code of Ethics and in the drafting of the text. The Code came into force on 15 July 2022. **(Hungary)**

There is a minor positive change in regard of the possibility to investigate against judges without the previous protection by an involvement of the Constitutional Court. The possibility of the Judicial Council to decide against the prosecution of a judge for the offence of bending the law is no longer temporary (it was originally intended to be effective only until 1 July 2024), although, also, it has to be noted that a supermajority vote of all members of the Judicial Council, i.e., at least 10, is necessary to disagree with the criminal prosecution of the judge. **(Slovakia)**

Legislative efforts to improve are in progress **(Luxembourg)**

In February 2022 a separate section for Criminal Investigation of Offences in the Judiciary (SIJ) was created within the Prosecutor's Office attached to the High Court of Cassation and Justice, which is in charge for investigations regarding judges and prosecutors. The criminal investigation is carried out by the prosecutors specifically appointed by the Prosecutor General of the Prosecutor's Office attached to the High Court of Cassation and Justice, at the proposal of the Plenum of the Superior Council of Magistracy, for a period of 4 years, according to the procedure provided by law. The procedure prioritises independence and objectivity when naming specialised prosecutors. **(Romania)**

Negative developments since 1.1.2022:

Disciplinary proceedings against judges and prosecutors are conducted by the Inspectorate of the Supreme Judicial Council, which consists of the Chief Inspector and 10 inspectors. The Chief Inspector and the ten inspectors are elected by the National Assembly by a qualified majority of 2/3 of the MPs. Although the procedure for the election is public, it cannot replace the lack of transparency in the process of gathering proposals for candidates. It is a practice of the parliamentary represented political parties to distribute proportionally the numbers of inspectors, after which their public hearing is only formally conducted. Thus, the appointment of inspectors becomes a political deal under conditions and commitments unclear to the public. The mandate of the inspectors expired on 14 March 2020 and the mandate of the Chief Inspector – on 9 April 2020. According to the law the National Assembly should elect the Chief Inspector and inspectors no earlier than 6 months and no later than 2 months before the expiration of their term. Until the present moment the National Assembly has not initiated the procedure of electing new members of the Inspectorate of the SJC and the inspectors with mandates expired continue to. The problem with financial and career “bonuses” for inspectors and members of the Supreme Judicial Council after the expiry of their terms still exists. When their term expires, they may be reinstated not only to the position they held prior to their election, but also to a higher one, without any competitive procedure. In addition, prosecutors and investigators can be reinstated as judges. In this way, a district prosecutor can be reinstated as a judge in a court of appeals

after completing his term as an inspector. The rule on “bonuses” suggest that the inspectors and members of the Supreme Judicial Council are inclined not be objective and impartial, but loyal to the political party that elected them, while at the same time they violate the principle of the Judiciary Act that career advancement shall be achieved only through competition. Thus, the rules are discriminatory against other magistrates. **(Bulgaria)**

Sharp increase of the number and disciplinary procedures initiated by the minister of Justice or the Prime Minister. (+200% in the past 2 years) **(France)**

The President of the Curia was only partially involved in the debate on the Code of Ethics. When the Code was adopted, he was absent from the meeting of the NJC. After the adoption of the Code the President of the Curia has appealed against the Code of Ethics for Judges before the Constitutional Court, asking the Constitutional Court to examine and declare the Code unconstitutional. In his submission the President of the Curia doubted whether the current NJC had any legal authority to amend the Code of Ethics adopted by the previous NJC. In his view, the possibility to create a Code of Ethics was a once-only possibility. He criticised the absence of a reference to the Fundamental Law in the preamble of the Code. In addition he argued that the new Code of Ethics does not adequately regulate the freedom of expression of judges, as the Code significantly extends the right to express opinions. According to him allowing criticism of the judicial system is not in accordance with the law on the status of judges.[the motion is available at the following link: [II 1285 0 2022 indítvány.pdf \(mabie.hu\)](#)] **(Hungary)**

It is reported that, particularly in cases that are closely followed by the media, the police have been selective, acting mostly in cases when the decision does not meet their expectations or those of the public (the media) in general and although it is not so easy to accuse a judge for this crime (it has not happens yet), the police acts against the judge even without formal accusation him/her as if he/she was a suspect, this means, for example, questioning him, even repeatedly, collecting data on him, etc.. **(Slovakia)**

The Judicial Council assess a judge’s competence, which also includes the reports of the security forces of the state, including the intelligence services, not only for candidates for the post of judge, but also for serving judges, for example, each time they are promoted. According to informal information, which is not currently officially available anywhere, former members of the Police Force, including the Secret Service, are involved in the preparation of documents for the Judicial Council's decision-making on these issues. **(Slovakia)**

The current trend to put pressure on judges by accusing them of bending the law is all the more dangerous as high-ranking politicians or public officials are increasingly publicly demanding that judges be held criminally or disciplinarily liable for their decisions, which creates room for abuse and increasing undue pressure on judges and may ultimately pose a real threat to the independence of the judiciary. **(Slovakia)**

## **7. 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:**

Positive developments since 1.1.2022:

The salaries of the magistrates were increased with 10 percent points in 2022, partly considering the significant increase of the inflation in the state since the beginning of the year. **(Bulgaria)**

Ministry of Justice has taken no steps to establish benefits of judges in case of incapacity. **(Estonia)**

There is an announcement to increase remuneration for judges and prosecutors. But one is still waiting for it to become real. **(France)**

The state of Hessen slightly improved the remuneration for judges and prosecutors starting their career by abolishing the two lowest pay grades. Besides that, however, there was no general systematic change of the remuneration of judges and prosecutors in Hessen or elsewhere. In order to adjust remuneration schemes for all public officials including judges and public prosecutors to constitutional requirements most Länder introduced or are currently introducing significant increases in family benefits. Some of those benefits are also available to judges and public prosecutors. However, family benefits should in general not be considered as appropriate means of remuneration for judges and public prosecutors. **(Germany)**

