

2023 Rule of Law Report - targeted stakeholder consultation

Fields marked with * are mandatory.

Introduction

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

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

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

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

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

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

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

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

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

Type of information

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

Legislative developments

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

Policy developments

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

Developments related to the judiciary / independent authorities

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

Any other relevant developments

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

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

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

About you

* I am giving my contribution as

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

* Organisation name

250 character(s) maximum

Border Violence Monitoring Network (BVMN)

Main Areas of Work

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

If "Other", please specify

Migration and Pushbacks, Human Rights

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

500 character(s) maximum

Border Violence Monitoring Network (BVMN; <https://www.borderviolence.eu/>) is an independent network of NGOs and collectives based on the so-called Balkan Route, Greece, and Turkey, which monitors human rights violations at the borders of the European Union and advocates to end the violence exerted against people on the move (POM)¹. BVMN came into existence in 2016, with the closure of the Balkan Route and the signing of the EU-Turkey Agreement.

Transparency register number

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

* Country of origin

Please add the country of origin of your organisation

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

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

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

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

- ☐ Uzbekistan
- ☐ Vanuatu
- ☐ Venezuela
- ☐ Viet Nam
- ☐ Yemen
- ☐ Zambia
- ☐ Zimbabwe

First name

Surname

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

* Publication of your contribution and privacy settings

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

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

☒ I agree with the personal data protection provisions.

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

Questions on horizontal developments

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

Overview topics for contribution

Please provide any relevant information on horizontal developments here

5000 character(s) maximum

Questions for contribution

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

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

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

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

Member State covered in contribution [only one choice possible]

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

- ☐ Austria
- ☐ Belgium
- ☐ Bulgaria
- ☒ Croatia
- ☐ Cyprus
- ☐ Czechia
- ☐ Denmark
- ☐ Estonia
- ☐ Finland
- ☐ France
- ☐ Germany
- ☐ Greece
- ☐ Hungary

- ☐ Ireland
- ☐ Italy
- ☐ Latvia
- ☐ Lithuania
- ☐ Luxembourg
- ☐ Malta
- ☐ Netherlands
- ☐ Poland
- ☐ Portugal
- ☐ Romania
- ☐ Slovak Republic
- ☐ Slovenia
- ☐ Spain
- ☐ Sweden

I. Justice System

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

3000 character(s) maximum

The term 'people on the move' refers to those who, for a variety of reasons, have left their country of origin due to, among others reasons, climate change, economic and social inequalities, political conflicts, terrorism, colonial legacies and organised crime. In addition, the term specifically includes those who are in the process of moving and are still in transit, or those who are stranded.

In the Rule of Law Report 2022, the Commission called upon Croatia to "ensure a more systematic follow-up to recommendations and information requests of the Ombudsperson" (<http://bit.ly/3kmYdYA>). In the past, The Office of the Ombudsperson has recommended a reform of the "Independent Monitoring Mechanism (IMM)", including closer EU surveillance on the matter (<https://bit.ly/3CSq1ux>). There was no public call made for the new agreement, therefore lacking transparency on the selection criteria of the actors involved, which remain the same (<https://bit.ly/3J1KXmu>). Furthermore, the lack of consultation of the claims of people on the move, NGOs and CSOs remain. The reform the Ombudsperson called for cannot be seen as completed as the improvements that have been made are minor, for example the operation of the "unannounced observations" referred to in article 6 are not clear (<https://bit.ly/3J1KXmu>).

Another recommendation was to address the use of strategic lawsuits against public participation (SLAPP) by tackling the abuse of defamation laws. No adjustments have been made to defamation laws to date. The reported steady increase in SLAPPs throughout 2022 shows that despite growing pressure, Croatia fails to respond to the Commission's recommendations (<https://bit.ly/3H9ohiW>).

