

# 2023 Rule of Law Report - targeted stakeholder consultation

Fields marked with \* are mandatory.

## Introduction

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

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

The contribution to be provided should include (1) information on measures taken to implement the recommendations addressed to the Member State in the 2022 Rule of Law report, as well as developments with regard to the points raised in the respective country chapter and (2) any other significant developments since January 2022 [2] falling under the 'type of information' outlined in the next section.

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

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

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

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

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

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

## Type of information

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

### **Legislative developments**

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

### **Policy developments**

- Implementation of legislation
- Evaluations, impact assessment, surveys
- White papers/strategies/actions plans/consultation processes
- Follow-up to reports/recommendations of Council of Europe bodies or other international organisations
- Important administrative measures
- Generalised practices

### **Developments related to the judiciary / independent authorities**

- Important case law by national courts
- Important decision/opinions from independent bodies/authorities
- State of play on terms, nominations and expired mandates for high-level positions (e.g. Supreme Court, Constitutional Court, Council for the Judiciary, heads of independent authorities included in the scope of the questionnaire[1])

### **Any other relevant developments**

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

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

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

## About you

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\* I am giving my contribution as

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

If "Other", please specify

Professional body (public law)

\* Organisation name

*250 character(s) maximum*

Consejo General de la Abogacía Española

Main Areas of Work

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

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

*500 character(s) maximum*

www.abogacia.es

Transparency register number

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

44994281357096

\* Country of origin

Please add the country of origin of your organisation

- ☐ Afghanistan
- ☐ Albania

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

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

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

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

- ☐ Yemen
- ☐ Zambia
- ☐ Zimbabwe

First name

Victoria

Surname

ORTEGA BENITO

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

[REDACTED]

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

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

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

☒ I agree with the personal data protection provisions.

[Specific privacy statement targeted stakeholder consultation 2023 rule of law report.pdf](#)

## Questions on horizontal developments

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In this section, you are invited to provide information on general horizontal developments or trends, both positive and negative, covering all or several Member States. In particular, you could mention issues that are common to several Member States, as well as best practices identified in one Member State that could be replicated. Moreover, you could refer to your activities in the area of the four pillars and sub-topics (an overview of all sub-topics can be found below), and, if you represent a Network of national organisations, to the support you might have provided to one of your national members.

Overview topics for contribution

[list of topics 2023 Report.pdf](#)

Please provide any relevant information on horizontal developments here

*5000 character(s) maximum*



The Consejo General de la Abogacía Española (hereafter the CGAE) has been observing political events related to Justice with concern due to the fact that, although they affect elements that do not pertain to the Administration of Justice as such and affect non-judisdictional bodies, they are producing a series of negative impacts on the Spanish judicial system.

In this respect, it is worth emphasizing -once again- the absence of a political agreement, more than four years after the expiry of the mandate, to renew the Council of the Judiciary (hereafter the CGPJ), which -it should be recalled- has key functions in the appointment, procedure and discipline of Judges.

Last October, this situation led to the resignation of its President "in order not to be complicit" in the CGPJ's situation and in the absence of an agreement between the main government and opposition parties.

This lack of renewal leads to difficulties in their internal functioning, which are indirectly transferred to the functioning of some courts as well. However, the position of the Bar is in the majority when it comes to pointing out that these difficulties are not connected to the issue of judicial independence. This does not preclude that the situation has also undoubtedly led to an increase in the public's negative perception of the politicization of Justice.

In relation to these tensions between political parties and state powers, the institutional legal profession has made various private representations and public statements, including talks with the CGPJ and those political parties mainly concerned by the necessary parliamentary majority. The main assessment continues to be, as in previous years, that what is required is the fulfilment of the obligation to renew all constitutional bodies in accordance with the constitutional mandate.

On the positive side, the recent renewal of several judges of the Constitutional Court, and the election of its new president, should be noted.

On the other hand, at the request of the Ministry of Justice and within the framework of the JHA Council of March 2022, the CGAE provided a preparatory memorandum for the debate on the proposal of the French six-month presidency on the role played by the advocates and the Bar in guaranteeing the Rule of Law. In this respect, the draft bill on the organic law on the right of defence, pending submission to the Congress of Deputies, is noteworthy in Spain, and would close the circle of constitutional guarantees with a specific instrument regulating this profession, which is fundamental to the Rule of Law. It should be recalled at this point that the right to defence contemplated in the Constitution does not yet have an organic law to develop its content.