In January 2022 judges and prosecutors received the last part of their three-year pay salary increase, averaging 12%. **(Hungary)**

The Government of the Republic of Lithuania has presented the package of the amendments to the laws aiming to solve the issues of salaries of the high ranked public officials, including judges. However, it is clear that there is no unified political agreement on that issue. The Parliament has postponed the consideration of the draft laws to the spring of 2023. **(Lithuania)**

Negotiations ongoing. **(Luxembourg)**

The Constitutional Court accepted for further proceedings a proposal to declare the law (adopted in the end of 2020) limiting the remuneration of judges in illness and abolishing the possibility of granting remuneration on reaching the age of 50 and for activities outside the decision-making process incompatible with the Constitution. **(Slovakia)**

Negative developments since 1.1.2022:

Huge differences between the salaries of magistrates from different levels of the judiciary in Bulgaria continue to exist. Instead of adopting a system of remuneration to reduce this difference, the Supreme Judicial Council actually increased it by increasing the remuneration for all levels by the same percentage again this year. **(Bulgaria)**

The rules on additional remuneration and premiums still allow for a subjective attitude of the administrative superiors in courts and prosecution offices. **(Bulgaria)**

Because of Association opposition to proposed amendments salaries of judges stay unchanged even though salaries of public employs, members of the parliament, ministers shall raise from January 1<sup>st</sup> 2023. Government proposed amendments to the Law on salaries of judges and prosecutors. The reform is part of the reform on salaries in public sector with proclaimed principle that all users from the State budget should have same base (amount) for calculating ones salary. Salary in public sector is result of multiplication of the base with certain coefficient depending on the position. In the current Law on salaries for judges and prosecutor both base and certain coefficient are regulated by the law. The higher position in hierarchy in court system is followed with higher coefficient while base is same for all judges including president of Supreme Court. Now Government in draft Law proposes lowering the coefficient and rising base so final calculation and result would be almost same salaries for judges. Association of judges with majority support from all its members opposes such changes and amendments to the law. Firstly, because base is result of negotiations between Trade Unions in public sector and the Government where judges are excluded nether neither through Association nor through Presidents of courts or at least Supreme Court. Secondly lowering

coefficients complete relations between judges and administration will be destroyed because some court employees (i.e. court secretary, court advisers etc.) will have higher salaries than judges at first instance courts with all responsibilities they have as holders of judicial office. **(Croatia)**

The salary levels of judges are not competitive and the salaries have been significantly fallen behind the general development of the level of wages. **(Finland)**

There were no efforts of budget legislators to improve the level of remuneration of judges and prosecutors – apart from certain family benefits – significantly in 2022. The recommendations of the European Commission in its Report of 2022, while just given a few months ago, seem to be unheard. In most of the Länder, only the collective bargaining agreements of the Länder for their employees are applied to public servants, judges and prosecutors. In fact, the steep rise of inflation in 2022 further devalues the real amount of remuneration of judges and prosecutors in Germany. **(Germany)**

In Hungary inflation is expected to exceed 20% in 2022. So despite the January pay rise, the real value of judges' salaries fell in 2022 due to high inflation. **(Hungary)**

Compared to previous years, judges received a much smaller amount of benefits in 2022. There is no year-end bonus in any court in 2022. **(Hungary)**

The situation related to the salaries of judges has become extremely bad in 2022. Lithuanian judges are the most 2008-2012 crisis-targeted group among highly ranked public officials. The salaries of judges were reduced in 2009 as part of general austerity measures. The salaries of judges have been raised only by 5 % (net) since the reduction (except for district courts' judges which salaries have been raised by 10,4 %) and in 2022 hasn't reached the 2008 level (!) notwithstanding 47 % inflation during the same period and general rise of average monthly wages in the country by almost 3 times during the same period. At the same time salary coefficients of other high ranked public officials have been raised by 13 % at minimum. The lack of consistent approach led to abnormal situations. Judges earn less than prosecutors of same level and even the salary coefficient of a chancellor of the court established in the law is equal or mostly higher than the salary coefficient of a judge of the respective court. This caused an increase in number of judges who left the profession not for retirement reasons in 2022. By reasoning their decisions some of them publicly indicated that the judicial salaries had become not proportional to the workload and responsibilities. Dozens of judges sued the State for damages requiring compensating their losses suffered because of the long-term government's policy in the sphere of judicial salaries. The court dealing with that case has recently referred the question to the Constitutional Court. The long-lasting and targeted "freezing" of judicial salaries caused a significant damage to the prestige of the profession of a judge. Recent latest (2022) selections of candidates to judicial positions revealed the lack (if any) of competition. For instance, only 18 candidates expressed their interest in the call for applications for 12 vacant judicial positions at Vilnius district court. **(Lithuania)**

The remuneration of judges and prosecutors is still subject to several disputes in courts, mainly based on the idea of ensuring a unitary remuneration at the entire system level. Even though according to Law 303/2004 on the judges' and prosecutors' statute, their remuneration should be subject to a special law, the remuneration of judges and prosecutors is included in the Single Act on the salary of the public sector employee. It still exists a discrimination of the judges and the prosecutors who work within the special prosecutor office services of the National Anticorruption Directorate and the Directorate for the Investigation of Organized Crime and Terrorism. Although they often don't have the seniority and are at lower hierarchical level as compared to the judges activating at the county court and court of appeal level, they have higher salaries. Legal actions on grounds of discrimination are pending. **(Romania)**

Despite the promises of the new government (from May 2022), there is no progress, negotiations are at a standstill, so an extraordinary general meeting of the Slovenian Association of Judges has been

convened for 10 January 2023. The Constitutional Court rejected the association's initiative to assess the constitutionality of several articles of laws regulating judges' salaries due to a lack of legal interest. The Constitutional Court should consider an identical request for an assessment of the constitutionality of the laws regulating judges' salaries, submitted by the Judicial Council of the Republic of Slovenia, as an absolute priority, but despite this, it has not yet decided this year.

