

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

International Press Institute

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

<https://ipi.media/>

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

370877536078-58

* 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

Oliver

Surname

Money-Kyrle

Email Address of the organisation (this information will not be published)

[REDACTED]

* Publication of your contribution and privacy settings

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

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 Organisation name, URL, transparency register number, first name and surname given above will not be published.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- ☐ No publication - Your contribution will not be published.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

☒ I agree with the personal data protection provisions.

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

Questions on horizontal developments

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

[REDACTED]

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

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

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

Other - please specify

3000 character(s) maximum

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

No measures have been taken to respond to the recommendations of the 2022 report.

Rather, pressure on the media in Poland continued in 2022. At the end of 2022, the media regulator, KRRIT, opened an investigation into leading independent broadcaster TVN for its documentary on the Smolensk air disaster broadcast in September 2022 that contradicted the official PiS position that the crash, which killed then-President Lech Kaczynski, was a result of Russian sabotage. The documentary says the official inquiry ignored vital evidence that proved the crash was an accident and accused Antoni Macierewicz, who led the inquiry, of refusing to publish the evidence. KRRIT has accused TVN of 'propagating false information and 'threatening public security'. KRRIT could potentially impose heavy fines and use the case to revoke TVN's license, which is due to expire in 2024. The KRRIT chairman has confirmed that the investigation will include to what extent the broadcast violated the terms of TVN's broadcast license.

In another development, the Polish Ministry of the Interior confirmed in October 2022 that the State Protective Services (SOP) have the right to refuse entry of journalists to public events on security grounds. The decision came after the Commissioner for Human Rights, Marcin Wiacek, took up a complaint after the SOP refused entry of journalists from TN, Gazeta Wyborcza, Gazeta Krakowska and Tygodnik Podhalanski to the Solidarity Congress in May attended by President Andrzej Duda.

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

Media regulators in Poland continue to lack functional independence from the government. Both the KRRiT and the National Media Council are controlled by figures appointed by the ruling Law and Justice (PiS) party, handing the government indirect control over their operations.

The Polish national broadcasting council, KRRiT is responsible for overseeing broadcasting with the power to issue licenses and to stop broadcasters which breach Polish law.

In July 2022 the Sejm elected three new members of the National Media Council, all of whom are members of the governing party PiS. President Duda selected the remaining two candidates from a list provided by the opposition parties. But the 3-to-2 majority ensures PiS control for the next six years. The NMC appoints members of the management and supervisory boards of the Polish Television, Radio and Press Agency. PiS control of the NMC has been central to converting public media into PiS propaganda tools.

Through the National Media Council, PiS therefore wields significant power in deciding the composition of the country's public service media, handing the party indirect influence over shaping programming and editorial policy. The 2022 elections have significant consequences for the future of public broadcasting in Poland and effectively solidify the control of PiS over the regulator well past the next election right up until 2028.

The Office of Competition and Consumer Protection (UOKiK) pursues antitrust investigations, including in the media market. These investigations have been used to prevent mergers that would strengthen media companies perceived as opponents while approving fusions of pro-government media. In January 2021 UOKiK blocked Agora from purchasing a 40% stake in radio company Eurozet "to avoid a harmful duopoly" with the current radio market leader RMF. Agora bought a minority 40% stake in Eurozet in 2019, with the other 60% acquired by the Czech SFS Ventures fund linked to billionaire George Soros. UOKiK's decision followed strong opposition by PiS officials to the merger. Agora denounced the decision as "arbitrary and selective" which "protects Agora's competitors, not competition".

Meanwhile, in 2021 UOKiK also approved the takeover by Poland's state-controlled energy giant PKN Orlen of Polska Press, the country's largest regional publisher, despite the evident dangers to media pluralism and editorial independence. This decision was temporarily suspended by the Warsaw regional court following an appeal by the Human Rights Ombudsman. Despite legal instructions by the District Court for Orlen not to make any personnel changes in the management board, it began to dismiss members and replace them with its own appointments. In June 2022 the Warsaw regional Court of competition dismissed the appeal and the new Commissioner for Human Rights decided against any further action thereby confirming the acquisition of Polska Press by PKN Orlen.

