



RULE of LAW **2020**

COUNTRY REPORTS

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ABSTRACT – BELGIUM

The Belgian justice system has been undergoing reforms relating to digitalisation and the management of resources by the judiciary for several years, but full implementation remains outstanding. Various initiatives to foster the quality and independence of justice have been implemented, notably relating to court fees, the system of substitute judges, and the investigative powers of the High Council for Justice. A reform of the complaint procedure regarding the functioning of justice is ongoing, as well as an initiative to foster the use of clear language in judicial decisions. The availability of sufficient human and financial resources poses a challenge for the justice system, and there remains a need to improve the level of digitalisation. In this context, a long-standing shortcoming is the lack of reliable and consistent data on efficiency.

Belgium has the legal and institutional framework for combatting corruption broadly in place. While there is no strategy or institution that coordinates the fight against corruption at all levels of government, a dedicated anti-corruption body oversees the investigations of corruption and a Federal Ethics Committee advises public officials on integrity issues. An array of legislative measures to prevent corruption exist, including declarations systems and codes of conducts for public officials, but these have resulted in a fragmented framework across different levels of government. Whilst certain rules are in place for members of Parliament and top executive functions, shortcomings remain. There is currently no general whistle-blower protection regulation in Belgium.

Belgium has a strong legal and institutional framework regarding media pluralism. The independent Audiovisual Media Regulators play an important role in ensuring transparency of media ownership, and the Media Councils are very active in their respective Communities. The independence of the media is respected and the journalistic profession is adequately protected, in particular by the law on the protection of journalistic sources. Cases of intimidation, threats or attacks against journalists are relatively rare. There is room to improve access to information held by public authorities. Also, the adequacy of the resources available to the regulatory authorities of the French and German-speaking Communities is a source of concern.

The process for enacting laws includes a well-established practice of conducting impact assessments and consulting stakeholders at multiple levels of government. The Constitutional Court and other independent institutions, including Ombudsmen offices at different levels of government, play an important role in upholding fundamental rights. A new Federal Human Rights Institution is in the process of being established and is expected to further enhance fundamental rights protection. The Council of State contributes to safeguarding the quality of legislation, although it faces some challenges in its work. Following the adoption of a 2019 law, civil society organisations have increased possibilities to litigate on the interests they defend.



ABSTRACT – BULGARIA

Since accession to the EU in 2007, Bulgarian reforms in areas including justice and corruption have been followed by the Commission through the Cooperation and Verification Mechanism (CVM).

Judicial reform in Bulgaria has been a gradual process with important implications for judicial independence and public confidence. Challenges remain, in particular on the need to finalise, taking account of the Venice Commission opinion, the reform process commenced in 2019 regarding legal procedures concerning the effective accountability and criminal liability of the Prosecutor General. The composition and functioning of the Supreme Judicial Council and its Inspectorate have also been subject of further debate, leading to new reform proposals. More generally, attacks against the judiciary are reported to increase without proper reaction from the competent authorities. Controversial provisions relating to the automatic suspension of magistrates in case of a criminal investigation, and to the obligation for magistrates to declare their membership in professional organisations, have been repealed.

In 2017 and 2018, Bulgaria carried out a comprehensive reform of its legal and institutional anti-corruption frameworks. The reform has led to improved cooperation between the relevant authorities. A number of high-level investigations were launched in the first half of 2020 and charges have been brought in a number of cases. The new reforms provide for public access to the property and interests declarations of senior public office holders which can be considered a good practice. Nevertheless, important challenges remain, as also illustrated by the perception surveys that show a very low level of public trust in the anti-corruption institutions. Lack of results in the fight against corruption is one of the key aspects raised throughout the summer 2020 protests. A solid track-record of final convictions in high-level corruption cases remains to be established. Better and more effective communication as regards the development and implementation of the anti-corruption strategy would be beneficial. It is important that the authorities are provided with sufficient resources in order to be able to fight corruption effectively. A legal framework is in place for conflict of interest, yet concerns exist as regards lobbying, which remains unregulated by law, and the transparency and predictability of the legislative process in the country.