**(Slovenia)**

The fact that judges have individual salaries that are set by their court president/chief judge remains a problem. **(Sweden)**

## **8. Independence/autonomy of the prosecution service**

Positive developments since 1.1.2022:

The Witnesses Defence Bureau is not governed by the Prosecutor General anymore and has been transferred to the responsibilities of the Minister of Justice. **(Bulgaria)**

A constitutional revision bill plans to guarantee the independence of the prosecution. **(Luxembourg)**

The new law contains provisions that expressly state the independence of the prosecutors in ordering the solutions. The prosecutor can challenge, at the Section for Prosecutors from the Superior Council of Magistracy, through the verification procedure regarding the conduct of judges and prosecutors, the intervention of the hierarchically superior prosecutor, in any form, in performing the prosecution or in making a decision, the hierarchically superior prosecutor's ordering, respectively, of the measure to transfer the cases from a prosecutor to another prosecutor. Likewise, the prosecutor has the freedom to present in court the conclusions he/she finds well-founded, according to the law, taking into consideration the evidence adduced in the case. The prosecutor may challenge, at the Prosecutor Department within the Superior Council of Magistracy, the intervention of the hierarchically superior prosecutor, regarding the potential influence, in any form, upon the conclusions. The Public Prosecution Service also enjoys financial independence, having its own budget, which it manages directly, through the General Prosecutor. **(Romania)**

Negative developments since 1.1.2022:

The disciplinary proceedings, initiated by 2 successive Ministers of Justice against the Prosecutor General (PG) were concluded without the required serious discussion by the SJC, the body competent to investigate the violations of law conducted by the PG and to dismiss him, if the latter is found guilty. All prosecutors are still dependant on the PG in their decisions because of PG's powers in disciplinary proceedings, decisions for promotions, secondments and power to revoke the acts of all other prosecutors, who are subordinated to him. **(Bulgaria)**

Some disciplinary cases, such as the acquittal of the Regional Prosecutor of Kardzhali for poaching caught *in flagrante delicto* and witnessed by an occasional citizen – bystander, and the subsequent refusal of the SCJ to implement disciplinary measures, confirmed in 2022 by the Supreme Administrative Court, have also been reported by the media. **(Bulgaria)**

Although the General Attorney of the State has already ceased her office (previously she was the Minister of Justice of the Government that appointed her, as soon as she left the ministry), the appointments continue having a strong political overtone and, often, the reports are not taken into account suitability informs of other constitutional bodies such as the General Council of the Judiciary.

The situation is far from offering guarantees of impartiality in the appointment of the leadership of the Public Prosecutor's Office, even though the rest of the prosecutors tend to carry out their work with professionalism and independence. **(Spain)**

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

Positive developments since 1.1.2022:

Negative developments since 1.1.2022:

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

Positive developments since 1.1.2022:

Negative developments since 1.1.2022:

The public criticizing of the judiciary in specific cases from politicians, members of the National Assembly and the Government still goes on. **(Bulgaria)**

Some disciplinary cases, such as the acquittal of the Regional Prosecutor of Kardzhali for poaching caught *in flagrante delicto* and witnessed by an occasional citizen – bystander, and the subsequent refusal of the PJ of the SCJ to implement disciplinary measures, confirmed in 2022 by the Supreme Administrative Court, have also been reported by the media. **(Bulgaria)**

The authority of judiciary and judges is very low. Reasons are multiple and different but main reason is that judges do not communicate with the public properly, when they do, media are not interested and undue attention is given to bias, unfair and false comments on particular judgments without slightest will to see and report the particularities of certain case and court reasons. **(Croatia)**

Ministry of Justice has taken no steps to establish benefits of judges in case of incapacity. **(Estonia)**

The independence of the judiciary is on high level. Supreme courts are also evaluated independent. This is in spite of Supreme courts method of appointing the judges is partly made behind the doors and is not open to public evaluation. The length of the legal proceedings are too long and this consist a threat to the perception that the general public has to the judiciary. **(Finland)**

The Minister of Justice is waiting for his trial for a conflict of interest (abuse of his position against a judge and 2 prosecutors). **(France)**

The act of the Ministers of Justice of the state of Baden-Württemberg (not following the legal procedure of appointment of judges) potentially can affect negatively the perception that the general public has of the independence of the judiciary. **(Germany)**

An online press site has published a series of articles from the investigation files of the ongoing criminal proceedings against the President of the Hungarian Judicial Executive and several of his accused colleagues. According to the material on telephone wiretaps, the president of the executive branch had conversations with the president of National Judicial Office and the president of the largest tribunal. According to one of the conversations the president of the executive branch made a request to the president of the Tribunal Court to cooperate in the removal of a judge. According to the investigation



documents the President of the Tribunal Court responded by explaining that a judge could not be dismissed, but it can be achieved by making the judge feel uncomfortable at her work. In connection with the case the President of the National Judicial Office ordered a targeted investigation at the Metropolitan Court, then informed the National Judicial Council that the investigation material was qualified as restricted in distribution due to its content and refused to communicate the results of the investigation on the grounds of classified information. No criminal responsibility of the court leaders has been found in this criminal case, which is still ongoing. **(Hungary)**

The US Ambassador to Hungary reported in a Twitter message that he had met with the spokesperson and international representative of the National Judicial Council. This was followed by a vicious, personal smear campaign against the two judges. The meeting was considered a brutal interference in the Hungarian judiciary. According to the articles, the judges violated the Code of Ethics for Judges and their impartiality was compromised by the visit. Several speakers, including members of the government, have called on the judges to resign. There were also calls for the two judges to be kicked out because of the meeting. The President of National Judicial Office described the justification and legality of the meeting as questionable. **(Hungary)**

The ever-increasing workload on the Courts has inevitably led to a further lengthening of procedures in Courts, which inevitably leads the general public to view the Judiciary's operation negatively, this including also the issue of independence. **(Malta)**

