

# 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*

Centre for Democracy and Law Miko Tripalo

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*

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

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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[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

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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*

1. Reconsider the newly introduced periodic security checks:

No new developments following the Constitutional court's decision to suspend the corresponding provisions in the law.

The Venice Commission rightly opposed the introduction of such checks, but unfortunately also stated that Croatia does not need new instruments for accountability. It did not provide any reasoned opinion for this conclusion, except for simply enumerating the existing instruments, while not explaining why they should be considered effective based on the current experience in Croatia. The Commission also ignored the highly negative reputation of the Croatian judiciary in public, which should have prompted it to provide a more careful assessment. Instead, it concluded its report with a cryptic sentence that the government should “develop an alternative strategy to ensure judges’ integrity, based on other existing mechanisms.” It left unexplained what could be the meaning of the “strategy” if no new mechanism is to be introduced and the government does not have any direct role in the current system of the disciplinary proceedings.

The Centre Miko Tripalo argued against the security checks primarily because these reports cannot be used as permissible evidence in the disciplinary proceedings, which makes them effectively meaningless for the stated purpose. Moreover, the Constitutional Court recently made the use of such reports ineffective even in decisions on promoting judges.

2. Strategic lawsuits against journalists.

There was no substantive progress in 2022, as the cases continued to propagate, including those initiated by judges which have high impact. In a recent case, a retired judge got a compensation from a journalist higher than journalist’s 8 months pension. Members of the judiciary have otherwise claimed that the issue has been addressed by limiting compensation decided by courts to about a quarter of this amount.

The President of the Supreme Court tried to open the issue of SLAPPs at a roundtable in July 2022, but his initiative was opposed by several attending Supreme Court judges, as were his other initiatives on this occasion, including those for reviewing the regulation on out-of-court remunerated activities of judges. No progress on these issues has been visible since then. Civil society organizations have proposed various measures, including that judges can sue journalists only upon obtaining permission from president of the court, and that all the sentences against media and journalist be immediately published in a non-anonymized form.

## A. Independence

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

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

*3000 character(s) maximum*

In the context of e-Consultations on the amendments to the Law on the State Judicial Council (SJC), the Centre for Democracy and Law Miko Tripalo (CMT) pointed out that the system of electing members of the SJC is non-transparent: Supreme Court, which organizes the elections and appoints the Election Board, does not make publicly available the names of all candidates who applied. The Election Board does not publish the results of the preliminary voting in the election units. It does not publish the Rules for the Work of the Candidacy Boards, or its instructions to the Candidacy Boards. According to the law, there could be 15 candidates per each position in the final voting, but the law does not say what happens if the number were larger. In reality the number of final candidates is smaller. For unknown reasons, in 2022 there were only 2 individuals on the final list of candidates from the first-level courts, while there were 9 candidates in the 2018. For one group of provincial courts, there was only one candidate. In another group, the number of candidates fell from 5 to 2. In the group of high courts, the number fell from 5 to 3, and in Supreme Court from 5 to 4 (two get elected). The final election is based on only one round of voting, where a relative majority is sufficient to be elected. With one candidate in the election unit, as it happened in the last election, she can be elected by a single vote in her favour. The CMT pointed out that such system allows that one to be elected with a very small number of votes. This favours organized minorities that can influence the composition of the SJC. To address transparency issues in the elections, the CMT proposed the following: First, each candidate should submit a statement on his purpose for running and the objectives he wants to achieve. Second, as with the elections for higher judicial positions, the law should provide that all candidate documents submitted for election be published on the website. Third, the amended law should provide for the possibility that chambers of lawyers, academic institutions and civil society organizations give their opinion on candidates before the voting. Fourth, the amended law should stipulate that candidates in all electoral units should be elected by two rounds of voting, or alternatively by a system of preferential voting. Fifth, with the aim of democratizing the elections, we suggested reintroducing the voting system that was applied until the legislative reform in 2018, when all the judges voted for candidates from all the electoral units. In its replies MoJ accepted that CVs of candidates be published, and indeed this was done ahead of elections in late 2022. MoJ however declined the publication of other information, invoking personal data protection. It also declined for other stakeholders to be able to comment on the candidates. Regarding the voting system, it stated that the current one was chosen to facilitate a more balanced territorial representation.

