

# 2023 Rule of Law Report - targeted stakeholder consultation

Fields marked with \* are mandatory.

## Introduction

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

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

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

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

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

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

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

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

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

## Type of information

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

### **Legislative developments**

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

### **Policy developments**

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

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

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

### **Any other relevant developments**

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

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

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

## About you

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\* I am giving my contribution as

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

\* Organisation name

250 character(s) maximum

Contrapoder Justicia Democrática

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

Contrapoder Justicia Democrática is a Spanish association dedicated to promoting and carrying out studies and rising awareness in relation to fundamental rights and civil liberties, as well as to the publication of articles and opinions related to the association's purposes. Likewise, it aims to facilitate legal assistance to persons whose rights and civil liberties have been violated or who suffer discrimination such as women, immigrants or incarcerated persons.

Transparency register number

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

\* Country of origin

Please add the country of origin of your organisation

- ☐ Afghanistan
- ☐ Albania

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

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

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

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

- ☐ Yemen
- ☐ Zambia
- ☐ Zimbabwe

First name

Gonzalo

Surname

Boye

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*



## 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*

In its 2022 Rule of Law Report, the Commission recommended Spain to “Proceed with the renewal of the Council for the Judiciary as a matter of priority and initiate, immediately after the renewal, a process in view of adapting the appointment of its judges-members, taking into account European standards”.

At the time of this contribution, the Council has not been renewed. In October 2022, Carlos Lesmes announced his resignation as president of the judicial body.

### 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 appointment, promotion and discipline of judges in Spain are carried out by the General Council of the Judiciary (Consejo General del Poder Judicial, CGPJ), a constitutional and autonomous body who governs the Judiciary. The CGPJ consists of the President of the Supreme Court plus 20 individuals (12 judges and 8 jurists) appointed by Parliament. This system has been widely criticized for its susceptibility to politicization which endangers the independence of the judiciary it is supposed to protect. Most notably, the Group of States Against Corruption of the Council of Europe (GRECO) in its Second Compliance Report of the fourth evaluation round on Spain noted “that, regrettably, the criticism on the perceived politicisation of the CGPJ has a negative impact on appointment decisions made by the latter. Even if the procedures for the appointment of the higher ranks of the judiciary have been further articulated and upgraded over time, as described above, a shadow of doubt on their fairness and objectivity persists in citizens’ eyes. Given the broad margin of discretion with which the CGPJ is vested for the appointment of the top ranks of the judiciary, the issue of the composition of the CGPJ itself seems indeed of prime relevance. (...)”. (Section 54) (see: <https://rm.coe.int/fourth-evaluation-round-corruption-prevention-in-respect-of-members-of/1680a3fd50>). In the Addendum to the Second Compliance Report, the GRECO regretted the “lack of any new development in this domain.” (Section 21) (see: <https://rm.coe.int/fourth-evaluation-round-corruption-prevention-in-respect-of-members-of/1680a93b24>).

The lack of independence in the designation of the CGPJ has also been called into question, among others, by the main professional associations of judges and prosecutors in Spain (see, inter alia, “MANIFIESTO CIUDADANO POR LA INDEPENDENCIA JUDICIAL”, 30 October 2020, <https://www.forojudicialindependiente.es/2020/10/30/manifiesto-ciudadano-por-la-independencia-judicial/> ; “FJI ANTE LAS DECLARACIONES DE LA MINISTRA DE JUSTICIA”, 22 December 2021, <https://www.lawyerpress.com/2021/12/22/fji-ante-las-declaraciones-de-la-ministra-de-justicia/>) and by the World Organisation Against Torture (see: “End the arbitrary pre-trial detention of social leader Mr. Jordi Cuixart”: <https://www.omct.org/en/resources/urgent-interventions/open-letter-end-the-arbitrary-pre-trial-detention-of-social-leader-mr-jordicuixart/> ).