The lack of a Public Relations Office responsible, amongst other things, for a proper education campaign with the public on the works of the Courts, the responsibilities of the Judiciary and the different legal issues which arise in Court regularly, has allowed the social media at large to constantly portray a negative of the Judiciary and the Courts. **(Malta)**

Although it could be prevented that – as was foreseen in the draft – investigation results of secret service could be used in criminal proceeding, there remained a provision in the new law which raises concern. Judges and prosecutors annually have to declare that they are not informants or collaborators of secret services. The Supreme Council of National Defence (CSAT) verifies the veracity of the data entered in these statements. If it has not been ascertained that the persons in question are informers or collaborators of the secret services, the CSAT does not issue any documents. So, in this case, the interested persons cannot initiate a legal action. **(Romania)**

Still persistent and increasing public statements by high-ranking politicians, but also by other representatives of public power, which exceed the limits of permissible – professional and factual criticism of court decisions – and which not infrequently calling for disciplinary or criminal sanctions against judges for their decision-making. **(Slovakia)**

Campaigns to attack judicial work persist. Recently, the Minister of Equality, on the occasion of the entry into force of a modification of the Penal Code, which, contrary to what was intended, has caused the retroactive application of more favourable regulations that have lowered the sentences imposed and firm, has accused judges to act with "sexism" and unprotect women. **(Spain)**

## **11. Other developments since 1.1.2022, which may have an impact on the independence- please specify**

Positive developments since 1.1.2022:

There were substantial changes to the rules on judicial review from 2022, in terms of time limits, disqualification of the examiner and appeals against the assessment. **(Hungary)**

Negative developments since 1.1.2022:

Ministry of Justice has prepared and presented to the Parliament a draft allowing formation of departments at courts. One of the aims of this draft is to create a possibility for the heads of such departments to give instructions to the judges how they should solve their cases. **(Estonia)**

The appointment of the judges to the cases (composition of Judges in cases consisting of more than one judge) is determined by the Chief Justice. Chief Justice also decides in criminal cases is the composition of Judges needed to handle the case. The parties determine in civil cases the composition (number) of judges (one or three in general). The Chief Justice also determines the order of the handling the cases. The cases with public interest are handled promptly. **(Finland)**

There are frequent invitations by commissions of the Parliament in order to ask for explanations and even justifications from members of the prosecution. **(Luxembourg)**

## **B. Quality of Justice**

### **1. Accessibility of courts (e.g. court fees, legal aid, language)**

Positive developments since 1.1.2022:

Digitalisation of Courts and court procedures is improved so it is possible to use many of court functions on line from communication with the court, e- filing, to on line hearings. **(Croatia)**

Legislative efforts to improve are in progress **(Luxembourg)**

New e-solutions have been launched that make it easier to initiate cases online. **(Sweden)**

Negative developments since 1.1.2022:

The Supreme Bar Council has adopted amended and slightly higher tariffs for attorneys, which are generally paid by the losing party in criminal cases and civil cases where the other party. The decision is disputed since the right of the Bar to determine tariffs for its members may breach EU competition rules – see the judgement in cases *ChEZ Elektro vs Bulgaria* C-427/16 и C-428/16. **(Bulgaria)**

The duration of the legal proceedings has still increased in 2022. This is weakening the protection under the law of private persons and entrepreneurs. The duration of the legal proceedings is mainly consequence of insufficient resources. Linguistically the rights of the parties are secured. The interpreters are guaranteed by the state for legal aid customers. The costs of the legal proceedings has increased even more. This aggravates non legal aid customers actual access to the courts. **(Finland)**

The number of oral hearings executed via videoconference in court sessions has risen. The problem with these measures has been, that in some district courts the hardware for videoconferences and internet-connections are not up-to-date. Increased need for connections also loaded the system and there were regularly interruptions during the court sessions. **(Finland)**

In connection with the creation of district court workplaces, a rule was introduced that the workplace and the seat district court will be allowed to have their own (separate) territorial districts only if a specific agenda (civil, criminal, family and commercial) will be handled by at least three judges. This

will make it more difficult for the parties to access the courts, especially in family and criminal matters, which are usually handled by two judges in smaller territorial districts. In such cases, whether a litigant attends the court at its seat or at its work place will depend not on where the litigant resides, but on which judge (whether at the seat or at the work place) the case is randomly assigned to. **(Slovakia)**

## **2. Resources of the judiciary (human/financial/material)**

Positive developments since 1.1.2022:

Ministry of Justice launched a report of judicature (oikeudenhoidon selonteko) on 17<sup>th</sup> of November 2022. The report gives a review of the situation, operational precondition, and development trends of the judicature. In report Courts of law were demanded permanent resources of 30 million euros. For this demand and resources to be carried out demands political decisions from the national parliament and Ministry of Finance. National Judge association wants to highlight this positive outcome of the report and keeps the report significant tool for the development of the judicature.

**(Finland)**

Some, but not all of the Länder announced to create new positions for judges and prosecutors in 2023 and 2024. Hessen, for example, announced to create 477 new positions for its judiciary, of which about 100 are judges and prosecutors. At the same time, however, Hessen lowered the bar for becoming a judge or a prosecutor, which shows the difficulties of some of the German states to find a sufficient number of candidates for becoming a judge or prosecutor (see [Justiz Hessen: Mehr Geld für Richter und Staatsanwälte \(lto.de\)](#)). **(Germany)**

The Law on judicial organisation, which entered into force on the 16<sup>th</sup> of December 2022, provided for the implementation of the profession of judge assistants. Thus, the legislator has responded to an important need of the judiciary. The judge's assistant has the role of supporting the judge in the performance of his judicial duties, carrying out his activity under the guidance and supervision of the judge. This is an absolutely necessary solution, which has already defined its efficiency. A pilot program financed by the EU, whose purpose was the introduction of this role, has been finalized in October of this year. For courts such as the Court of Appeal, a pilot institution in this project, the adoption of judicial assistants proved lifesaving. Currently, the number of positions approved for judge assistants is 165. This number is insufficient. Only the courts of appeal benefit from such positions. The above-mentioned legal provision can only become fully effective if the required number of judge assistants positions is ensured at the courts of appeal, tribunals and courts of first instance. **(Romania)**