A. Independence

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

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

3000 character(s) maximum

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

3000 character(s) maximum

Promotion of judges and prosecutors (incl. judicial review)

3000 character(s) maximum

Allocation of cases in courts

3000 character(s) maximum

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

3000 character(s) maximum

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

3000 character(s) maximum

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

3000 character(s) maximum

Independence/autonomy of the prosecution service

3000 character(s) maximum

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

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

According to Article 29 of the Croatian Constitution, everyone, regardless of their nationality, is guaranteed access to the courts. For numerous migrants and refugees, the struggle to enforce their constitutional rights and be heard in a court of law is very difficult, especially when the victims and potential plaintiffs of cross-border violations are no longer in the same jurisdiction as to where the violations took place. When people are subjected to pushbacks carried out by Croatian officials, they are no longer in Croatian territory or jurisdiction. They, therefore, lack access to legal or civil society services that could support their pursuit of justice against Croatian officials that breached Human Rights and illegally subjected them to violence (ENNHRI report, “Gaps in Human Rights Accountability at Borders, December 2021, page 8, <https://bit.ly/3AoJZdP>). Even for those that remain in Croatia, there is a systematic denial of access to the asylum system placing Croatia in variance with Article 29 of the constitution (ENNHRI report, “Gaps in Human Rights Accountability at Borders, December 2021, page 11, <https://bit.ly/3AoJZdP>). In 2022, BVMN’s partner organisations recorded over 117 pushback testimonies involving Croatia. BVMN’s testimonies alone record the treatment of thousands of people, including pregnant women and children (BVMN testimonies, <https://bit.ly/3FXE00C>). BVMN’s testimonies are merely a fraction of all illegal pushbacks that are carried out on a daily basis by the Croatian authorities. For a sizable portion of people, their experiences are unreported and unheard. Therefore, many more thousands of people were illegally denied access to the asylum process and thus, the justice system of Croatia in 2022.

Moreover, the ENNHRI highlighted that access to information is a gateway right intrinsic to guaranteeing access to courts, vital to both the rule of law in general and Article 29 of the Croatian Constitution. (ENNHRI report, “Migrants’ access to information on their rights”, <https://bit.ly/343nZZJ>). This gateway right is also extensively denied to migrants in Croatia. Croatian officials are described as failing to provide information to people on their rights, as well as outright lying about the meaning of certain documents, or their own intentions (shorturl.at/clqAS). This is combined with the fact that the supposed independent monitoring mechanism at the Croatian border is still wholly ineffective, with Croatian officials even entering Bosnia in order to perpetuate pushbacks (shorturl.at/bwFKY). Hence, Croatian courts are widely inaccessible for migrants, and in this regard, the rule of law is not respected by the Croatian justice system.

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

Since the beginning of 2022, Croatian police have begun handing out '7-day notice' expulsion decisions to people on the move. These documents are written in Croatian, and state that because the person has entered irregularly into Croatia, they must leave the European Economic Area within 7 days of the notice being delivered (shorturl.at/gtwX3). The document also states that should the person not follow this procedure, they will be forcibly removed from Croatia. This document is distributed only in Croatian, and without viable access to a translator, this leads to confusion among the recipients who regularly believe that it is a type of residency permit. This practice has led people on the move to seek out the document. This clearly demonstrates that Croatian police officers are not following domestic and international law as they obstruct the right to be informed about the deportation decision by not providing viable access to translations. Due to the strategically executed theft of mobile phones from people on the move by border police, (shorturl.at/bP239) it is often impossible for people served with the notice to access translations online. Over the past two years, the BVMN has recorded a total of 234 testimonies of pushback from Croatia which involved the theft of personal belongings (<https://adobe.ly/3HcMRPT>).

No appeal is allowed against the decision, however, the document states that an administrative dispute can be issued within 30 days from the date of the delivery of the decision. This 30-day deadline for appeal is too short for the vast majority of people on the move, who must first prioritise their own basic needs such as food, water and shelter, and additionally, do not have the knowledge or the expertise to initiate such proceedings within the Croatian system.

In addition to this, the administrative dispute does not have a suspensive effect, therefore anyone trying to contest their deportation will be deported regardless during the processing of the claim. The avenue of legal remedy is made further inaccessible by the fact that disputing this deportation order would not be covered in the majority of cases under the Croatian law on free legal aid (shorturl.at/AGKT1). While normally a person staying irregularly within Croatia is entitled to free legal aid when awaiting an expulsion decision, with these documents, the decision has already been made meaning no free legal aid is available, making access to a lawyer essentially impossible.