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

The Broadcasting council, KRRiT is responsible for overseeing broadcasting with the power to issue licenses and to penalise broadcasters which breach Polish law. It has five members with the latest members appointed in October 2022. The new chair is Maciej Świrski, formerly Chair of the Supervisory Board of the Polish Press Agency (PAP), and the new Deputy Chair is Agnieszka Glapiak, previously Director of the Government Information Center. PiS control of KRRiT is assured for another six years. Members must resign from any political parties and cease any related business activities.

Office of Electronic Communications (UKE) The president of UKE is appointed by the Sejm and the deputy presidents are appointed by the Minister of Digital Affairs. All three positions have been appointed in the past year and therefore by PiS.

The Office of Competition and Consumer Protection (UOKiK). The president of UOKiK was appointed by the prime minister in January 2020.

The National Media Council has five members of which three are appointed by the Sejm and two by the President. Members hold six year terms.

Due to PiS's control, the council's appointments for management of the public broadcasters are non-transparent and suffer from regular political pressure and government interference. When for example the Council voted to remove the head of TVP and staunch PiS ally Jacek Kurski from his post in 2020, PiS leadership intervened and the regulator was forced into an embarrassing reversal. As a result of these high levels of political influence, TVP consistently ranks as the least trusted major news source in the country.

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

Since 2015, numerous state institutions and state-owned and state-dependent companies have ceased to subscribe to or place advertising in critical media, cutting off an important source of funding. Liberal titles like *Polityka* and *Newsweek Polska* have been boycotted altogether and seen revenue from state advertising drop by 98-100% since 2015. In 2020, the liberal daily *Gazeta Wyborcza* was the only major media outlet in Poland to be excluded entirely from a government sponsored public awareness campaign about COVID-19, denying hundreds of thousands of readers important health information.

At the same time, public advertising has been used to reward and fund media towing the party line. Studies show that spending in conservative outlets like *Gazeta Polska*, *Wsieci*, *Radio Maryja* and *Nasz Dziennik* – often owned by PiS allies - has increased significantly during the same period.

This carrot and stick approach has resulted in private media outlets such as TV station *Polsat* gradually softening its editorial approach towards the government in return for more favourable advertisement placement.

This “indirect sponsorship” has led to the creation of a pro-government media bubble, with newly established pro-PiS portals reaping the rewards to amplify nationalist rhetoric but display little adherence to journalistic standards.

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

The Polish government has abused its political control over several key regulatory bodies to muzzle independent journalism and wield greater control over the nation's media sector.

Under the National Media Council's watch, Telewizja Polska has since been distorted into one of the most unbalanced and politicized broadcasters in the EU. TVP's news coverage is systematically biased, with reporting overwhelmingly favourable to the ruling party. Certain opposition parties are blocked from appearing on the airwaves at all. The broadcaster has regularly been accused of spreading disinformation and airing xenophobic and anti-Semitic views. During elections in particular, coverage is also deeply one-sided and acts as a propaganda tool for the government and its allies. Reporting is selective and self-censorship amongst journalists is widespread.

2021 witnessed a battle by PiS to force the sale of influential private broadcaster TVN, which is owned by the US media conglomerate Discovery, through the proposed 'Lex-TVN' legislation, which would have banned licenses for media with over 49% foreign ownership. The law eventually passed the parliament in December 2021 before it was vetoed by President Duda.

Discovery's application for the extension of the broadcast license for TVN24, TVN's all-news channel which is the most watched news program in Poland, was withheld until the last minute by KRRiT. The application was submitted two years earlier but only approved days before the license was due to expire. This drew accusations from critics of unnecessary regulatory pressure on TVN. During this time, members of PiS repeatedly singled out TVN24 for negative attacks and called for the license renewal to be blocked. In February 2022 TVN 7, a part of TVN, only received confirmation of its license renewal at the very last minute before it expired on 25 February despite applying 12 months ahead of schedule. License renewal should be a formality – businesses suffer if they cannot anticipate licensing decisions.