In addition, the appointment of Mr Enrique Arnaldo as a judge of the Spanish Constitutional Court sparked controversy within the legislature. Mr Enrique Arnaldo had ties with FAES, an association headed by Mr José María Aznar, former President of Spain from Partido Popular, a conservative and unionist party. In addition, Mr Arnaldo had allegedly been involved in cases of corruption of the same party. [https://cadenaser.com/ser/2021/11/11/politica/1636614500\\_938767.html](https://cadenaser.com/ser/2021/11/11/politica/1636614500_938767.html); [https://cadenaser.com/ser/2021/10/28/tribunales/1635400889\\_153464.html](https://cadenaser.com/ser/2021/10/28/tribunales/1635400889_153464.html)

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*

Spanish citizens are able to recuse judges under certain legal grounds. Catalan pro-independence leaders have attempted to recuse several judges currently hearing their cases, but that has proven, thus far, unsuccessful. Most recently, most of the Catalan pro-independence leaders that have pending amparo appeals before the Spanish Constitutional Court tried to recuse judges Ms. Concepción Espejel and Mr. Enrique Arnaldo to no avail. The applicants set forth, inter alia, the several ties that both judges have with the unionist political party Partido Popular, or associations that have expressed its animosity towards the applicants. In particular, the confirmation of Mr. Enrique Arnaldo sparked controversy last year, within the legislature, due to his political ties, see: Cadena SER, “El Congreso aprueba el polémico nombramiento de Arnaldo con once votos menos de los esperados”, 11 November 2021: [https://cadenaser.com/ser/2021/11/11/politica/1636614500\\_938767.html](https://cadenaser.com/ser/2021/11/11/politica/1636614500_938767.html). The Spanish Constitutional Court dismissed the appeals against the decision.

In addition, on 30 November 2021, President Carles Puigdemont, MEP Clara Ponsatí and former Minister of Culture of Catalonia (2017) Mr Lluís Puig filed a motion to recuse Supreme Court judge Pablo Llarena (on more information on the criminal proceedings brought against the applicants see infra “Significant developments capable of affecting the general perception that the general public has of the independence of the judiciary”). The motion was mainly grounded on the fact that a few days before, on 16 November 2021, Mr Llarena had received an award by Villacisneros Foundation. Villacisneros Foundation is a unionist and far-right organisation that had demanded the jailing of President Carles Puigdemont and had partaken in demonstrations demanding his arrest and imprisonment. On 10 January 2022, Mr Pablo Llarena dismissed the motion, on the grounds that the abovementioned facts did not undermine his impartiality and the Supreme Court further refused to recuse him.

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

*3000 character(s) maximum*

#### Allocation of cases in courts

*3000 character(s) maximum*

The right to access to an ordinary judge predetermined by law is enshrined in article 24.2 of the Spanish Constitution. In a similar vein, article 6 § 1 of the European Convention on Human rights sets forth the right to “a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law”. Nonetheless, in Spain, there have been instances, especially in the legal proceedings brought against Catalan politicians and association leaders, where said principle has not been fully observed. Firstly, the Spanish Supreme Court has asserted jurisdiction over the criminal proceedings against MEPs Mr Carles Puigdemont, Ms Clara Ponsatí and Mr Antoni Comín, on the basis that, as MEPs, they cannot be judged by an ordinary court. However, as admitted by the Supreme Court itself, there is no legal provision granting it any jurisdiction over MEPs. Therefore, according to Spanish law, jurisdiction should now fall within a lower court in Barcelona, where the alleged crimes took place.

Another noteworthy example is that of former Catalan Minister of Culture (2017) Mr Lluís Puig, currently living in exile in Brussels. On 7 January 2021, Brussels Court of Appeal upheld the decision made by the First Instance Court of Brussels on 7 August 2020, and denied the execution of his EAW, issued by the Spanish Supreme Court. The decision was grounded, inter alia, on the fact that since he was not a State MP, he should be tried by a Catalan Court, and that there was no legal basis for the jurisdiction criteria alleged by the Public Prosecutor. Therefore, there were reasons to believe that executing the EAW would impair Mr Puig’s fundamental rights. The Appeals Court also made mention of the 2019 Opinions of the Working Group on Arbitrary Detention.