Parts of the budget of the courts (regarding expenses of remuneration of judges and staff and other expenses related to this) and its management were transferred from the jurisdiction of the Minister of Justice to the High Court of Cassation and Justice. **(Romania)**

Negative developments since 1.1.2022:

Some courts have serious problems to find supporting staff members. Salaries of court secretaries are extremely low compared to their workload and responsibility. **(Estonia)**

The problem is that the case load of the courts was remarkable even before pandemic and the extra resources for the year 2021 and 2022 are not sufficient to change the overall situation. The duration of the legal proceedings is mainly consequence of insufficient resources. **(Finland)**

There is a problem to find suitable employees for the courts, since the timetable for recruiting is challenging. The processes for recruiting new judges are not adequate. **(Finland)**

Unfortunately, although the governing parties of the Federal Republic of Germany had agreed to renew the so-called “Pact for the Rule of Law” in their coalition contract of 2021, the Federal Government has fallen short of that promise so far. The German Judges Association and the Conference of the Justice Ministers of the Länder (Justizministerkonferenz – JuMiKo) signed a joint appeal to the Federal Minister of Justice on 10<sup>th</sup> November 2022 as to renew the Pact for the Rule of Law as soon as possible to create the positions for judges and prosecutors needed all over Germany ([Richterbund fordert rasche Umsetzung des Rechtsstaatspakts 2.0 - Deutscher Richterbund \(DRB\)](#)). **(Germany)**

The number of vacant judicial positions increased due to retirement of several judges. **(Latvia)**

The problem concerning salaries of the assistant of judges and secretaries is getting worse. Consequently, the lack of qualified staff in the court system is becoming more and more evident. **(Lithuania)**

It is still difficult to recruit judges. **(Luxembourg)**

The Resources given to the Judiciary fall far short of what is needed in order to operate in an efficient and effective manner. To date Malta still has the lowest number of members of the Judiciary per capita throughout Europe, (8.16 per 100,000 when the median is 17.60 per 100,000 as per CEPEJ Stats 2020). **(Malta)**

There exists only one Court building in Malta where all offices are situated and Court hearings take place, meaning that not all the Members of the Judiciary can work together, leading to considerable logistical difficulties leading to undue delays. **(Malta)**

The current Court administration is unable to attract competent and well-trained staff to work in Court, due to financial and other work constraints which are placed upon it by the Financial Regulations of the Government, as a result of which there is not sufficient staff to cope with the daily work of the Court, leading to unacceptable delays in processing documentation and other matters which serious impair the efficiency of Courts. **(Malta)**

In the last period there has been a wave of retirements of judges and prosecutors, which will create serious problems with regard to the workload of the courts. There is the fear that there will be a crisis in human resources. The main cause of the retirements is the instability created by public statements of the representatives of the other powers and by the appearance of draft laws that modified the conditions of the occupational pension, to the detriment of magistrates. **(Romania)**

The insufficient budget allocated to the courts is a recurring problem of the Romanian judiciary system. **(Romania)**

The investments in the court infrastructure are insufficient. There are still court offices in a state of accentuated degradation, which endangers even the safety of those who work in those spaces, as well as of the participants in the act of justice. **(Romania)**

The administrative staff in particular continues to be understaffed, also due to its low financial remuneration. **(Slovakia)**

The government did not listen to the demands of the judiciary to increase the budget of the judiciary, nor to expand the personnel plan (increasing human resources). The material working conditions of judges and court staff are poor, and courts are plagued by space constraints. The situation at the largest court in the capital, Ljubljana, is particularly pressing, where for almost 20 years they have been waiting for the construction of a new court building to begin. **(Slovenia)**

The fact that the funding of the judiciary is decided on a year-by-year basis is still a concern.  
**(Sweden)**

### **3. Training of Justice professionals (including judges, prosecutors, lawyers, court staff)**

Positive developments since 1.1.2022:

Return of the offline (in person) current trainings of the National Institute of Justice after the pandemic.  
**(Bulgaria)**

Within an EU project, there is commenced work on development of a single training establishment for judges and prosecutors. **(Latvia)**

The Judicial Studies Committee was recomposed after the Pandemic and is ever increasing its effort to provide training locally and abroad both the members of the judiciary and court attorneys. **(Malta)**

In 2022, the professional training activities took place onsite. Only exceptionally were they online when, for objective reasons, some of the speakers or participants could not take part physically.  
**(Romania)**

Negative developments since 1.1.2022:

The training of the judges in the beginning of their careers in the National Institute of Justice seems to have lost quality. Several judges who were trainers there were not invited by the Institute to pursue further activities. **(Bulgaria)**

Ministry of Justice is preparing a draft changing current system of exams for judges. According to the draft, judges are no longer entitled to prepare and accept exams for new candidates. **(Estonia)**

The training of Justice professionals is insufficient. Judges have no time to take part of the training. The quantity of training is insufficient, and the quality of training is also lacking. This is largely due to the heavy working load of judges and the insufficient resources of the courts and National Courts Administration. **(Finland)**

Most of the training was still done online, for pandemic reasons at the beginning of the year, and later due to the energy price hikes. **(Hungary)**

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

Positive developments since 1.1.2022:

Adoption of amendments in the procedural codes concerning the ability of the courts and the parties to use electronic communication tools in the judicial process. **(Bulgaria)**

More and more courts all over Germany have been introducing electronic files in civil law. **(Germany)**

E--case was introduced. **(Latvia)**

There is now access to the database of anonymised court decisions for the general public.  
**(Luxembourg)**

