

2023 Rule of Law Report - targeted stakeholder consultation

Fields marked with * are mandatory.

Introduction

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

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

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

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

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

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

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

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

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

Type of information

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

Legislative developments

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

Policy developments

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

Developments related to the judiciary / independent authorities

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

Any other relevant developments

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

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

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

About you

* I am giving my contribution as

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

* Organisation name

250 character(s) maximum

Border Violence Monitoring Network (BVMN)

Main Areas of Work

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

If "Other", please specify

Migration and Pushbacks, Human Rights

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

500 character(s) maximum

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

Transparency register number

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

* Country of origin

Please add the country of origin of your organisation

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

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

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

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

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

First name

Surname

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

* Publication of your contribution and privacy settings

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

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

☒ I agree with the personal data protection provisions.

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

Questions on horizontal developments

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

Overview topics for contribution

Please provide any relevant information on horizontal developments here

5000 character(s) maximum

Questions for contribution

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

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

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

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

Member State covered in contribution [only one choice possible]

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

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

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

I. Justice System

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

3000 character(s) maximum

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

As pushbacks, by design, are attempts to remove people on the move from Slovenian territory, many survivors are outside of the territory. Instigating legal proceedings from abroad is challenging, hindered by lack of legal aid and the difficulties of obtaining admissible power-of-attorney and testimonies. Moreover, when victims return to Slovenia, they often cannot present themselves to the authorities for testimonies due to the risk of being arrested for irregular entry and pushed back again. In Slovenia, BVMN observes the systematic practice of chain pushbacks. After apprehension, people on the move are returned to Croatia by using the readmission agreement in place since 2006 (Št. 001-22-39/06; <http://bit.ly/3wiCwvK>). There, they are exposed to extreme violence and torture and inhuman and degrading treatment (see e.g. ECtHR judgement *M.H. vs Croatia*), before being pushbacked further either to Bosnia and Herzegovina or Serbia (<https://bit.ly/3GQvrqR>; <https://bit.ly/3ZlwJNq>). The risk of torture from returning a person to Slovenia and then to Croatia was proven by an Italian court in 2021 (N.R.G. 56420/2020: <https://bit.ly/33d0VnE>). Pushbacks take place without individual assessment of the asylum claim or the danger of torture and inhuman and degrading treatment despite Slovenia being obligated under its international and European ratified human rights instruments (<https://bit.ly/3GQvrqR>; Verdict I-Up-23/2021: <http://bit.ly/3QUjYez>). The way in which pushbacks take place does not leave any opportunity to initiate proceedings to challenge such a return. Furthermore, it constitutes lack of access to any safeguarding mechanisms. This leaves the survivors without access to effective legal remedies. According to InfoKolpa, a Slovenian BVMN member, people on the move are often returned to Croatia based on a regulation set in the readmission agreement that allows an informal procedure, up until 72 hours after the person crossed the border. In most cases, they do not get an official removal decision and are hence not able to effectively appeal against it (<https://bit.ly/3GQvrqR>; and Ombudsperson <http://bit.ly/3QL0au9>). Even though numbers of illegal pushbacks from Slovenia decreased in the beginning of 2022, the systematic practice is still applied (<http://bit.ly/3CWQZkN>). In addition, an amendment to the Law on Foreigners (ZTuj-2; Articles 10.a and 10.b) that entered into force in 2021 is perceived as having problematic consequences following its implementation. It establishes that in case of “a complex emergency” (<http://bit.ly/3QL0au9>) the access to asylum could be restricted, violating the 1951 Geneva convention. In such a case, any person asking for asylum can be rejected at the border, except specifically vulnerable cases (<http://bit.ly/3QL0au9>). A return to a neighbouring country would be especially problematic in the case of Croatia, where inhuman and degrading treatment against people on the move by border authorities is proven (see above).

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

The length of asylum proceedings in Slovenia are remarkably slow. This was already the case before the start of the war in Ukraine. Before the entailed influx of people on the move in the country, on average, asylum seekers had to wait between six months and one year for a positive decision, in some cases even longer (up to two years). While Ukrainian asylum seekers are, until the point of this submission, prioritised and receive their decision within one to two months, for nationals from all other countries the procedures were prolonged, thus they have to wait even longer than before for their first instance decisions (<https://bit.ly/3CWQZkN>). Claims to seek asylum from Ukrainian nationals fall under the Temporary Protection Directive (COM/2022/91; <http://bit.ly/3WnOeQb>). Even though this constitutes a different procedure, the same institution is undertaking the registration of Ukrainians and asylum seekers of other nationalities, leading to the increase in delays.

Moreover, in case of large numbers of arrivals, people have to wait up to 20 days to lodge an application for international protection. This constitutes a severe problem for several years, as people only have access to services and respective rights as asylum seekers once they are registered as such.