Lastly, on 1 March 2021, the Spanish Public Prosecutor lodged a suit with the High Court of Justice of Catalonia against four of the former members of pro-independence parties of the Bureau of the Parliament of Catalonia (“the Bureau”), for the crime of disobedience to authority. Both Mr Josep Costa, former Vice-President of the Bureau and Mr Eusebi Campdepadrós, former Secretary of the Bureau, challenged the jurisdiction of the High Court of Justice of Catalonia. When answering their challenge, the Court failed to address their arguments and reason its competence, despite them no longer being members of the Bureau. Ms Adriana Delgado, who also stood trial in the case, made the same claim in the course of the trial, as she was no longer a member of the Bureau either.

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

*3000 character(s) maximum*

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

*3000 character(s) maximum*

In Spain, due to the latest legislative reforms regarding accountability, citizens cannot hold judges directly and individually accountable for their acts unless such acts constitute criminal offences, because direct civil liability has been repealed from the law (see section V of the Preamble of Organic Law 7/2015 modifying Organic Law 6/1985, of July 1, of the Judiciary: [https://www.boe.es/diario\\_boe/txt.php?id=BOE-A-2015-8167](https://www.boe.es/diario_boe/txt.php?id=BOE-A-2015-8167)).

Therefore, judges can only be held accountable through judicial criminal proceedings or through disciplinary proceedings. Without entering into other considerations regarding the adequacy of these systems, there is reason to doubt their enforceability when it comes to holding the members of the highest instances of the judiciary accountable:

Criminal liability: the competent court to judge the criminal acts of the National High Court, High Courts of Justice and of the Supreme Court is the Second Chamber of the Supreme Court (see article 57.1 of Organic Law 6/1985, of July 1, of the Judiciary: <https://www.boe.es/buscar/act.php?id=BOE-A-1985-12666&p=20190725&tn=1#acincuentaysiete> ).

In practice this means that the criminal relevance of an alleged criminal action of a judge of the Supreme Court as well as, eventually, its judgment, befalls other Supreme Court judges.

There have been instances where Catalan pro-independence politicians have sued the judges hearing their cases. In the case of the members of the Bureau of the Parliament of Catalonia (see supra “Allocation of cases in courts”), Mr Josep Costa lodged a criminal suit with an Investigating Court in Barcelona, against the judge who heard his case, Ms Eugenia Alegret, in the investigating phase of the proceedings. Mr Costa claimed that Ms Alegret allegedly committed the crime of unlawful detention, as he was arrested for not appearing in Court when requested, the crime of perverting the course of justice, a crime against the inviolability of Parliament and a crime against the exercise of civil rights. Mr Costa further alleged that an ordinary investigating court should be competent to hear his case, unlike the provisions of article 57.1 of the Spanish Organic Law of the Judiciary. Hence, Mr Costa lodged the suit with an Investigating Court in Barcelona.

Disciplinary proceedings: the disciplinary authority regarding judges’ actions lays with the Council of the Judiciary (el Consejo General del Poder Judicial, CGPJ) which is also the body responsible for appointing the members of the highest instances of the judiciary through a system that has been criticized for its opacity and discretion, shading reasonable suspicion on the impartiality of the CGPJ when assessing the actions of the members of the highest instances of the judiciary.

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

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

3000 character(s) maximum

The issuing of EAWs against Catalan pro-independence leaders living in exile casts doubt on the independence of the judiciary in Spain. Starting from November 2017 all the way to 2021, the EAWs have been repeatedly issued, withdrawn, and reissued for “strategic” reasons, as admitted by the investigative judge of the case himself: Mr Pablo Llarena.

In November 2022, PSOE and Unidas Podemos political groups filed a proposal to amend the Spanish Criminal Code (see [https://www.eldiario.es/politica/documento-exclusivo-texto-sustituye-delito-sedicion-desordenes-publicos\\_1\\_9701792.html](https://www.eldiario.es/politica/documento-exclusivo-texto-sustituye-delito-sedicion-desordenes-publicos_1_9701792.html)). One of the main features of the proposal is that it repealed the crime of sedition, while noting: “(...) the high seriousness of the sentences provided up to this date taking into account not only the extent with which the crime is defined, but also the criminal framework of these crimes in other European legal systems”.