The Court has embarked in a Digitalisation Program to upgrade the whole Court systems, and it is augured that in the months to come, more projects currently being working upon will give their results. Video Conferencing systems have been introduced in all 28 Halls in the Courts of Malta, as well as in the 3 Halls in the Courts of Gozo. A Speech-to-Text program into the Maltese language is currently being developed and tested with very promising results, which program, once implement, would considerably help in the transcriptions of all evidence and sittings which, to date, takes a lot of time and energy which may be used elsewhere by the Court staff. A new audio recording system is being projected which would ensure that sittings will be recorded in a fail-safe manner, avoiding the repetition of instances which unfortunately still occur where evidence, though recorded, would not be electronically registered. **(Malta)**

A significant development is that more and more courts have implemented and use the electronic file. This software allows the parties and lawyers to access the file using the password granted by the court for this purpose. The software offers also the possibility of quickly communicating the notifications and others documents by the court, via e-mail, with receipt acknowledgement. **(Romania)**

Ongoing work to make courts more digital. The court management systems are improving, and the knowledge of how to use the systems more efficient is increasing. The Swedish National Courts administration has a big part in this. **(Sweden)**

Negative developments since 1.1.2022:

Some of the amendments, including the obligations of attorneys to accept electronic service have delayed implementation. The development of the necessary systems does not follow a clear schedule and some lawyers have pointed out deficiencies. **(Bulgaria)**

Courts are equipped mostly with technical devices for a video conference. Still there are session rooms without any technical equipment for a video conference. Even if there are technological means for a video conference, the use of the equipment has been uncertain and vulnerable. Generally, the connections have been functioning properly when connections have been between two public servers (for example between courts). On the contrary, it has been much more difficult to create and maintain a proper connection between the court and private party, for example a lawyer's office. Mostly, it is the duty of the court secretaries to take care of technological means and connections. Secretaries nor judges have not got any systematic training on new procedures. Even technical support has been insufficient. **(Finland)**

The digitalisation only very slowly improves **(France)**

The Federal Minister of Justice promised to support the digitalisation of the judiciary of the Länder with 200 Mio € in the course of a "Digital Pact for the Judiciary", which sounds positive, but is not sufficient. **(Germany)**

The platform of e-case has not been developed well enough for its convenient using. **(Latvia)**

The lack of well trained staff and the inadequacy of some of the current staff in operating the new digital equipment is curtailing the use and further development of the current new systems being implemented. **(Malta)**

Regarding the e-filing there is a problem with the fact that the prosecutor's offices do not send electronic files to the courts, but on paper. As the volume of criminal prosecution documents is usually large, the courts do not have the staff to scan these documents on a daily basis so that they can be uploaded to the electronic file. Therefore, the documents in the criminal investigation files must be studied in the court archives. This problem was solved only at the level of the High Court of Cassation and Justice as the Prosecutor's Office at the High Court sends the criminal prosecution files in electronic format. **(Romania)**

There is insufficient technical equipment. **(Slovakia)**

Due to the low salaries of IT engineers, they leave for better-paid jobs outside the judiciary, so there are often problems in the operation of registers and databases, which hinders the work of judges and court users. **(Slovenia)**

## **5. 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)**

Positive developments since 1.1.2022:

Digitalisation of Courts and court procedures is improved so it is possible to use many of court functions online from communication with the court, e- filing, to online hearings. **(Croatia)**

Negative developments since 1.1.2022:

The data processing tools *Aipa* or *Haipa* are not providing adequate information or statistics that would support management in courts or give any tools to assess the budgetary needs of the courts. Because of the deficiencies it has not been possible to launch *Aipa* in criminal cases. *Aipa* has not brought any effectiveness to the working methods of the courts, on the contrary it has increased the amount of work for both Judges and secretarial staff. The new data processing tool for administrative courts *Haipa* is so deficient that the legal assistants have stopped using it. New versions of *Haipa* has been launched. The new versions have been better and there are some improvements. **(Finland)**

## **6. 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**

Positive developments since 1.1.2022:

The abolition of the Specialised criminal courts and Prosecution offices, which were considered institutions under strong political influence. **(Bulgaria)**

One of the final stages of territorial reform of courts has been completed. In the capital Riga, there was established Riga City Court merging three courts of general jurisdiction. **(Latvia)**

On June 10, 2021, the Superior Council of Magistracy adopted the Decision No. 102/2021 for establishing the localities included in the districts of the courts of first instance from each county. The changes have taken into consideration the balance between the workload of the courts within the competence area of a court of appeal. The changes had also as purpose to improve the access to justice by getting the justice closer to the citizen. Afterwards, on October 21, 2021, the Superior Council of Magistracy adopted another decision for changing the territorial competence area for 5 courts of first instance. **(Romania)**

Negative developments since 1.1.2022:

Lack of specialised chambers within courts to deal with fraud and corruption cases. **(Bulgaria)**

The number of Courts of First Instance and Administrative Courts has been diminished previously significantly in 2019. The new evaluation was released in January 2023 that concluded that the

diminishing of the courts has not resulted in saving of money. The geographical distances have increased, and this has caused problems for parties to access the courts. It has also led to complexity concerning the actual court premises and obliged courts to organize court hearings in remote court premises. **(Finland)**

An amendment to the law, which entered into force at the end of the year, introduces a procedure for criminal proceedings called "proceedings in cases of major offences relating to the exercise of public authority or the management of public property". Until indictment, the functions of the court are performed by a single court, the Investigative Group of the Central District Court of Buda, and after indictment, the general rules on jurisdiction and competence apply. There is no practical experience of the procedure (whether it is efficient) yet at all. **(Hungary)**

The Judicial map was adopted without an adequate analysis of the state and needs of the efficient administration of justice, even though the "Case Weighing" project, inspired by the Israeli model, was implemented by March 2020, but it was not completed after the change of government. **(Slovakia)**