Other - please specify

3000 character(s) maximum

Even in the case in which an individual manages to access courts and start a proceeding for the violations committed against them during an illegal pushback, survivors struggle with gathering the relevant evidence. According to ENNHRI “One of the key reported barriers to investigations into violations at borders stems from the difficulty in obtaining material evidence that can be regarded as meeting the threshold to trigger and sustain investigations. In cases of informal returns, individuals are often not registered as having entered the territory nor issued a return decision, despite the authorities’ legal obligation to do so. This makes it difficult [...] to prove that their rights were violated [and] to show that they were even present within the state’s territory or jurisdiction.” (<https://bit.ly/3XilolG>). In Slovenia, this is particularly challenging, as pushback survivors are oftentimes not provided with a legal decision to be removed from the country’s territory upon apprehension, which could be presented as evidence in case of an investigation (<https://bit.ly/3QL0au9>). Furthermore, “in cases where the evidentiary threshold is met and investigations are initiated, authorities have demonstrated hesitation to gather and assess further evidence needed to identify perpetrators. Instead,

many investigations and the allegations contained in them have been dismissed or discredited after the initial stages, without sufficient consideration.” (<https://bit.ly/3XilolG>). For instance, even though the Slovenian Supreme Court found a violation of several rights of the applicant in case I U1686/2020, to our knowledge until the point of this submission, a criminal investigation into the incidents has not been initiated (<https://bit.ly/3GQvrqR>).

In November 2021, the legislative amendments to ZMZ-1A (International Protection Act) entered into force. Next to restricting essential rights of applicants of international protection (<https://bit.ly/3GQvrqR>), “Some of the changes raise questions about their impact on the fairness of procedures, and their constitutionality and conformity with EU and international law. For example, legal counsellors will be required to disclose personal information about asylum seekers to the Ministry of the Interior under threat of being prevented from representing asylum seekers in future cases (including when they are aware of the facts on the basis of which the applicant is not entitled to refugee status or subsidiary protection, but does not inform the competent authority).” (<https://bit.ly/3QL0au9>) These amendments are of relevance until today, as no further action was taken in order to assure the fairness of the procedures, their compliance with EU and international law and the attorney-client privilege.

II. Anti-Corruption Framework

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

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

3000 character(s) maximum

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

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

3000 character(s) maximum

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

3000 character(s) maximum

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

3000 character(s) maximum

B. Prevention

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

3000 character(s) maximum

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

3000 character(s) maximum

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

3000 character(s) maximum

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

3000 character(s) maximum

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

3000 character(s) maximum

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

3000 character(s) maximum

C. Repressive measures

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

3000 character(s) maximum

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

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

3000 character(s) maximum

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

3000 character(s) maximum

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

3000 character(s) maximum

Other - please specify

3000 character(s) maximum

III. Media Freedom and Pluralism

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

3000 character(s) maximum

A. Media authorities and bodies

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

In 2022, the Ombudsperson highlighted the need to improve and support press freedom in Slovenia. Among their remarks, they mentioned the fact that defamation is a criminal offence in Slovenian law (<http://bit.ly/3IW8kA>).

This is relevant for organisations such as BVMN and its member organisations, as accusations of defamation can often be misused for the criminalisation of Human Rights Defenders and organisations monitoring and reporting on access to human rights of minority groups (see also below, response to question D.1; <http://bit.ly/3CX1QLh>).

Other - please specify

3000 character(s) maximum

IV. Other institutional issues related to checks and balances

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

3000 character(s) maximum

A. The process for preparing and enacting laws

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

[1] This includes also the consultation of social partners

3000 character(s) maximum

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

3000 character(s) maximum

Regime for constitutional review of laws

3000 character(s) maximum

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

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

3000 character(s) maximum

B. Independent authorities

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

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

3000 character(s) maximum

The most relevant institution related to checks and balances in the Slovenian context could be considered the Human Rights Ombudsperson of the Republic of Slovenia. In its mandate, the independent institution

follows up on complaints received, initiates its own investigations and based on these issues, makes recommendations to the relevant authorities within the country. In addition, the office has a focus on education, research and political promotion of human rights e.g. through the publication of legal analysis. Notably, its work within the area of civil society is worth mentioning (<http://bit.ly/3QKdsXX>). For instance, it collaborates with different CSOs and carries out visits to detention centres and police stations in order to monitor the situations there. (<https://bit.ly/3XilolG>).

The most relevant publications by the Ombudsperson were: 1) the national report on the situation of human rights of migrants at the borders (2021), which elaborated on the lack of access to asylum at the border and the practice of non-voluntary returns, as well as the legal background that sets the obligation for the police to allow people on the move to ask for asylum and following that be allowed into the national asylum system (<https://bit.ly/3QL0au9>); 2) the Annual Report of 2021 (2022), in which the right to access asylum and the prohibition of non-refoulement and collective expulsions were discussed, as well as their foundation in national legislation (<https://bit.ly/3ku68TW>); and 3) their contribution to the European Network of National Human Rights Institutions' (ENNHRI) Report on Strengthening Human Rights Accountability at Borders, in which they pointed to the absence of an efficient monitoring mechanism at the border, and the lack of accessibility of justice and investigations (<https://bit.ly/3XilolG>).