Furthermore, it must be noted that Croatian officials are acting beyond international and domestic law should this document be presented to any person who has expressed an intention to seek asylum, or where that intention should be obvious from the circumstances of the case. This would directly violate the person's right to asylum under Article 18 of the EU Charter of Fundamental Rights. The BVMN has recorded distribution of the decision paper at random, therefore confirming a possible breach

Other - please specify

3000 character(s) maximum

Structural gaps in accountability of state actors in charge of border protection, mainly due to a lack of serious and effective investigation of reported ill-treatment and illegal actions of the police, remain a major obstacle in achieving a necessary standard of efficiency in the Croatian justice system. Despite condemnation by EU institutions, domestic institutions, NGOs, and CSOs, the continued systematic execution of aggravated and violent pushbacks at the Croatian border by state authorities has been documented once again throughout 2022. In February 2022, the President of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment (CPT), Alan Mitchell, met with Croatian Minister of Interior Davor Božinović and reiterated the need to ensure migrants are not treated inhumanely or deprived of their liberty. The fact that this issue is still being raised more than two years after their initial visit stresses the persistent existence of this major issue.

While under public scrutiny, the Ministry of the Interior (MoI) has again not been held accountable for its supervision of violence. The Croatian Internal Control Service (ICS) of the MoI has been criticised in the past by the CPT for its lack of investigations (<https://rm.coe.int/1680a4c199>). In fact, the Committee found a complete absence of an effective accountability mechanism to hold perpetrators of violence and their enablers accountable. Contrary to this review, the mandate of the ICS has been neglected and the systemic use of violence and denial of fundamental rights at the border has been allowed to continue without repercussions. This shows an inherent failure within the Croatian border control system to respect fundamental human rights as there are no viable avenues for reconciliation available following the violation of rights through violent pushbacks.

The validation of pushback testimonies by the BVMN is further supported by other NGOs and CSOs who have reported similar as well as identical patterns (<http://bit.ly/3kaC8wi>). From the 1st of January 2022 to the 31st of December, the BVMN published over 117 testimonies of pushbacks from Croatia. Additionally, the Danish Refugee Council has recorded that a total of 1,395 people have been pushed back from Croatia to Bosnia and Herzegovina between early August and the end of November 2022 (shorturl.at/efTW4).

II. Anti-Corruption Framework

Where previous specific reports, published in the framework of the review under the UN Convention against Corruption, of GRECO, and of the OECD address the issues below, please make a reference to the points

you wish to bring to the Commission's attention in these documents, indicating any relevant updates, changes or measures introduced that have occurred since these documents were published.

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

3000 character(s) maximum

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

List any changes as regards relevant authorities (e.g. national agencies, bodies) in charge of prevention detection, investigation and prosecution of corruption and the resources allocated to each of these authorities (the human, financial, legal, and technical resources as relevant), including the cooperation among domestic authorities. Indicate any relevant measure taken to effectively and timely cooperate with OLAF and EPPO (where applicable)

3000 character(s) maximum

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

3000 character(s) maximum

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

3000 character(s) maximum

B. Prevention

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

3000 character(s) maximum

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

3000 character(s) maximum

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

3000 character(s) maximum

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

3000 character(s) maximum

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

3000 character(s) maximum

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

3000 character(s) maximum

C. Repressive measures

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

3000 character(s) maximum

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

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

3000 character(s) maximum

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

3000 character(s) maximum

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

3000 character(s) maximum

Other - please specify

3000 character(s) maximum

III. Media Freedom and Pluralism

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

3000 character(s) maximum

A. Media authorities and bodies

(Cf. Article 30 of Directive 2018/1808)

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

3000 character(s) maximum

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

3000 character(s) maximum

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

3000 character(s) maximum

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

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

3000 character(s) maximum

Safeguards against state / political interference, in particular:

- safeguards to ensure editorial independence of media (private and public)
- specific safeguards for the independence of heads of management and members of the governing boards of public service media (e.g. related to appointment, dismissal), safeguards for their operational independence (e.g. related to reporting obligations and the allocation of resources) and safeguards for plurality of information and opinions
- information on specific legal provisions and procedures applying to media service providers, including as regards granting/renewal/termination of licenses, company operation, capital entry requirements, concentration and corporate governance