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*

The amendments to the Law on Judiciary eliminated the possibility of discretionary allocation of cases in some courts that had not yet switched to the automatic random allocation. Centre Miko Tripalo (CMT) in its comments in e-Consultations, welcomed the change. However, subsequently CMT discovered that the Ministry (MoJ) using By-law on e-File introduced another method of allocation for some cases based on a circular allocation according to alphabet and the date the file is registered by the receiving by court. The date of registration can however be influenced by various actors, particularly in cases where the appeals to higher courts are not sent electronically. The By-law in fact prescribes that appeals to several higher courts should be sent manually, i.e., in hard copies. Some of these courts do not use the random allocation at all, and only rely on the circular method. The rationale for selecting types of cases for the two alternative method of allocation in various types of courts are not clearly explained, nor is the logic visible from the lists included in the By-law. CMT also pointed out that the By-law did not clearly specify how MoJ calculates the so-called “final probability” in the random allocation. The algorithm is supposed to use several factors (load, workload, total load, real load), of which only one is adequately defined. Moreover, the factors used for the initial allocation are different from those that are to be used in re-allocating the cases with the purpose equalizing workload among judges, which is prescribed to take place every three months. In our view, the frequent re-allocation of cases can also affect the degree of randomness. CMT requested from the MoJ documents that define the calculation of the “final probability”, and those that define the variables referred in the text and used in the process of allocation. The reply received from the Ministry did not include the requested documents while the accompanying letter did not additionally clarify these issues. In late August 2022 CMT requested intervention from the Public Commissioner for Information, asking him to order the MoJ to deliver the requested documents. In January 2023 the Commissioner cancelled the MoJ’s reply and requested that it provide a new one. Subsequent discussion at a round table organized by CMT revealed that the IT technology did substantially reduce the risks of disorderly allocation of cases, particularly at lower-level courts. There was also agreement that parts of the By-law lack clarity. In practice, the quarterly relocation just for equalizing the workload seems to taking place rarely, despite being mandated by the By-law (it does take place in cases of longer absence of judges and similar). In CMT view, the alternative circular allocation mechanism needs to be incorporated in the law if it is indeed necessary. By-law, which was subject to amendments that adversely affected its quality, needs to be rewritten to improve clarity.

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*

The government's legislative action to impose regular security checks on all judges was an ad hoc reaction to scandal in which a criminal fugitive published convincing proof of bribing three judges. The purpose was to calm the public.

In the context of e-Consultation, Centre Miko Tripalo (CMT) argued that the accountability framework needs to be strengthened in a different way, specifically by establishing a special office within the Presidency of the Supreme Court that would be allowed to start investigations based on complaints from citizens that would be entitled to seek assistance of government institutions in these investigations. Based on its findings, the President of the Supreme Court, the only person in judiciary who has democratic legitimacy, would then submit the case to the State Judicial Council (SJC). Such mechanisms would address the demonstrated unwillingness of presidents of the courts to initiate disciplinary procedures. Moreover, the current law explicitly discourages presidents of courts to act by stipulating that he/she can be dismissed if it has abused his power of initiating a disciplinary proceeding.

In addition, CMT argued that disciplinary proceedings against judges should be made public.

In its reply, the Ministry of Justice and Public administration argued that the law already now allows the SJC to appoint investigative committees.

However, given that under the law the presidents of courts play the role of prosecutors, the possible appointment of an investigative committee after the case has already been submitted to the SJC, which acts as a court, comes too late in the procedure, and cannot be used to establish evidence for initiating and arguing the case, although it might be used for defending the accused. Over the last 12 years the SJC established such a committee only twice.

The Ministry in its reply argued that citizens can submit complains to presidents of courts because of undue delays in cases or of improper or inappropriate behaviour of a judge (Article 4 of the law).

This possibility does indeed exist, but the effectiveness of such complaints is unknown as no statistics on the number and the outcomes of such complaints is regularly published. Exceptionally, in the last two annual Reports of the Supreme Court it is stated that there were about four and a half thousands such complaints in each year (which is almost three per one judge). The Reports considered that these numbers are negligible and prove that users of court services do have confidence in the judiciary. Their argument was that the number of complaints divided by the number of cases was small.

In the meantime, another case of directly bribing a judge, who was well-known in public for highly controversial repeated rulings in an unrelated high profile criminal case, was discovered. The judge resigned, but the case again affected the reputation of 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*