Concerning media pluralism, the Bulgarian legal framework is based on a set of constitutional safeguards and legislative measures, such as the Radio and Television Act, which are often not effectively implemented in practice. The Audiovisual Media Regulatory Authority (CEM) is considered as independent and transparent about its activities, but the Authority lacks resources to perform its tasks efficiently. Lack of transparency of media ownership is considered as a source of concern. The legal framework against political interference in the media does not explicitly forbid politicians from owning outlets, and links between political actors and some media outlets have been established. Several media freedom associations report physical or online attacks on journalists.

Issues concerning checks and balances include concerns about the limited use of public consultations and impact assessment in the legislative process. Despite their limited resources, the functioning of national human rights institutions has continued to improve. The already narrowed civic space in Bulgaria could be further affected in view of a new draft law on foreign funding for NGOs.



ABSTRACT – CZECHIA

A number of important reforms of the Czech justice system are currently ongoing or in preparation, including on the public prosecution, the selection procedure for judges and disciplinary regime for judges and prosecutors. These reforms could contribute to increasing the transparency and limiting the influence of the executive in the appointments, promotion and dismissal of judges and prosecutors. Certain limited aspects of the proposed reforms, in particular as regards high-ranking prosecutors, have given rise to some concerns. As regards the quality of the justice system, the effective introduction of the e-file would contribute to the digitalisation and the accessibility of courts. The proposed increase of court fees has raised questions as regards its impact on access to justice for the most vulnerable.

The legal and institutional framework to fight corruption is broadly in place. There have been a number of initiatives aiming to increase transparency and accountability, in particular the launch of the register of contracts and the new law on nominations to state-owned enterprises. Nevertheless, several important legislative measures are still pending adoption, for example the bills on lobbying and whistle-blower protection as well as the bill extending the mandate of the Supreme Audit Office. There are ongoing investigations and audits at both national and European level into potential conflicts of interest and the use of EU funds. There are concerns that high-level corruption cases are not pursued sufficiently. Some gaps have been identified in the integrity frameworks applicable to Members of Parliament.

The Charter of Fundamental Rights and Basic Freedoms, incorporated into the Czech Constitutional Order, in its Article 17, guarantees freedom of expression and the right to information, and expressly bans censorship. The media sector is still exposed to risks related to the influence of media owners over editorial content and stemming from the lack of specific rules regulating the transparency of media ownership. The Czech Broadcasting Council appears to effectively carry out its tasks, although there appears to have been an increasing polarisation of recent decisions concerning media coverage of certain issues of high political sensitivity.

The system of checks and balances in Czechia is well-established. Conducting impact assessments and consulting stakeholders are established practices for enacting legislation and efforts are ongoing to further increase the transparency of the legislative process. Some civil society organisations have nevertheless called for a more systematic involvement of civil society stakeholders in the legislative process. While there is a vibrant and diverse civil society, the pressure on certain types of NGOs is rising, in particular in the area of migration. There is an Ombudsperson but not yet a National Human Rights Institution. Initiatives are undertaken for organising regular debates on rule of law related topics, in particular by the Senate.



ABSTRACT – DENMARK

The Danish judiciary enjoys a consistently high perceived level of independence and some steps have been taken in 2019 to further improve the framework for disciplinary measures and accountability of judges. The justice system is characterised by a good level of efficiency, despite a slight increase of the disposition time in the past years. At the same time, stakeholders have raised some concerns over a lack of sufficient resources and some challenges remain as regards the digitalisation of the judiciary. Several initiatives by the Government and the National Courts Administration aim to address these challenges, including through a project to use digital tools to monitor the average length of pending cases.

According to surveys, Denmark is perceived as one of the least corrupt countries in the EU and the world. Although Denmark has no dedicated anti-corruption strategy or agency in place, it has established an Anti-Corruption Forum that improves coordination for authorities to produce their own anti-corruption-related arrangements. Danish public institutions have built a reputation for transparent administration and a reliable and functional corruption prevention framework. A central aspect of the integrity system is the low degree of formalisation of anti-corruption rules on ethics and integrity, with few regulations and control measures to prevent corruption, particularly for top executive functions. Denmark's track record of implementing recent international recommendations, in particular on political party funding and oversight of members of Parliament, is limited.