## Questions for contribution

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

If there are developments you consider relevant under each of the four pillars that are not mentioned in the

sub-topics, please add them under the section "other - please specify". Only significant developments should be covered.

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

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

Member State covered in contribution [only one choice possible]

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

- ☐ Austria
- ☐ Belgium
- ☐ Bulgaria
- ☐ Croatia
- ☐ Cyprus
- ☐ Czechia
- ☐ Denmark
- ☐ Estonia
- ☐ Finland
- ☐ France
- ☐ Germany
- ☐ Greece
- ☐ Hungary
- ☐ Ireland
- ☐ Italy
- ☐ Latvia
- ☐ Lithuania
- ☐ Luxembourg
- ☐ Malta
- ☐ Netherlands
- ☐ Poland
- ☐ Portugal
- ☐ Romania
- ☐ Slovak Republic
- ☐ Slovenia
- ☒ Spain
- ☐ Sweden

## I. Justice System

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

3000 character(s) maximum

See above

## A. Independence

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

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

3000 character(s) maximum

The recent appointment of two High Judges (magistrados, in Spain) to the Constitutional Court has been the subject of harsh criticism from the opposition for their closeness to previous governments of the same (progressive) political sign. In this regard, and without assessing each nomination either concretely or individually, it is worth recalling that in the joined cases A.K. and others, the Court of Justice of the EU indicated - before declaring that the Disciplinary Chamber of the Supreme Court is not a court established by law - that "the mere fact that [judges] are appointed by the President of the Republic is not liable to create a situation of dependence between them and the President of the Republic or to give rise to doubts as to their impartiality if, once appointed, they are not subject to any pressure and do not receive any instructions in the exercise of their functions".

In the current situation, therefore, the question of the independence of these appointments does not seem to be, legally at least, a defining issue for a change of categorisation in European Union law. Additionally, this occurs in the non-judicial field. Finally, it cannot be considered that citizens' rights, and more specifically those granted to minorities, could be affected or be less protected as a result of these appointments, as has been the case in other Member States.

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

3000 character(s) maximum

Promotion of judges and prosecutors (incl. judicial review)

3000 character(s) maximum

Allocation of cases in courts

3000 character(s) maximum

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

3000 character(s) maximum

See above

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

*3000 character(s) maximum*

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

*3000 character(s) maximum*

Independence/autonomy of the prosecution service

*3000 character(s) maximum*

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

*3000 character(s) maximum*

First of all, it should be pointed out that, with respect to the preliminary draft of the Organic Law on the Right of Defence mentioned in our previous report, it has been reduced in scope and extension with respect to the text that the Commission submitted to the Ministry of Justice. The following are the most important issues raised by the CGAE:

- The regulation of "collegial protection" by the Bar could be more detailed and it is therefore proposed that it be developed further to make the matter more specific.
- With regard to the "independence of the abogados", the guarantees of this independence must be strengthened throughout its scope.
- With regard to "professional intrusion", the CGAE states that it is necessary to establish effective mechanisms to combat it effectively, given that it empties the fundamental right of defence of its content, affecting all citizens.
- In relation to "professional secrecy", the CGAE points out that, although the regulatory text regulates professional secrecy in detail, two issues of notable importance could be pointed out that are not included in its articles:
  1. In-house abogados: it is proposed to make explicit reference to lawyers who are "employed or self-employed [...]" including in cases of an employment relationship with the client".
  2. Searches in professional offices: it is considered appropriate that, in addition to the competent official, a representative of the professional body should be included in all searches undertaken.

Additionally, it is important to highlight the legislative procedures of the bills on procedural efficiency, organisational efficiency and digital efficiency of the Public Justice Service. The CGAE has developed an important work of study and legal contributions to these regulations.

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

3000 character(s) maximum

See horizontal developments.