Judges do not receive performance bonuses, but the regulations on extra-court earnings are liberal. The law explicitly allows remuneration from lecturing, publishing, and membership in various boards. The membership in arbitration boards is not mentioned, but high court judges interpreted a reference in the Law on arbitration as permission to engage in this activity as well. Compensation in such boards can often be high, but so is the risk of conflict of interest and corruptive influences. Judges in general consider that they do not have obligation to report on these activities to president of their court or seek permission from the State Judiciary Council (SJC), which currently gives permissions only for renting out summer houses, and similar. Finally, the SJC does not require that judges report the sources of their extra-court incomes, only the total amount. Some highly positioned judges claimed that possibility of earning income outside of courts is in line with the EU Council position, which reportedly allowed "that judges may engage in other activities but should be guided by ethical principles." The Council in fact said that "(t)o avoid actual or perceived conflicts of interest, their participation should be restricted to activities compatible with their impartiality and independence." Introducing performance bonuses would otherwise be a reasonable option, given the low efficiency of courts and the fact that the salaries are on a low side in international comparisons. However, for such bonuses one would need performance standards set based on solid statistics, which is currently not the case. This reflects the fact that judges are not obliged to report on how many ours in a month they worked on individual cases. Neither are the office hours recorded. Regarding the fines or recovery from judges: Croatia loses a lot of lawsuits because its courts did not provide fair judgements in a reasonable time. In principle, the ensuing costs could be recovered from judges who disorderly conducted the case. Centre Miko Tripalo asked 4 largest state attorney offices whether they tried to recover any fines from judges over the last 5 years. Three offices replied that they do not keep such statistics, while one admitted that they did not have any such case. We also identified 10 extreme cases of long delays for which the Constitutional Court explicitly criticized courts for disorderly handling the cases. We asked these courts whether they subsequently took some disciplinary or other measures to remedy the issue. In none of these cases did we find any evidence that corrective actions of any kind had been taken. The ECHR considers that the Croatian procedure for accelerating unreasonably long law-suits and providing compensation is not an effective legal remedy. The same conclusion was reached by the Constitutional court, which in March 2021 requested that the government address the issue. No step taken so far.

#### 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*

We would like to use this opportunity to point out that the established approach of the Commission to the public opinion on judiciary needs to be made somewhat more complex.

The 2022 staff working document for Croatia reported, as in the previous years, that “the level of perceived judicial independence in Croatia continues to be very low both among the general public and companies.” This is then followed by a description of minor changes in this indicator over last 5 years, while skipping the fact that this indicator for Croatia is the worst among the EU countries. More importantly, no explanation for such performance is offered.

Croatia has granted to all judges a life-time employment from the first entry into the profession and has given to the judicial hierarchy full self-governance in respect to hiring, promoting, and disciplining of judges. In such an institutional set-up, it is highly unlikely that any politicians from the outside of courts can put pressure the judges. This however does not mean that judges might not be politically biased.

However, the EU Flash Barometer survey designed by the Commission’s General Directorate gives to respondents only one option to express their negative opinion on the judiciary, and this is about independence and existence of political interventions and pressures. In absence of other options, this is what respondents chose.

We therefore suggest that the Commission’s flesh survey addresses other possible causes of unfavourable public opinion about the judiciary. You may wish to consider asking public whether it sees that part of judges is behaving below ethical standards, or is engaged in corrupting activities, if it appears as connected with political elites and as protecting these elites or is directly engaged in political activities. It would also be of interest to explore whether Croatian public sees the disciplinary proceedings in the judiciary as effective and transparent, or as ineffective and non-transparent. This could help in explaining the issue of highly unfavourable rating of the independence of Croatian judiciary system that is currently reported in the EU Legal Scoreboard.

## 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



By budget costs relative to GDP, Croatian judiciary system is among the most expensive in the EU, it has the largest number of judges and other judiciary personnel relative to population, while the length of civil proceedings is among the longest. The weak efficiency results in a large number of outstanding cases despite the fact that the inflow of new civil litigious cases per judge is much below the EU average. This reflects the absence of accountability, weak financial incentives, and low skill level of judges (39% percent of civil cases do not pass on appeal). In early 2022 the Government proposed, and the Parliament legislated amendments to the Law on Civil lawsuits. The most important novelty was introduction of time-limits for several individual phases and the total duration of civil lawsuits. Participating in the public debate on the proposed amendments via eConsultations platform, the Centre for Democracy and Law Miko Tripalo (CMT) pointed out that the government at that time was not (and today it still is not) publishing statistics on the duration of these phases and the total duration of cases up to finality. For assessing the proposed time-limits, one would need to know not only their average time-length in the recent years and their distribution. Only on such basis, one could set reasonable time-limits and possibly prescribe their gradual reduction in the future. Furthermore, we pointed out that the proposed time-limits were at least twice as long as what could be considered reasonable. (For example, the time limit for a civil lawsuit in the first instance court was set at three years.) Setting such long time-limits would make sense only if their exceedance would automatically trigger a process of identifying the causes and establishing the responsibilities. The proposed amendments however did not envisage any subsequent action. It was pointed in public debate that currently such time limits exist in the area of labour law, but are widely not observed. Specifically, we proposed that in case of exceeding the time-limits, the president of competent court must submit a report to the Minister and the President of the Croatian Supreme Court assessing whether there are reasons for initiating disciplinary proceedings, and if not, whether other actions are needed to keep trials within a reasonable time limits in the future. The same would apply to all cases that Croatia lost due to violations of the right to a fair trial within a reasonable time. The CMT submitted the same proposal during the debate on amendments to the Law on State Judicial Council. The government in its reply stated that it accepts the proposal, but that the issue should be addressed in acts dealing with the judicial administration. At this moment, we are not aware whether some steps have been taken. The Ministry did not accept our proposal to open debate on the system of court statistics.