3000 character(s) maximum

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

The Croatian Journalists Association has recorded a significant rise in the use of strategic lawsuits against public participation (SLAPPs) in both 2022 and previous years (<http://bit.ly/3iISrQK>). These concerns are so severe that they have led to the creation of the "Centre for the Protection of Freedom of Expression" (<https://bit.ly/3ZlglmC>). When a private organisation feels obliged to step in in order to protect a fundamental rights, it demonstrates the failure of Croatian institutions to uphold the rule of law. In January 2022, Balkan Insight reported that Index.hr, the news portal which published the instructions for Croatian police to carry out pushbacks while avoiding cameras, is facing 65 ongoing lawsuits (<https://bit.ly/3ZGs6Dk>). "High-ranking state officials, local sheriffs and even judges themselves" are amongst those filing repressive lawsuits (<http://bit.ly/3H9ohiW>). This observation raises concerns around the impartiality of the legislative, judiciary and executive in Croatia.

The Coalition against SLAPPs in Europe (CASE) states that around 90% of lawsuits against Croatian journalists have desisted, indicative that these cases are intended to intimidate and harass instead of pursue a viable claim (<https://bit.ly/3iMLJsY>). The former President of the Croatian Journalists Association, Maja Sever, who is herself facing a lawsuit, stated that Croatian criminalisation of defamation is the main issue to address in order to prevent SLAPPs. However, according to Sever, there is a lack of political will to adjust the law in order to secure freedom of speech and the security of journalists (<https://bit.ly/3kiKrWV>). As the Commission included the reform of Croatian defamation law in relation to SLAPPs in the recommendation of the 2022 report, the conscious denial of freedom of speech without legal repercussions for journalists is being enabled by the Croatian legislative.

Other - please specify

3000 character(s) maximum

IV. Other institutional issues related to checks and balances

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

3000 character(s) maximum

A. The process for preparing and enacting laws

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

[1] This includes also the consultation of social partners

3000 character(s) maximum

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

3000 character(s) maximum

Regime for constitutional review of laws

3000 character(s) maximum

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

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

3000 character(s) maximum

B. Independent authorities

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

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

3000 character(s) maximum

The border monitoring mechanism that was initiated by Croatia to independently monitor the work of national as well as international border guards and ensure that Human Rights are respected, fails to meet its goals. Reports have expressed serious concerns, particularly with respect to the mandate's effectiveness and independence. Croatia's Independent Border Monitoring Mechanism (IMM) published its annual report in which it clearly highlights the shortcomings, mainly the lack of access to areas of the "Green border" where pushbacks occur regularly. According to the Centre for Peace Studies in Zagreb, around 90% of recorded pushbacks from Croatia occurred along the "green border" (<http://bit.ly/3CQt2eW>). In addition to this, the IMM details that it does not have access to the information system of the Ministry of Interior. The lack of independence in the IMM is demonstrated clearly by this quote: "[...] the Mechanism could not observe the actions at the green border of the Republic of Croatia, except during announced visits to the green border conducted in the presence of authorised officers of the Ministry of Interior (MoI) and in line with their instructions." (<https://bit.ly/3IV6Vrl>). In February 2022, the Ombudsperson made it clear that the delay in the creation of the monitoring mechanism itself was regrettable, especially as it was funded by the European Commission (<https://bit.ly/3CSq1ux>). In this report, the Ombudsperson also made several recommendations

to the Commission on how to remedy the lack of efficacy of the IMM, however, none of these recommendations seem to have been implemented yet.

Since 2017, Davor Božinović remains Minister of Interior of the Republic of Croatia, despite the cases of criminal activity under his supervision.

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

In the 2021 report, the Office of the Ombudsperson issued several recommendations regarding the treatment of people on the move. The Ombudsperson called on the Ministry of Interior to discuss or create a definition of the term “pushback” in the Croatian language, which the MoI failed to effectuate. Furthermore, it highlighted that carrying out pushbacks that lack individual assessments of claims constitutes a violation of rights under the ECHR. The “European Charter of Fundamental Rights, the UN Convention against Torture, the UN Convention on the Status of Refugees, the Aliens Act, the International and Temporary Protection Act and other international, European and national regulations” (<https://bit.ly/3Wjpvwf>). From 31.12.2020 to 31.12.2022, the BVMN has recorded 236 testimonies of pushbacks from Croatia, affecting over 3,925 people (<https://bit.ly/3Jb7GMW>).