Indeed, Catalan pro-independence leaders currently living in exile (President Puigdemont, MEPs Comín and Ponsatí, Mr Puig and former MP Ms Marta Rovira), have been under investigation for, inter alia, this crime for five years.

In turn, the proposal amended the crime of public disorders and broadened the scope of the crime. The amendment further imposed harsher prison sentences for this crime in some instances, termed “aggravated public disorders”. The reform entered into force on 12 January 2023.

The President of the Government of Spain later stated in an interview that he was convinced that President Puigdemont would appear before Spanish courts and “answer for the crimes committed in 2017”. Further, the First Vice-president of the Government of Spain asserted that the extradition of President Puigdemont was a “goal that we all have” and that the difficulty of the extradition was because the crime of sedition does not exist in other countries.

As a result, on 12 January 2023, Mr Llarena issued an order whereby it removed the crime of sedition from the investigation and introduced the crime of disobedience instead. The former EAWs issued against them were withdrawn and new EAWs could eventually be reissued against President Puigdemont, MEP Comín and Mr Puig for the crimes of disobedience and embezzlement. The judge found that the reform does not offer them a “lesser criminal reproach”, but provides a context close to “decriminalization”. This observation is concerning, as the judge seems to be making a political comment on the matter.

The Prosecution of the Supreme Court appealed against the decision shortly thereafter. The Prosecution claims that the crime of “aggravated public disorders” should be introduced (except for Mr Puig and Ms Rovira) and further seemed to make political remarks in the appeal on the issue as well. Nonetheless, the reform had not been passed in 2017, when the facts occurred, and the crime thus finds no application in the present case.

## B. Quality of justice

*(Under this topic, you are not required to give statistical information but should provide input on the type of information outlined under section 2)*

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

*3000 character(s) maximum*

Resources of the judiciary (human/financial/material)

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

*3000 character(s) maximum*

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

*3000 character(s) maximum*

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

*3000 character(s) maximum*

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

*3000 character(s) maximum*

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

*3000 character(s) maximum*

## C. Efficiency of the justice system

*(Under this topic, you are not required to give statistical information but should provide input on the type of information outlined under section 2)*

Length of proceedings

*3000 character(s) maximum*



Several cases come to show the lack of efficiency of the Spanish justice system as regards the length of proceedings. A prime example are the proceedings brought against over thirty former Catalan government lower-ranking officials before Investigating Court no. 13 of Barcelona for the 2017 Catalan independence referendum. They are under investigation for the crimes of embezzlement, disobedience, perverting the course of justice, revelation of secrets and documentary forgery. Proceedings commenced in February 2017 after the filing of a suit against Catalan judge Santiago Vidal for certain public allegations he had made on the fact that the Catalan government would illegally have tax data of citizens. The suit would lead to an investigation on the organisation of the 2017 Catalan independence referendum.

Proceedings entailed arrests and searches in, inter alia, the premises of the Catalan Ministry of Economy in Barcelona on 20 September 2017. Nonetheless, other proceedings for the case had been carried out during months prior by the Guardia Civil (e.g., some individuals had been called in for questioning), although allegations of following the Court's orders were first dismissed by the High Court of Justice of Catalonia. <https://www.lavanguardia.com/politica/20180919/451908377153/juzgado-1o-barcelona-admite-investigaba-referendum.html>

The case is still in pre-trial stage and proceedings have been repeatedly adjourned. (see <https://www.vilaweb.cat/noticies/causa-del-13-cinc-quals-referendum-organitzacio/> and [https://www.elnacional.cat/es/politica/aplaza-vista-encausados-1-o-beneficiaran-dilaciones-rebaja-malversacion\\_934086\\_102.html](https://www.elnacional.cat/es/politica/aplaza-vista-encausados-1-o-beneficiaran-dilaciones-rebaja-malversacion_934086_102.html) )

In addition, in 2021, proceedings commenced in Investigating Court no. 18 of Barcelona against several other lower-ranking officials for the foreign affairs policy and Catalan diplomacy during the organisation of the 2017 Catalan independence referendum. As a result, two of the lower-ranking officials are allegedly under investigation for the same facts in both courts. A conflict of jurisdiction between both courts thus ensued and has yet to be resolved.