Other - please specify

*3000 character(s) maximum*

In the public debate on the National plan for development of judiciary, Centre Miko Tripalo (CMT) submitted the following comment: The proposal of the National Plan did not address the problem of high budget costs of the Croatian judiciary relative to the GDP, according to EU data. The number of courts and the excessive multi-layer structure of the court system significantly affect the level of costs. Croatia currently has sixty-seven courts, while some countries in the EU, known for the efficiency and high international reputation of their judicial system, have a significantly smaller number (Ireland has 7). Moreover, Croatia has a complex vertical structure of courts with five levels. This not only increases costs but also affects the length of the proceedings and the uniformity of the case law. It would be worth examining the possibility of reducing the number of courts and simplifying their vertical structure. For example, the number of the second instance (county) courts could be reduced to four, and all the high courts could be integrated into the Supreme Court. Without prejudicing the findings, we suggested that the National Plan foresees doing a study on this topic. The proposal was not accepted. CMT also pointed out the harmfulness of the current practice in which less than 5% of decisions of the county, i.e., second-level courts, are published, and an even smaller percentage of the first-level, municipal, courts. The Supreme court even made a step back and stopped publishing all rulings in cases where individuals sue the government for not ensuring fair adjudication in reasonable time. These rulings demonstrate often dysfunctional behaviour of judiciary. The absence of publication of rulings contributes to the disparity in the case law and makes it difficult for the parties to initiate a judicial review, which is permitted if the practice differs between the second-level courts. The deadline for publishing all court decisions set for 2027 is inconsistent with the urgency of the need and should be shortened considerably. Furthermore, we proposed that lawyers, law professors, and journalists be granted full access to the existing electronic files of court decisions, which can now only be accessed by judges and officials of the Ministry of justice. We warned that the existing rule imposed by the Supreme Court that all published rulings must be anonymized does not necessarily follow from GDPR and that several EU countries anonymize court rulings only in cases of justified requests by parties, or in specific cases such as family relations, while other countries acknowledge public interest by exempting the court cases of public interest from the anonymization. We proposed therefore to review the present decision on the full anonymization of the published decisions. The Ministry admitted that the practice of anonymization varies among EU countries, but it did not accept the proposal.

## II. Anti-Corruption Framework

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

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

*3000 character(s) maximum*

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

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

*3000 character(s) maximum*

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

*3000 character(s) maximum*

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

*3000 character(s) maximum*

## B. Prevention

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

*3000 character(s) maximum*

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

*3000 character(s) maximum*

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

*3000 character(s) maximum*

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

*3000 character(s) maximum*

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

*3000 character(s) maximum*

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

*3000 character(s) maximum*

## C. Repressive measures

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

*3000 character(s) maximum*

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

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

*3000 character(s) maximum*

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

*3000 character(s) maximum*

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

*3000 character(s) maximum*

Other - please specify

*3000 character(s) maximum*

### III. Media Freedom and Pluralism

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

*3000 character(s) maximum*

#### A. Media authorities and bodies

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

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

*3000 character(s) maximum*

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

*3000 character(s) maximum*

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

*3000 character(s) maximum*

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

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

*3000 character(s) maximum*

Safeguards against state / political interference, in particular:

- safeguards to ensure editorial independence of media (private and public)
- specific safeguards for the independence of heads of management and members of the governing boards of public service media (e.g. related to appointment, dismissal), safeguards for their

operational independence (e.g. related to reporting obligations and the allocation of resources) and safeguards for plurality of information and opinions

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

*3000 character(s) maximum*

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

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

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

*3000 character(s) maximum*

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

*3000 character(s) maximum*

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

*3000 character(s) maximum*

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

*3000 character(s) maximum*

Other - please specify

*3000 character(s) maximum*

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

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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

## 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

## 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

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