## **7. Other developments, which may have an impact on the quality of justice - please specify**

Positive developments since 1.1.2022:

Negative developments since 1.1.2022:

Undue use of data by the General Prosecution Office for checking applications for position in the state office. **(Luxembourg)**

The way the so-called new judicial map was adopted resulted in a solution, which may infringe the quality of delivering justice, in particular the establishment of 4 municipal courts in Bratislava, which was not foreseen in the previous drafts. **(Slovakia)**

## **C. Efficiency of the justice system**

### **1. Length of proceedings**

Positive developments since 1.1.2022:

Every year courts are lowering average length of proceedings and Clearance Rate is constantly over 100%. **(Croatia)**

The time limits of case adjudication have been reduced. Due to Covid-19 regulation, the simplest cases are adjudicated in a written procedure. **(Latvia)**

The duration of court proceedings is slowly being shortened, the proceedings of organized crime, fraud and corruption are unfortunately still taking longer. **(Slovenia)**

Negative developments since 1.1.2022:



Significant delays of the Supreme Administrative court judgements concerning promotion procedures for judges. **(Bulgaria)**

The length of the proceedings has increased even more because of the Covid-19 pandemic. This is due to fact that the case load of the courts was remarkable even before pandemic. This is also due to the acute and chronic lack of financial resources and that the number of Justice professionals is insufficient. **(Finland)**

The duration of cases gets worse in many courts, especially in big ones. **(France)**

The number of cases being allocated before the Courts has been ever increasing, and the introduction of recent legislation, particularly regarding rentals and other similar property rights, has led to a considerable increase in new cases, which increase was not reflected by an increase in Members of the Judiciary, as a result of which, the workload on the Courts has increased considerably and with it the backlog of cases too. Same applies in the criminal field, where an increase in the prosecution of criminal cases, including money laundering and other financial crimes has been registered but no increase in magistrates and judges to cater for these cases took place. This ever-increasing number of cases resulting from new legislations granting more litigious rights to persons to contest in Court, as well as the ever increasing complexity of the nature of several cases which, by their very nature, require more time and resources, has led to the length of the proceedings to inevitable increase, notwithstanding the efforts being made by every single member of the Judiciary to improve on their performances. The backlog cause by the lockdown in March of 2020 due to Covid and the partial lockdown in March 2021, where sittings resumed their normal schedules by mid-2022 have severely affected the efficiency of the Courts, and without a robust increase in the number of members of the Judiciary within the immediate future, the consequences of this delay will continue for years to come. **(Malta)**

Although the duration of court proceedings is slowly being shortened, the proceedings of organized crime, fraud and corruption are still taking longer. **(Slovenia)**

## **2. Other developments, which may have an impact on the efficiency of the justice system (like enforcement of judgements etc.) - please specify**

Positive developments since 1.1.2022:

A new office in charge of management of seized goods and an office in charge of the recovery of confiscated assets was established. **(Luxembourg)**

Negative developments since 1.1.2022:

#### **IV. OTHER INSTITUTIONAL ISSUES RELATED TO CHECKS AND BALANCES**

##### **A. The process for preparing and enacting laws**

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

Positive developments since 1.1.2022:

Improvements of public consultations, including consultation of judiciary and NGO's upon adoption of laws. **(Bulgaria)**

The new Federal Government of Germany that started working in December 2021 had promised to set longer timeframes when consulting stakeholders on judicial reforms. After one year we can confirm that timeframes now are usually significantly longer than under the previous government. **(Germany)**

The judiciary was involved in the amendments of the new Justice Laws, which were launched in 2020 and adopted in 2022. **(Romania)**

After the change of the Minister of Justice in autumn 2022, there has been a real involvement of the stakeholders, including the association of judges, in the preparation of the legislation. **(Slovakia)**

Negative developments since 1.1.2022:

The quality of the legislative process in the National Assembly is still far from optimal. Most of the bills are not reasoned well and last-moment amendments are still proposed and adopted. This includes the rules on electronic communication with the courts. **(Bulgaria)**

Judiciary is only formally consulted in regard to judicial reforms because courts are left only with two or three days to give their comments to the law, and in principle suggestions from the judiciary including Supreme Court are not followed. **(Croatia)**

The quality of legislation is weakened due to the lack of financial resources and pressured time schedule. This is also the result of the Covid-19 pandemic. The level of estimation (financial impact and other impacts) in legislation is unsatisfactory and tendentious. **(Finland)**

The consultations of judiciary exists but its objections are never taken into account. **(France)**

In practice, the problems with legislation remain the same as in the previous report. The pace of legislation remains very accelerated, there is insufficient preparation time before entry into force, and there is no public debate. However, in order to reach an agreement with the European Commission, an amendment to the legislative law was adopted in October 2022, which provides for more public consultation, which is a key element in the legislative process. No experience has yet been gathered on the practical implementation of this law. **(Hungary)**

There was an overuse of fast-track legislative procedure. **(Slovakia)**

The way the so-called new judicial map was adopted. The court map reform was originally part of four separate bills. Three of these bills were rejected by the Parliament, and according to the legal rules of

the legislative process, such bills could only be reintroduced after six months. Nevertheless, there was a political agreement to partially change the content of the rejected bills and the changed content of them, despite the absence of any comment procedure and deliberations of the parliamentary committees, was submitted in the form of an amendment to the bill, which was the only one (out of the original 4) to be moved to the next reading. It means, that the final version of the so-called judicial map was approved in a form that differed significantly from the previous versions, on which the various stakeholders had at least a basic opportunity to comment. A number of these differences were not only parametric in nature, but also changed its essential elements (in particular the establishment of 4 municipal courts in Bratislava) compared to the previous versions. **(Slovakia)**

The lack of audience for judicial associations and other entities interested in the processing of laws that affect the legal status of judges persists. **(Spain)**