Lastly, some of the individuals currently investigated by both courts are being tried by the Spanish Court of Auditors (see infra "Safeguards for the functional independence of the authorities tasked with the prevention and detection of corruption").

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*

The Court of Auditors is, according to article 136 of the Spanish Constitution, “(...) the supreme body in charge of auditing State accounts and financial management, as well as those of the public sector”. This institution is not in the realm of the Spanish judiciary. Its members are elected by the legislature, both the Spanish Senate and the Spanish Congress of Deputies. This institution has been highly controversial, due to claims of nepotism and the fact that some of its members allegedly have several ties with Spanish political parties: (See, inter alia, [https://www.eldiario.es/politica/radiografia-tribunal-cuentas-ente-politizado-mayoriaconservadora-casos-enchufismo\\_1\\_8099253.html](https://www.eldiario.es/politica/radiografia-tribunal-cuentas-ente-politizado-mayoriaconservadora-casos-enchufismo_1_8099253.html)).

The Court of Auditors has persecuted and targeted several Catalan pro-independence politicians. On 26 June 2021, the Court of Auditors issued an order whereby it ordered 34 former government officials and public servants of the Catalan Government to pay a sum amounting to 5.4 million euros. These individuals had been involved, directly or indirectly, in the foreign policy of the Catalan Government between 2011 and 2017. The sum had to be paid in 15 days. Otherwise, their properties and assets would be seized. Most notably, Mr Andreu Mas-Colell, former Catalan Minister of Economics (2010-2016), was ordered to pay 2.8 million euros. Mr Andreu Mas-Colell, who is also an Economics professor, who has taught at Berkeley University and Harvard University, received support of 33 Nobel Memorial Prize in Economic Sciences laureates.

The preliminary hearing on the case took place in December 2022.

Moreover, we would like to note that in addition to the aforementioned facts, criminal proceedings are being brought against some of the individuals that are also being prosecuted by the Court of Auditors before the Investigating Courts and the Provincial Court of Barcelona ([https://www.elnacional.cat/es/politica/losacusados-de-organizar-1-o-reclaman-que-no-se-les-juzgue-dos-veces\\_693530\\_102.html](https://www.elnacional.cat/es/politica/losacusados-de-organizar-1-o-reclaman-que-no-se-les-juzgue-dos-veces_693530_102.html)) . The Court has dismissed claims on this issue. ([https://www.elnacional.cat/es/politica/tribunal-cuentas-descarta-archivar-fianza-duplicada-1-o-gastos-9-n\\_948600\\_102.html](https://www.elnacional.cat/es/politica/tribunal-cuentas-descarta-archivar-fianza-duplicada-1-o-gastos-9-n_948600_102.html))

In light of the foregoing, it can be concluded that this is a further example of how Spain uses its institutions to serve its own interests, thus running counter to the rule of law.

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

There have been instances whereby Spanish courts have failed to comply with its duty to carry out a sufficient investigation on attacks on demonstrators or journalists. In the course of the October 2019 demonstrations against the Spanish Supreme Court judgment that sentenced 12 Catalan pro-independence leaders, a photojournalist was injured while covering one of the protests and wearing her press identification. She was allegedly injured after being hit by a foam bullet fired by the Mosso d'Esquadra. The photojournalist lodged a suit with the courts, but the case was eventually dismissed. Nonetheless, on 10 October 2022, the Spanish Constitutional Court overturned the decisions of lower courts that dismissed the case. The Spanish Constitutional Court thus found a violation of the right to effective protection ex article 24 of the Spanish Constitution and that there was a duty to investigate the case.

In addition, there are other instances whereby journalists have been arrested in the course of demonstrations and ultimately brought to trial. Photojournalist Albert García was also covering one of the aforementioned demonstrations and wearing his press identification in his arm. He was taking a photograph of a Spanish law enforcement agent assaulting a demonstrator, when he was hit and violently arrested. Mr García ended up facing trial for two crimes of assault on the authority, one of them with injuries, and he was facing, inter alia, a sentence of 9 months in prison for each crime and a fine. On 28 October 2021, Mr García was acquitted.