In December 2022, the broadcast media regulator, KRRiT, opened an investigation against TVN for its documentary on the Smolensk air disaster broadcast in September 2022, which contradicted the official PiS position that the crash, which killed then-Polish president Lech Kaczynski, was a result of Russian sabotage. The documentary says the official inquiry ignored vital evidence that proved the crash was an accident and accused Antoni Macierewicz, who led the enquiry, of refusing to publish the evidence. KRRiT has accused TVN of 'propagating false information and 'threatening public security'. KRRiT could potentially impose heavy fines and use the case to revoke TVN's license, which is due to expire in 2024. The KRRiT chairman confirmed that the investigation will include to what extent the broadcast violated the terms of TVN's broadcast license.

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

The government advocates for the “repolonisation” and deconcentration of the media, concepts which are a cover for forcing out foreign investors so that PiS allies can take over the media and impose pro-government editorial lines.

Foreign investment in print media is not currently restricted. Foreign companies are estimated to be invested in 40% of the country’s publications and own about 75% of distributed circulation. The two largest remaining foreign owners are the Swiss-German Ringier Axel Springer Polska, which publishes Fakt, Newsweek and ONET.pl, and TVN, owned by U.S media company Discovery.

In 2021 the state-controlled energy giant PKN Orlen completed its purchase of Polska Press from the German Verlagsgruppe Passau following the approval of its takeover by the competition regulator UOKiK. Polska Press includes over 20 regional dailies, 120 weekly magazines and 500 online portals across the country and indirect access to an estimated 7.4 million readers. In June 2022 the purchase finally received full legal approval after the Warsaw regional Court of competition dismissed the appeal submitted by the Commissioner for Human Rights against the takeover on media pluralism grounds.

In November 2020 PKN Orlen also purchased a 65% stake in newsstand operator Ruch, which owns a network of 1,300 newspaper kiosks providing the company significant control over the infrastructure that distributes print media. PKN Orlen CEO Daniel Obajtek and many other top figures were appointed directly by the Ministry of State Assets, which is headed by Deputy Prime Minister Jacek Sasin.

In 2021 PiS tried to pass the Lex-TVN law, which would restrict foreign ownership of broadcasters to under 50%. It was justified to protect Polish media against Russian disinformation but in practice the only media it affects is the leading independent broadcaster TVN, owned by the US corporation Discovery. After several attempts PiS got the law through the parliament only for it to be vetoed by the president following intense criticism.

Despite this setback for PiS, the persistent harassment of foreign investors is creating a hostile environment that will inevitably deter investors from outside Poland. As in the case of Polska Press, it is expected that PiS business allies would seek to purchase the shares of departing foreign media investors, resulting in the muzzling critical publications and growing PiS’s control over Polish media. These tactics bear similarities to the strategy used by the FIDESZ in Hungary to push out foreign media owners and replace them with government-friendly oligarchs.

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

Journalists in Poland work in a hyper-polarised society in which threats and insults linked to their profession have become increasingly normalised. As media have become enmeshed in “culture wars”, social media vitriol has increasingly been targeted at journalists on both sides of the political spectrum. Many Polish editors report that their reporters are routinely vilified, discredited and delegitimised in smears in pro-government media or by PiS officials. Tried-and-tested accusations include journalists being dismissed as “anti-Polish, political activists or foreign agents”.

Gender-based insults against female journalists online and the publishing of unsubstantiated rumours and conspiracy theories about foreign publishers are also common. Pro-government mouthpieces and the public broadcaster TVP are used to spread propaganda and at times relentlessly attack PiS critics, broadcasting targeted smears against journalists and media houses, stoking the hostile climate.

In September 2021 Poland banned media from within 3 km of the border with Belarus. As a result numerous journalists were detained trying to report the humanitarian crisis.

At least eight journalists were arrested and detained between September and December 2021 while trying to report from the border area.

While physical attacks on journalists are rare in Poland, 2020 saw a sharp rise in assaults particularly against journalists covering protests. Several were injured and some hospitalised after violence from both protesters and police officers. The police hit and shot rubber bullets at journalists clearly identifiable by ‘PRESS’ insignia. Heavy-handed behaviour by law enforcement culminated in the high-profile arrest of a photojournalist in November 2020.