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

3000 character(s) maximum

In 2022, ENNHRI published a report that argued "inexistent or poor accountability for violations at borders impinges on several underlying elements of the rule of law, such as legal certainty, prohibition of arbitrariness, access to justice, non-discrimination, and equality before the law. It has also been demonstrated that independent public scrutiny of policies and practices at borders is lacking across Europe, indicating deficiencies in the system of checks and balances" (<https://bit.ly/3XilolG>). This aligns with the recommendations issued in the outputs of the Slovenian Ombudsperson concerning human rights violations and the treatment of people on the move at the country's borders. Despite the right to access asylum being clearly stated in both the 2021 and 2022 reports (see above), it is important to highlight that illegal pushbacks of people on the move without individual assessment of each claim and violations of the principle of non-refoulement were recorded in 2022 (<https://bit.ly/3GQvrqR>; <https://bit.ly/3CWQZkN>). This is contrary to the obligation clearly articulated by the Ombudsperson (<https://bit.ly/3QL0au9>), stating that police must not ignore people's asylum requests. Therefore, it is important to emphasise that the Slovenian police has the obligation to accept asylum requests and violates national as well as international law if they do not.

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

In 2020, the Slovenian Supreme Court case I U1686/2020 upheld the decision of the Administrative Court (I U 1490/2019) (<http://bit.ly/3QUjYez>), which found a violation on the prohibition of non-refoulement, collective expulsions, torture, and a violation of the right to an asylum procedure regarding the case of a Cameroonian national. In its ruling, the court ordered the state to bring the applicant to Slovenia and allow him to enter the asylum system. After the judgement, the Slovenian government did not grant permission for the applicant to enter Slovenian territory and lodge his claim. The applicant was forced to return to the country in hiding on his own initiative in the months following the judgement, and he was then accepted into the asylum system. Even though the judgement found several breaches of fundamental rights and international law, until the point of this submission, the start of an investigation regarding the criminal offences was not indicated (<https://bit.ly/3GQvrqR>; <https://bit.ly/3CWQZkN>).

Even though the court acknowledged the existence of pushbacks and the violation of several fundamental rights in its verdict, the systematic practice of illegal pushbacks through the readmission agreements continued. Despite a decrease in numbers in 2022, chain pushbacks which breach the principle of non-refoulement and the prohibition of inhuman and degrading treatment and torture continued to be perpetuated (<https://bit.ly/3CWQZkN>; see three pushback testimonies of BVMN from Slovenia in 2022: <https://bit.ly/3GSvzpM>; <http://bit.ly/3GRDXWz>; <http://bit.ly/3wgLwRK>). Moreover, up until the date of this submission, the police and the government ignored the Court's verdict and denied the practice of pushbacks. When confronted with the case, state representatives pointed to the practice of "smugglers" (<https://bit.ly/3GQvrqR>). During InfoKolpa's meeting with the Rule of Law delegation of the LIBE Committee of the European Parliament (15. 10. 2022), the lack of implementation of the judgement was included in the resolution of the European Parliament on The Fundamental Rights and Rule of Law in Slovenia (16. 12. 2022) (<http://bit.ly/3ktmmwY>).

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

In January 2022, the Slovenian government accepted a new Action Plan on Countering Terrorism and Violent Extremism 2022-2024, which included the topic of surveillance of supposedly “criminal NGOs”. This is a dangerous development as it could potentially legitimise the surveillance of CSOs publicly denouncing violence exerted against people on the move. In 2018, BVMN member organisation PIC did in fact face charges of assisting migrants in “illegal” border crossings. Back then, the State Prosecutor’s Office dropped the case, as the charges were not substantiated (<https://bit.ly/3wgM2PG>). However, in the future, the imposed action plan could constitute a basis for the surveillance of CSOs monitoring human rights violations in Slovenia and contribute to an increasing climate of criminalisation of Human Rights Defender. Similar patterns can be observed in several other countries within the region, such as Croatia and Greece (<https://bit.ly/3CX1QLh>; <https://bit.ly/3JexMPx>). In addition, in 2022, BVMN member organisation InfoKolpa observed that the Slovenian “government is keen to label any human rights concerns regarding border procedures of police with allegations of “smuggling” and “smugglers” against NGOs and civil rights activists.” (<https://bit.ly/3GQvrqR>).

This development is particularly concerning because the government is not providing protection for Human Rights Defenders, in particular those working on Migrant Rights. Rather, it contributes to negative narratives and defamation of NGOs and CSOs.

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

In order to foster a rule of law culture, Slovenia should not only end the practice of illegal pushbacks and establish effective access to asylum, but also establish an independent border monitoring mechanism. This should be established particularly in the oversight of police conduct and practices because they are simultaneously the main body of enforcement of the law, the predominant perpetrator of illegal pushbacks in Slovenia, and the authority that must to be approached in order to get access for asylum (<https://bit.ly/3GQvrqR>; <https://bit.ly/3ZlwJNq>).

The need to establish accountability at borders aligns with the ENNHRI stating that “Independent investigations capable of identifying and sanctioning perpetrators are a vital element of the accountability system. [...] in practice very few investigations into human rights violations at borders are carried out.” (<https://bit.ly/3XilolG>).

Other - please specify

3000 character(s) maximum

Contact

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