See also Amnesty International report: "DERECHO A LA PROTESTA EN ESPAÑA «SIETE AÑOS, SIETE MORDAZAS QUE RESTRINGEN Y DEBILITAN EL DERECHO A LA PROTESTA PACÍFICA EN ESPAÑA»." (November 2022) <https://doc.es.amnesty.org/ms-opac/doc?q=exportaciones%20espa%C3%B1olas&start=2&rows=1&sort=fecha%20desc&fq=norm&fv=&fo=and>

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

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

3000 character(s) maximum

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

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

[1] This includes also the consultation of social partners

3000 character(s) maximum

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

3000 character(s) maximum

Regime for constitutional review of laws

3000 character(s) maximum

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

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

3000 character(s) maximum

## B. Independent authorities

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

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

3000 character(s) maximum

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

On 21 June 2021, the Parliamentary Assembly of the Council of Europe issued Resolution 2381 (2021) "Should politicians be prosecuted for statements made in the exercise of their mandate?" ("Resolution") (<https://pace.coe.int/en/files/29344/html>). In said Resolution, the Assembly invited Spain to carry out several measures. On 21 June 2022, the Committee on Legal Affairs and Human Rights of the same body declassified a follow-up report on the Resolution, ("Follow-up report") and assessed whether, and to what extent Spain had implemented the recommendations therein. (<https://assembly.coe.int/LifeRay/JUR/Pdf/DocsAndDecs/2022/AS-JUR-2022-15-EN.pdf>)

Firstly, Spain was invited to reform the criminal provisions on rebellion and sedition, according to para. 10.3.1 of the Resolution. Especially, "so that they cannot be interpreted in such a way as to invalidate the decriminalisation of the organisation of an illegal referendum, as intended by the legislature when it abolished this specific crime in 2005, or lead to disproportionate sanctions for non-violent transgressions;". On the latest developments on the issue, see supra category "Significant developments capable...".

Secondly, in para. 10.3.2 of the Resolution, the Parliamentary Assembly of the Council of Europe invited Spain to "(...) consider dropping extradition proceedings against Catalan politicians living abroad who are wanted on the same grounds". The Follow-up report found that "(...) Spanish authorities have not yet dropped their extradition proceedings against Catalan politicians living abroad who are wanted on the same grounds" and: "In my view, the arrest warrants and extradition requests still do not make sense in light of the pardons granted to the nine Catalans already convicted on the same grounds on which the politicians living abroad are wanted." (see also supra category "Significant developments capable...").

Moreover, para. 10.3.3 of the Resolution also invited Spain to "10.3.3. drop the remaining prosecutions also of the lower-ranking officials involved in the 2017 unconstitutional referendum and refrain from sanctioning the successors of the imprisoned politicians for symbolic actions merely expressing their solidarity with those in detention;". The Follow-up report mentioned that some cases are still pending, or lower-ranking officials have already been convicted. This recommendation is especially relevant, beyond the cases listed supra, in the cases of Catalan President Quim Torra and Pau Juvillà, (see infra "Follow-up by the public..."). On 11 May 2022, President Torra was again sentenced to 15 months of special barring from public office and a fine for disobedience.

Hence, we would like to underscore the fact that there has been a lack of follow-up by Spain of some rather pressing issues, set forth by the Resolution and noted by the Follow-up report, regarding the rule of law and human rights, especially in the case of the Catalan independence movement.



## C. Accessibility and judicial review of administrative decisions

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

*3000 character(s) maximum*

Judicial review of administrative decisions:

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

*3000 character(s) maximum*

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

*3000 character(s) maximum*

According to article 9.1 of the Organic Law 5/1985, of June 19, on the General Electoral Procedure, the Spanish Central Electoral Board (Junta Electoral Central – JEC) is a permanent body that consists of judges and professors. The JEC has been used to restrict freedom of expression and the political rights of national minorities.