## B. Quality of justice

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

*2)*

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

3000 character(s) maximum

The latest report of the Observatorio de Justicia Gratuita makes the following recommendations that the CGAE considers fundamental:

- To unify criteria in relation to the recognition of the right to Free Legal Aid by the Provincial and Island Legal Aid Commissions, and to do so within the legally established timeframe in order to guarantee the legal security of the interested parties and of the professionals who, where applicable, have been appointed to defend them.
- Collaboration between judicial bodies to comply with the provisions of Law 1/1996 regarding the processing of legal aid applications.
- The judicial bodies must provide citizens with the necessary forms to apply for the right or, at least, provide information on how to do so, and in any case, they must inform the Bar Association of all the data of the interested party when requested by the said party.
- The Draft Bill on Procedural Efficiency Measures envisages a pre-litigation procedure in the form of conciliation, arbitration, mediation or composition. These procedures must be covered in all cases by the public legal aid service, as they are a requirement for procedural efficiency.
- In the same way that an on-call service is provided to victims of gender violence, to detained persons or to minors undergoing reform, the compensatory scales should also include the existence of on-call services for the care of foreigners rights in administrative expulsion, asylum or refugee proceedings and for prisoners.
- It is recommended that the Asylum Law be amended to make legal assistance mandatory in all international protection procedures regardless of whether applications are made on the territory or at border posts.
- Specialised legal assistance should be mandatory in all administrative procedures for expulsion, refoulement and refusal of entry as soon as they are initiated.
- In cases of recognition of free legal aid, it is requested that the procedural representation in contentious-administrative appeals in matters relating to foreigners be accredited by means of the corresponding collegiate designations.
- There is a need for a specialized legal aid office for disability issues, properly trained to defend this societal group.

Others:

Likewise, the legal profession, through the CGAE, has succeeded in including by law the mandatory legal aid in all insolvency proceedings, which had been excluded from the original text.

On the other hand, the delays in the payment of compensation for the legal aid service (see more here - <https://www.abogacia.es/actualidad/noticias/el-pleno-del-consejo-general-de-la-abogacia-se-concentra-contra-los-impagos-del-turno-de-oficio/>) as well as the demands for improvements in the conditions of the

legal aid service (see more here - <https://www.abogacia.es/actualidad/noticias/los-colegios-de-la-abogacia-celebran-el-dia-de-la-justicia-gratuita-y-del-turno-de-oficio/>) are particularly noteworthy.

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

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

3000 character(s) maximum

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

3000 character(s) maximum

At the end of 2022, studies were initiated by the CGAE to regulate the specialization of the profession, in compliance with the provisions of the General Statute of the Legal Profession.

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

3000 character(s) maximum

A major milestone in this area was the approval of the draft Law on Digital Efficiency of the Public Justice Service which, if it comes into force, will establish a new legal architecture for digital access to justice and the interoperability of existing procedural management systems. Among other issues, the aim is to promote "digital immediacy", in order to be able to hold trials and online hearings with guarantees, ensuring access to documents with the proper secure identification. On this point, the Bar demands priority access to the electronic judicial file.

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

3000 character(s) maximum

At this point, the new open data platform Justicia en datos: [datos.justicia.es](https://datos.justicia.es) stands out. This portal presents in an orderly, open and accessible manner all the official data related to the Administration of Justice and the Judiciary in Spain. It is, therefore, a statistics platform managed jointly by the Ministry of Justice and the Autonomous Communities with transferred powers in matters of justice, in which statistics from other institutions that are considered relevant for an adequate quantitative monitoring of the functioning of the justice system, as well as the social issues that are resolved therein, are also being uploaded.

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

3000 character(s) maximum

## C. Efficiency of the justice system

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

2)

## Length of proceedings

3000 character(s) maximum

Protecting and promoting legal certainty requires ensuring a reasonable average pendency in the judicial application of norms. The Spanish Constitution of 1978 uses the term "without undue delay" and the European Convention on Human Rights "within a reasonable time" to define, respectively, the temporal scope of effective judicial protection. It is necessary to eliminate bottlenecks by speeding up the processing of judicial proceedings so that the delay and cost of these proceedings do not jeopardize legal certainty.

In this regard, the Spanish Bar Association has already proposed to take as a reference the innovative SATURN project of the European Commission for the Efficiency of Justice (CEPEJ), which focuses on the development of standards for judicial pendency and, if possible, to carry out its first pilot with Spain. This proposal has not been heeded.