The Ombudswoman’s recommendation number 138 implored the MoI to follow the procedures of EU and international law towards unregistered people within Croatia. However, this recommendation clearly has not been followed, with BVMN still recording testimonies of illegal pushbacks from Croatia which are affecting thousands of people (shorturl.at/uFSV2). Croatian authorities can be consistently seen violating both EU and international law regarding migrant’s rights in these testimonies, with pregnant women and children frequently being the victims of this abuse. In one such testimony it was reported that once Croatian police intercepted a group of about 25 people on the move, they proceeded to beat them with sticks and use teargas on them (shorturl.at/gtFUW). This group of people consisted of children as young as six years of age.

In recommendation number 139, the Ombudswoman implored Croatia to provide national preventive mechanism representatives with access to all data on the treatment of irregular migrants, including data contained in the information system. As previously discussed in this submission, the Ombudswoman of Croatia was denied access to data on the treatment of migrants on multiple occasions during the unplanned visits of certain police stations (<https://shorturl.at/bgjqw>). This is in direct violation of both Article 19 and 20 of the OPCAT, and prevents the Ombudswoman from effectively fulfilling the mandate of the NPM.

Furthermore, Croatia did not commit to remedying this within their Action Plan on the implementation of the M.H. and Others v Croatia judgement (shorturl.at/bipVY).

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

The Administrative Jurisdiction Division of the Council of State of the Netherlands showed that Dublin deportations to Croatia should be reconsidered due to a risk of breaching Article 4 of the Charter of Fundamental Rights and Article 3 of the ECHR. Under Article 3(2) of the Dublin Regulation, it is impossible to transfer an asylum seeker to a country where they could be subject to inhuman or degrading reception conditions, or if there are serious grounds for believing that the asylum system has systemic deficiencies. In its judgement, the court emphasised that the right to asylum has to be guaranteed in a swift and effective manner, and as Croatia routinely pushes people back and denies them their right to asylum, a sufficient risk was established (<https://bit.ly/3GMKphx>).

In the case in which a volunteer was fined a disproportionate amount of money in comparison to his monthly income for allegedly aiding illegal border crossings, no review was made. The volunteer acted lawfully in informing a family on the location of the nearest police station so that they could express their intention to claim asylum in Croatia (<http://bit.ly/3XdLkyx>). Through the judgement of *M.H. and Others v Croatia*, which underlined the requirement of the individual assessment of claims and the right to apply for asylum; the allegations against the volunteer seem fallacious. The lack of review of the decision in the case of the volunteer, which found a human rights defender acting within the law guilty of aiding illegal border crossings shows the widespread disregard for the fundamental right to claim asylum, not just within the executive, but also within the judiciary.

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

On the 4th of April 2022, the Grand Chamber of the European Court of Human Rights rejected Croatia's request for reconsideration of the *M.H. and Others v Croatia* judgement (<http://bit.ly/3Xx2M1u>). On 03.08.2022, BVMN submitted its Rule 9 submission regarding the implementation of this case. In that submission, one of the recommendations made by BVMN was to ensure the access of the Ombudswoman of Croatia to data and to places of detention. In performing the mandate of the National Preventive Mechanism (NPM), the Ombudswoman is authorised under articles 4, 19 and 20 of OPCAT and Art. 3 and 5 of the ANPM to make unannounced visits to places where there are, or may be, persons deprived of their liberty, and to freely access any data on their treatment, that is, the treatment of anyone in any kind of detention, custody, or being held under surveillance and unable to leave of their own volition. However, in the Report on the Performance of the Activities of the National Preventive Mechanism for 2020, the Ombudswoman revealed that they were denied access to information regarding the treatment of migrants and case data on multiple occasions during unannounced visits to certain police stations (<shorturl.at/bgjqw>). Despite the clear violation of both the OPCAT and the ANPM taking place, Croatia did not commit to remedying this within their Action Plan which was communicated in December 2022 (<shorturl.at/jltwP>). The upheld judgement solidifies the prohibition of collective expulsions and lack of effective access to legal pathways. However, throughout 2022, the BVMN has recorded numerous testimonies of pushbacks lacking individual assessment of asylum claims, showing a complete disregard for the enforcement of the judgement by Croatian officials. It further highlighted the failure of Croatian authorities to investigate these incidents accordingly. The judgement highlights major structural barriers to the rule of law in Croatia (§123).

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

Contact

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