In April 2019, the Spanish Central Electoral Board excluded President Carles Puigdemont and MEPs Toni Comín and Clara Ponsatí from the list. The decisions were appealed before several Spanish Courts, that confirmed that the candidates could run for the European Parliament election. On 10 June 2020, the Spanish Supreme Court upheld the JEC's agreement of vacating Mr Puigdemont's and Mr Comin's seats, and not including them in the list of elected candidates, for not coming to Spain to "swear" or "promise" to abide by the Spanish Constitution. On 10 June 2020, the Spanish Supreme Court also upheld the JEC's agreement of not providing the candidates with the accreditation of the European Parliament. Appeals against the decisions were dismissed by the Spanish Constitutional Court.

In this regard, on 22 September 2022, the President of the European Parliament sent a letter asking for a clarification as to why the JEC had only officially notified 55 out of 59 MEPs to the European Parliament. The JEC replied that it had been unable to issue the credentials of President Puigdemont, MEPs Comín, Ponsatí and Jordi Solé as they did not comply with the aforementioned requirement. The JEC further noted that their seats should remain temporarily vacant until the requirement was met. They are still serving as MEPs.

[http://www.juntaelectoralcentral.es/cs/jec/doctrina/acuerdos?](http://www.juntaelectoralcentral.es/cs/jec/doctrina/acuerdos?ayoseesion=2022&idacuerdoinstruccion=108785&idsesion=1024&template=Doctrina/JEC_Detalle)

[ayoseesion=2022&idacuerdoinstruccion=108785&idsesion=1024&template=Doctrina/JEC\\_Detalle](http://www.juntaelectoralcentral.es/cs/jec/doctrina/acuerdos?ayoseesion=2022&idacuerdoinstruccion=108785&idsesion=1024&template=Doctrina/JEC_Detalle)

JEC played a decisive role in the Catalan politics. It first filed a complaint against Catalan President Quim Torra for keeping a banner on the facade of the Catalan Government's Palace. A criminal procedure was filed and, in December 2019, President Torra was sentenced, for disobedience, to 1 year and 6 months of special barring from public office. The Supreme Court upheld the judgment. President Quim Torra was

barred from office thereafter and an election was called. In 2022, the Spanish Constitutional Court dismissed President Torra's amparo appeal and an application was lodged with the European Court of Human Rights.

Mr Pau Juvillà, a former MP of the Catalan Parliament and a former councillor in Paeria de Lleida, refused to remove the yellow ribbons hanging from Lleida City Hall during the 2019 Lleida City Council Election. Two Electoral Boards in Lleida had ordered such thing. Pau Juvillà was also sentenced, on 14 December 2021, for a crime of disobedience, to six months of special barring from public office. In January 2022, the JEC decided to withdraw his seat as MP, despite the judgment not being final. The Spanish Supreme Court upheld the decision.

## 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*

Freedom of speech and freedom of peaceful assembly are not duly protected in Spain.

In the past, international organisations and human rights organisations have expressed its concerns as regards the freedom of speech and freedom of peaceful assembly in Spain.

In February 2021, rapper Pablo Rivadulla (Pablo Hasél) was imprisoned, inter alia, for the crimes of slander and defamations against the crown and glorification of terrorism in his lyrics. Amnesty International deemed the imprisonment to be "unjust" and "disproportionate" <https://www.es.amnesty.org/en-que-estamos/noticias/noticia/articulo/amnistia-internacional-es-injusto-y-desproporcionado-que-pablo-hasel-entre-en-la-carcel/> . More than 200 Spanish artists issued a statement of support to Mr. Hasél: <https://ctxt.es/es/20210201/Firmas/35004/manifiesto-artistas-encarcelamiento-pablo-hasel.htm>

In a similar vein, rapper Josep Miquel Arenas (Valtònyc) has been living in exile, in Belgium, since 2018. Spain has requested his extradition for the offences of slander and defamations against the crown, threats and glorification of terrorism in his lyrics. Belgium repeatedly refused his surrender. The decision became final in May 2022.