The EU Rule of Law report should provide more detailed statistical information on pendency. In this respect, the EU Justice Scoreboard measures the efficiency of judicial systems partly in two jurisdictions on the basis of the length of proceedings. The fact that it does not cover the number of pending proceedings and that it is limited to the civil, commercial and administrative fields indicates the need to improve the information: on the one hand, by incorporating into this Report the total number of pending cases and broken down by jurisdiction and, on the other hand, by incorporating into the Scoreboard the duration of proceedings in the fields of criminal law and in the social and labour rights area and, where and if appropriate, constitutional appeals for the violation of fundamental rights. The rule of law and, by extension, the very functioning of the rule of law depend on the application of the law by courts and public administrations within a reasonable time.

Other - please specify

3000 character(s) maximum

## II. Anti-Corruption Framework

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

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

3000 character(s) maximum

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

List any changes as regards relevant authorities (e.g. national agencies, bodies) in charge of prevention detection, investigation and prosecution of corruption and the resources allocated to each of these

authorities (the human, financial, legal, and technical resources as relevant), including the cooperation among domestic authorities. Indicate any relevant measure taken to effectively and timely cooperate with OLAF and EPPO (where applicable)

*3000 character(s) maximum*

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

*3000 character(s) maximum*

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

*3000 character(s) maximum*

## B. Prevention

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

*3000 character(s) maximum*

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

*3000 character(s) maximum*

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

*3000 character(s) maximum*

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

*3000 character(s) maximum*

List the sectors with high-risks of corruption in your Member State and list the relevant measures taken /envisaged for monitoring and preventing corruption and conflict of interest in these sectors (e.g. public



procurement, healthcare, citizen investor schemes, risk or cases of corruption linked to the disbursement of EU funds, other), and, where applicable, list measures to prevent and address corruption committed by organised crime groups (e.g. to infiltrate the public sector)

*3000 character(s) maximum*

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

*3000 character(s) maximum*

## C. Repressive measures

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

*3000 character(s) maximum*

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

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

*3000 character(s) maximum*

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

*3000 character(s) maximum*

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

*3000 character(s) maximum*

Other - please specify

*3000 character(s) maximum*

### III. Media Freedom and Pluralism

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

*3000 character(s) maximum*

#### A. Media authorities and bodies

*(Cf. Article 30 of Directive 2018/1808)*

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

*3000 character(s) maximum*

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

*3000 character(s) maximum*

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

*3000 character(s) maximum*

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

Measures taken to ensure the fair and transparent allocation of state advertising (including any rules regulating the matter)

*3000 character(s) maximum*

Safeguards against state / political interference, in particular:

- safeguards to ensure editorial independence of media (private and public)
- specific safeguards for the independence of heads of management and members of the governing boards of public service media (e.g. related to appointment, dismissal), safeguards for their operational independence (e.g. related to reporting obligations and the allocation of resources) and safeguards for plurality of information and opinions

- information on specific legal provisions and procedures applying to media service providers, including as regards granting/renewal/termination of licenses, company operation, capital entry requirements, concentration and corporate governance

*3000 character(s) maximum*

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

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

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

*3000 character(s) maximum*

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

*3000 character(s) maximum*

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

*3000 character(s) maximum*

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

*3000 character(s) maximum*

Other - please specify

*3000 character(s) maximum*

## IV. Other institutional issues related to checks and balances

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

3000 character(s) maximum

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

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

[1] This includes also the consultation of social partners

3000 character(s) maximum

At this point it should be noted that there is currently a Transparency Portal that contains the Access Point to facilitate public participation in the procedure for drafting regulations. This channel is constituted as the point of access to the procedures of prior public consultation and public hearing and information in the process of drafting preliminary drafts of laws, draft legislative royal decrees and draft regulatory standards that are promoted by the Ministry of Justice and its dependent or related public bodies, as regulated in art. 133 of Law 39/2015, of 1 October, on the Common Administrative Procedure of Public Administrations, and in art. 26 of Law 50/1997, of 27 November, on the Government.

This has enabled public participation in the policy-making process through the web portals of the different ministerial departments, including all matters related to judicial reforms.