In January 2021 two photojournalists, with clear press identification, were sprayed with teargas by police officers while covering the women’s strike demonstrations in what appeared a deliberate targeting.

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

Journalists are also subject to discrimination when it comes to access to information. Public officials connected to the ruling party routinely refuse communication or interviews with certain media. Reporters are often denied access to legally guaranteed and publicly held information without explanation. Critical reporting about officials or institutions is sometimes met with retaliation in the form of cancellation of accreditation or blocked entry to political events.

Representatives from investigative news platforms said these issues had worsened further during the COVID-19 pandemic, during which official requests for public health information routinely went unanswered, in violation of the Polish Freedom of Information Act. Communication with the Ministry of Health during the pandemic was also extremely challenging for journalists on both sides of the political spectrum.

Meanwhile in a case taken by the first president of the Supreme Court, the Constitutional Tribunal is due to rule on whether elements of Poland's Access to Public Information law (2001) breach the constitutional right to privacy in a decision which could significantly reduce transparency.

In a separate development the Polish government has used what it claims are "security threats" by journalists working for independent media to justify refusing their entry into public events. In October 2022 the Polish Ministry of the Interior confirmed that the State Protective Services (SOP) have the right to refuse entry of journalists to public events on security grounds. The decision came after the Commissioner for Human Rights, Marcin Wiacek, took up a complaint after the SOP refused entry of journalists from TN, Gazeta Wyborcza, Gazeta Krakowska and Tygodnik Podhalanski to the Solidarity Congress in May attended by the President Andrzej Duda.

In April and May 2022, a request for information under the Freedom of Information Act by newspaper Gazeta Wyborcza was repeatedly rejected by the Regional Prosecutor's Office in Krakow without legitimate justification.

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

Legal harassment of independent media in Poland continued in 2022 as PiS officials and their allies continued efforts to bury critical outlets under an avalanche of costly and time-consuming court battles. Questionable criminal investigations, though rarer, have also been brought disproportionately against watchdog media.

Many lawsuits are initiated by government agencies, state bodies or PiS politicians themselves, and are aimed at draining newspapers' financial resources. The vexatious nature of these cases means many can be classified as Strategic Lawsuits Against Public Participation (SLAPP), a form of legal harassment used to intimidate and silence public interest journalism. The number of these lawsuits has increased markedly under PiS.

Crucially, the continued independence of Poland's lower courts has blunted the worst of these legal attacks underscoring the clear connection between media freedom and judicial independence in Poland amid the EU's ongoing Article 7 procedure regarding pressure on courts and the rule of law.

By far the most targeted publication was the liberal daily Gazeta Wyborcza, a strong critic of Law and Justice. In October 2022, the newspaper stated it was fighting over 100 different lawsuits. While most lawsuits are eventually won, the legal costs were a burden on resources and had a "chilling effect" on critical reporting.

The Polish Society of Journalists estimates that around one in ten defamation cases were successful, indicating that lawsuits are used to harass government critics rather than achieve justice. And Poland's lower courts are, for now, still independent and rule in favour of upholding journalists' rights.

In 2022 charges were brought against Onet by a conservative think tank for "degrading and humiliating children" after the news outlet published photos of refugees trying to cross the border from Belarus.

In May Grzegorz Rzeczkowski was found guilty of defamation for articles in Polityka in 2018 about a wiretapping scandal from 2014.

In October 2022 Tomasz Piatek was convicted of criminal defamation and given a sentence of eight months of community service for his reports on an associate of the prime minister and his alleged involvement in the same 2014 wiretapping scandal.

In 9 May 2022, leading Polish daily newspaper Gazeta Wyborcza and its journalist Agnieszka Kublik received a pre-litigation warning regarding alleged defamation which demanded that a report be immediately removed from its website.

In March 2022, TOK FM radio journalist Piotr Maślak was charged by the military prosecutor's office of defaming and insulting Polish Border Guard officers after the journalist tweeted about the actions of the Polish Border Guards against a group of refugees at the Belarusian border.

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

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

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