In 2022, a proposal was filed to amend the crime of public disorders was amended, as noted above (see supra category "Significant developments capable of affecting..."). The reform amended the crime of public disorders and broadened the scope of the crime. It further imposed harsher prison sentences for this crime in some instances. In this regard, Amnesty International asked the Parliament to ensure that peaceful protest was not unduly criminalised and found that the definition of the crime that was proposed contained some elements of ambiguity that must be corrected. <https://www.es.amnesty.org/en-que-estamos/noticias/noticia/articulo/espana-la-reforma-del-codigo-penal-para-eliminar-el-delito-de-sedicion-es-una-buena-noticia-pero-debe-garantizar-que-no-criminaliza-la-protesta-pacifica/>. The reform entered into force on 12 January 2023.

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*

Through arbitrary court orders, the Spanish Judiciary has ordered the shutting down of websites controlled by civil society because of their political stance, regardless of the fact that the content of these websites was neither criminal nor otherwise illegal. There are many well-documented instances of these illegitimate interferences with the right to freedom of expression online: In 2017, more than 140 websites, including “empaperem.cat”, “cridaalademocracia.cat” and “assemblea.cat” were closed and this continued with the arbitrary website blocking in 2019 of tsunamidemocratic.cat website, with the pretext of terrorism. The censorship of the Judiciary went as far as pressuring Git Hub (company owned by Microsoft) to withdraw an open-source website repository. Git Hub included this attack against open-source software in its governments take-outs section (see: <https://github.com/github/gov-takedowns>) along with the take-outs of China and Russia, and published the letter sent by the Spanish paramilitary police “Guardia Civil” (see: <https://github.com/github/govtakedowns/blob/master/Spain/2019/2019-10-23-GuardiaCivil.md>) where the police demanded the censorship of the code repository because it had dissident content. Spain has been the first western country that has tried to block an open-source code repository in Git Hub, the most popular repository website where programmers from all over the world work together on their open-source code.

On 18 April 2022, The Citizen Lab published the report: “CatalanGate Extensive Mercenary Spyware Operation against Catalans Using Pegasus and Candiru”. The report identified that at least 65 individuals had been targeted or infected with mercenary spyware (Pegasus and/or Candiru). Victims included Catalan Presidents, MEPs, activists, members of civil society, lawyers, family members and others <https://citizenlab.ca/2022/04/catalangate-extensive-mercenary-spyware-operation-against-catalans-using-pegasus-candiru/>. The report further concluded: “(...) circumstantial evidence suggests a strong nexus with the government of Spain (...)”. Concomitantly, “How Democracies Spy on Their Citizens”, a piece by Ronan Farrow, was published in the New Yorker, and also reported on the case: <https://www.newyorker.com/magazine/2022/04/25/how-democracies-spy-on-their-citizens>.

As a result, some of the victims have lodged suits with Spanish courts but investigative proceedings are currently stalled (see, inter alia, [https://www.elnacional.cat/es/politica/querella-anc-catalangate-admitida-pegasus-esta-seis-juzgados-barcelona\\_794676\\_102.html](https://www.elnacional.cat/es/politica/querella-anc-catalangate-admitida-pegasus-esta-seis-juzgados-barcelona_794676_102.html) ; [https://www.elnacional.cat/es/politica/pere-aragones-planta-no-quiere-querella-pegasus-vaya-audiencia-nacional\\_913806\\_102.html](https://www.elnacional.cat/es/politica/pere-aragones-planta-no-quiere-querella-pegasus-vaya-audiencia-nacional_913806_102.html); [https://www.elnacional.cat/es/politica/fiscalia-abogacia-estado-oponen-causa-torra-costa-pegasus-vuelva-supremo\\_920790\\_102.html](https://www.elnacional.cat/es/politica/fiscalia-abogacia-estado-oponen-causa-torra-costa-pegasus-vuelva-supremo_920790_102.html); [https://www.elnacional.cat/es/politica/represion-judicial-independentismo-2023\\_945552\\_102.html](https://www.elnacional.cat/es/politica/represion-judicial-independentismo-2023_945552_102.html).)

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*

## Contact

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