On this point, both the General Council of the Judiciary and the Council of State participate in the different phases of drafting by preparing the corresponding reports or opinions, which are not binding, but 99% of which are supported by the consulting bodies. In addition, there is an exhaustive list of legally established mandatory consultation requirements.

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

3000 character(s) maximum

During the year 2022, approximately 74 legislative initiatives were passed in Congress: 39 ordinary laws, 15 organic laws, 20 royal decree-laws.

It is worth noting that 20 of these legislative initiatives have been dealt with on an urgent basis, which means that 27% of the total of 74 regulations approved during this period were passed as a result of urgency. It would be desirable to reduce the use of this procedure, even if the legal requirements for it are met.

Accessibility and judicial review of administrative decisions: Transparency of administrative decisions and sanctions (including their publication and related data collection rules).

The Spanish Constitutional Court has recognised that the decision to publicise sanctions in the legally established cases, generally in the case of serious and very serious sanctions, normally in the BOE, would respect the essential content of the right to the protection of personal data (art. 18.4 EC), responding to the purposes directly related to the legitimate functions of the corresponding investigating and sanctioning bodies, this publication being legally foreseen as suitable, necessary and proportionate.

Currently, and from a different point of view, the electronic headquarters of the Ministry of the Presidency has a specific portal where any natural or legal person can consult the status of their sanction.

## Regime for constitutional review of laws

*3000 character(s) maximum*

In this area, and by virtue of the data published in the BOE, during this year 35 appeals of unconstitutionality and 19 questions of unconstitutionality have been admitted for processing. The Constitutional Court issued 151 rulings, 13 of which related to appeals of unconstitutionality, 178 orders, and a further 92 decisions, 5 of which related to appeals of unconstitutionality. According to the data on the Constitutional Court's website, between January and November 2022, 32 appeals of unconstitutionality were filed, as well as 25 questions of unconstitutionality.

This means that such control is sufficiently ensured through the instrument of the TC.

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

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

*3000 character(s) maximum*

The CGAE has requested the Ministry of Justice to ensure that this is the last year in which it unilaterally decides to hold online exams for the access to the legal profession. This was an exceptional measure, of a temporary nature, for the toughest stages of the pandemic. The entrance examination to the abogacía must be in person, as well as rigorous.

## B. Independent authorities

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

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

*3000 character(s) maximum*

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

*3000 character(s) maximum*

## C. Accessibility and judicial review of administrative decisions

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

*3000 character(s) maximum*

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

The Spanish Constitutional Court has recognised that the decision to publicise sanctions in the legally established cases, generally in the case of serious and very serious sanctions, normally in the BOE, would respect the essential content of the right to the protection of personal data (art. 18.4 EC), responding to the purposes directly related to the legitimate functions of the corresponding investigating and sanctioning bodies, this publication being legally foreseen as suitable, necessary and proportionate.

Currently, and from a different point of view, the electronic headquarters of the Ministry of the Presidency has a specific portal where any natural or legal person can consult the status of their sanction.

Judicial review of administrative decisions:

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

*3000 character(s) maximum*

The legal regime in this area is expressly regulated in Law 29/1998, of 13 July, regulating the Contentious-Administrative Jurisdiction. This Law subjects the activity of any type of public administration subject to administrative law to the control of the Jurisdiction, articulating the appropriate procedural actions for this purpose. The Law is based on the principle of full submission of the public authorities to the legal system, a true governing clause of the Rule of Law.

This court will hear questions arising in matters of jurisdictional protection of fundamental rights, patrimonial liability, administrative contracts and the acts of preparation and award of other contracts, the acts and provisions of Public Law Corporations and the administrative acts of control and supervision of the granting Administration, as well as any others expressly assigned by law.

The Law indicates a series of aspects on which judicial control will always be possible, however broad the discretion of the governmental decision may be: fundamental rights, the regulated elements of the act and the determination of the appropriate compensation.