This year there has been the greatest proliferation of regulations promoted by the Government through the urgent procedure to be subsequently validated by Parliament. The parliamentary initiative procedure has also been used abusively in the processing of laws (even to transpose community directives, which is usually carried out through preliminary drafts promoted by the technical bodies of the government), to avoid the mandatory reports of the advisory bodies (General Council of the Judiciary and Council of State) **(Spain)**

## **2. 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).**

Positive developments since 1.1.2022:

Discussions are currently taking place to revamp the procedure of collection of evidence before the Court of Magistrates as a Court of Criminal Inquiry, which changes may expedite the whole criminal process, however, unless the number of Magistrates is considerably increase, these changes will inevitable lead to further pressure on the Judiciary and may not necessarily help to expedite procedures. **(Malta)**

More courts use a fast-track system for minor criminal cases. In 2023, all district courts will use this system. **(Sweden)**

Negative developments since 1.1.2022:

## **3. Regime for constitutional review of laws.**

Positive developments since 1.1.2022:

Increase in the number of requests of the President of the State for constitutional review of laws by the Constitutional Court. **(Bulgaria)**

Negative developments since 1.1.2022:

#### **4. 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.**

Positive developments since 1.1.2022:

All the rules applicable during the pandemic have lost their significance for the working of the courts. **(Bulgaria)**

Emergency Powers Act has been revoked in 2022. The court procedures has been returned to previous pre-pandemic situation. **(Finland)**

Judicial review of emergency regimes and measures in the context of the Covid 19 pandemic has continued. Some regulations of some of the Länder were found proportional, others were not. **(Germany)**

A decision of the Cour Constitutionnelle of 25<sup>th</sup> November 2022 stated the conformity of some emergency regimes with the Luxembourgish Constitution. **(Luxembourg)**

The Constitutional Court annulled several government decrees and found the unconstitutionality of several intervention laws or amendments to laws that were changed following a quick procedure, due to the control of the Covid-19 pandemic. **(Slovenia)**

No such emergency regimes enacted during 2022. **(Sweden)**

Negative developments since 1.1.2022:

The state of emergency declared in response to the consequences of the coronavirus pandemic was replaced during the year by a state of emergency declared in response to the armed conflict and humanitarian disaster in Ukraine and their consequences in Hungary. **(Hungary)**

#### **B. Independent authorities**

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

Positive developments since 1.1.2022:

Negative developments since 1.1.2022:

Law on Commission for Conflict of Interest for state officials is going to be changed which will reform its authority and jurisdiction. **(Croatia)**

## **2. 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.**

Positive developments since 1.1.2022:

Negative developments since 1.1.2022:

Not enough public coverage of such recommendations and the decisions of the Court of Human rights.  
**(Bulgaria)**

The recommendations of GRECO were not followed (addendum about France, published in March 2022, recommendations ix and x about disciplinary powers of the High Council for Judiciary and prevention of corruption of prosecutors). **(France)**

## **C. Accessibility and judicial review of administrative decisions**

### **1. Transparency of administrative decisions and sanctions (including their publication and rules on collection of related data) and judicial review (incl. scope. suspension effect)**

Positive developments since 1.1.2022:

Negative developments since 1.1.2022:

### **2. 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)**

Positive developments since 1.1.2022:

Negative developments since 1.1.2022:

### **3. 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.**

Positive developments since 1.1.2022:

Negative developments since 1.1.2022:

## **D. The enabling framework for civil society**

### **1. 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)**

Positive developments since 1.1.2022:

Negative developments since 1.1.2022:

**2. 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 online –, 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.**

Positive developments since 1.1.2022:

Rules or the legal framework for the operation of these organisations have not changed, but the practice has changed - the attitude of the executive authority to their operation; they are no longer accused of obstructing the work of the government. **(Slovenia)**

Negative developments since 1.1.2022:

Phenomenon of so-called SLAP lawsuits is raised also in Croatia even though nobody in fact knows or wants to know what it means. This phenomenon is mostly raised by professional journalist associations who promote standing that any lawsuit against publisher and/or journalist is SLAP lawsuit and for those reasons prohibited. When judges have such cases they are facing strong negative campaign from the media which significantly diminishes authority of the court. **(Croatia)**

Activities of the civil society in the context of the Russian war against Ukraine have raised the issue of hate crimes in the country, which is receiving increased attention. **(Latvia)**

There are attacks and campaigns, especially on social networks, aimed at discrediting bodies such as judges, even with statements by the members of the government themselves. **(Spain)**

**3. 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)**

Positive developments since 1.1.2022:

Negative developments since 1.1.2022:

**4. 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.)**

Positive developments since 1.1.2022:

Improvement of laws regarding NGO's and other civil society representatives in legislation process. **(Bulgaria)**

Civil society organisations and human rights defenders are now consulted by the state authorities. **(Slovenia)**

Negative developments since 1.1.2022:

There is no stable and organized channel to favour the participation of these organizations in legislation and social debate. **(Spain)**

#### **E. Initiatives to foster a rule of law culture**

##### **1. 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 etc.**

Positive developments since 1.1.2022:

The situation in Poland and Hungary has led to an even more increased awareness that we need to protect the rule of law in Sweden as well. This has been subject to debates and media interest during 2022 as well. **(Sweden)**

Negative developments since 1.1.2022:

Debates and public information campaigns about the rule of law are not initiated by the state authorities, but mainly by NGO's. **(Bulgaria)**

Matter of fact all players in the public arena from politicians to NGO-s are using opportunity to disparage judges, courts and court decisions. **(Croatia)**

There was no campaign organised. **(France)**

Not only is there no promotion of strengthening the rule of law, but the general feeling is that of less respect for the division of powers and a tendency towards control by the executive branch. **(Spain)**

##### **2. Other issues, which may have an impact on institutional aspects related to checks and balances, - please specify**

Positive developments since 1.1.2022:

Negative developments since 1.1.2022:

There is still a lack of awareness among politicians, of the importance of judicial independence and equality of arms (checks and balances) for the rule of law. **(Slovenia)**