A relationship of competence is established for the knowledge of matters in accordance with the distribution of powers and the structure of the Spanish State, between the General State Administration, the Administration of the Autonomous Communities and the Local Administration, as well as the corporate and independent administration, between the different bodies:

- a) Contentious-Administrative Courts.
- b) Central Contentious-Administrative Courts.
- c) Contentious-Administrative Chambers of the High Courts of Justice.
- d) Contentious-Administrative Chamber of the Audiencia Nacional.
- e) Chamber for Contentious-Administrative Proceedings of the Supreme Court

This law has a specific chapter in Title VI for the regulation of precautionary measures. It is based on the assumption that precautionary justice is part of the right to effective protection (it is not an exception but an option). The criterion for its adoption is that the execution of the act or the application of the provision may cause the purpose of the appeal to be lost, but always on the basis of a reasoned weighing up of the

interests in conflict.

The rule is based on the assumption that, given the scope and breadth of the contentious-administrative appeal, the suspension of the contested provision or act can no longer constitute the only possible precautionary measure. The Law therefore introduces the possibility of adopting any precautionary measure, even those of a positive nature, with no special restrictions, given the common basis of all precautionary measures.

Measures "inaudita parte debitoris" are regulated - with a subsequent appearance on the lifting, maintenance or modification of the measure adopted - as well as measures prior to the lodging of the appeal in cases of inactivity or de facto actions.

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

*3000 character(s) maximum*

The aforementioned Law 29/1998 of 13 July 1998, regulating the Contentious-Administrative Jurisdiction, regulates how to enforce judgments that order the Administration to pay a sum of money. It compensates the interested party financially for any unjustified delay; It prevents apparent enforcement, declaring the full nullity of acts contrary to the pronouncements and establishing a quick way to annul them, and specifies the possible ways of enforcing sentences that condemn the Administration to carry out an activity or issue an act and grants the judicial bodies sanctioning powers to achieve the effectiveness of what has been ordered, apart from the consequences that may be deduced in the criminal sphere.

The CGPJ reports in its latest bulletin on the situation of Spain in the European courts that the average number (See here - <https://www.poderjudicial.es/cgpj/es/Temas/Estadistica-Judicial/Estadistica-por-temas/Aspectos-internacionales/Informes-Organismos-Extranjeros/Tribunal-de-Justicia-de-la-Union-Europea/>) of appeals to the CJEU for non-compliance by Spain in the years 2016 to 2020 was 3.8; the ratio per million inhabitants was 0.08 (EU average = 0.07).

Regarding compliance with final supranational judicial decisions:

CJEU preliminary rulings: 35 references for preliminary rulings were initiated (6.3% of the EU total). This includes preliminary rulings as well as references for preliminary rulings and urgent proceedings.

Appeals for non-compliance with the CJEU: the average number of judgments upholding appeals against Spain over the five years was 2.2; and the ratio per million inhabitants was 0.05 (EU average = 0.05). Spain ranks 13th in this indicator.

Regarding the ECtHR, the latest bulletin of the CGPJ on the situation of Spain in European courts, reports that in 2020 the ECtHR handed down 10 judgments in complaints against Spain, of which 9 found at least one violation. The number of judgments with at least one violation, per million inhabitants, was 0.19 in 2020 for Spain, which places Spain in 14th place out of 47 countries with the lowest values.

Restricting the analysis to judgments that have found violations of Article 6 ECHR, relating to rights related to the administration of justice and the right to a fair and equitable judicial process, the ECtHR statistics break down four concepts included in the judgments (a judgment can include more than one). During the five years cited, an annual average of 3.2 judgments have been handed down against Spain for the right to a fair trial; 0.6 for the length of the procedure; and 0.2 for non-execution. The average number of judgments with some infringement in the justice section has been 4, and expressed as a ratio per million inhabitants has been 0.08.

## D. The enabling framework for civil society

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

*3000 character(s) maximum*

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

*3000 character(s) maximum*

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

*3000 character(s) maximum*

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

*3000 character(s) maximum*

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

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

*3000 character(s) maximum*

Other - please specify

*3000 character(s) maximum*

In June, the first edition of the Conference on Defence and protection of the defence of the legal profession was held, where issues such as interference, intrusion, freedom of expression, delays in hearings or technological and gender gaps were addressed. See more here. <https://www.abogacia.es/actualidad/noticias/las-i-jornadas-de-proteccion-de-la-defensa-se-celebraran-en-vigo-el-16-y-17-de-junio/>

## Contact

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