The national media regulatory authority, the Danish Radio and Television Board, operates in an independent manner and has a robust organisational structure. There are no specific laws regulating transparency of media ownership but the national Central Business Register could be used to access some information. Certain exceptions to the Access to Public Administrative Documents Act have been introduced, partly restricting the right to access information in practice. A specific Commission on Freedom of Expression has been set up with the purpose of promoting the debate on the framework and general conditions for freedom of expression, a freedom which is protected by the constitution and already benefits from the robustness of democratic tradition and institutions in Denmark.

The system of checks and balances is characterised by an inclusive process for enacting legislation with a comprehensive framework for preparing legislation, including the consultation of stakeholders. The Parliamentary Ombudsman has a well-established role in ensuring oversight over the decisions of public authorities. Recent campaigns by the National Courts Administration aim at raising awareness of the importance of the rule of law and the role of the judiciary, including through educational videos, curricula for teachers and a dedicated website for journalists. The Danish Institute for Human Rights ensures involvement of a broad range of civil society organisations through its Human Rights Council, which has a key advisory function.



ABSTRACT – GERMANY

The German justice system is characterised by the country's federal structure and the important role of the *Länder* in the administration of justice. The level of perceived judicial independence is high. Safeguards for the independence of prosecutors have recently been under discussion. The German justice system is mostly performing efficiently, although some indicators have been showing a decline in overall performance. Particular efforts are ongoing to further develop the digitalisation of the justice system, which would contribute to enhancing its efficiency and quality. The 2019 'Pact for the Rule of Law' between the federal level and the federal states will lead to additional funding for the justice system and the creation of 2000 new posts for judges and prosecutors by end-2021. This is also relevant in view of the increasing number of judges and prosecutors who will retire in the coming years.

The legal, regulatory and institutional anti-corruption framework is broadly in place, with the implementation of repressive anti-corruption policies and criminal cases prosecution lying with the *Länder*. A 'revolving doors' policy exists at the federal level and in most *Länder*. As regards lobbying, the mandatory registration of contacts with both members of the Federal Parliament and members of the Federal Government is missing, although reforms in this area are being considered. Whistleblowers protection in Germany relies on a system which is integrated within businesses, allowing for people to rely on a reporting channel which is additional to the institutional one.

Germany has well-established regulation on media freedom and pluralism, which mostly falls under the competence of the *Länder*. The fourteen media regulatory authorities are public agencies, with a legal guarantee of independence from political and commercial interference. Transparency of ownership of media outlets is high and safeguards are in place to prevent political interference with the media. The constitution and secondary legislation expressly guarantee the right of journalists to protect the confidentiality of their sources and regulate the right of access to information. In recent years, some concerns about increasing attacks on journalists have arisen.

The system of checks and balances is well established. An impact assessment framework and the involvement of stakeholders contribute to the quality of the legislative process. Constitutional review takes place at both the federal level as well as at the level of the *Länder*. An enabling framework for civil society and a policy for making information accessible to citizens are in place. Civil society organisations can operate freely in Germany. Regular discussions on rule of law topics, both from a domestic as well as an European perspective, are promoted, including through a nationwide information and publicity campaign conducted in 2019 in the context of the 'Pact for the Rule of Law', focussing on communicating the significance of the rule of law and the guarantees it provides for the individual citizen as well as for a democratic society.



ABSTRACT – ESTONIA

The Estonian justice system is characterised by some of the most advanced information and communication technologies used in courts. They provide a high degree of accessibility and flexibility to court uses, and have also contributed greatly to the continued functioning of the courts with relatively little disruption during the COVID-19 pandemic. The Supreme Court and judicial self-governance bodies are well involved in the main aspects of the management of the justice system, particularly on allocation of human and financial resources and in appointment and other aspects of judges' careers.

Estonia has the legal and institutional set-up to fight corruption broadly in place. It has established an effective network to manage the implementation of the anti-corruption policy. A new anti-corruption strategy is in preparation. All Ministries are equipped to coordinate corruption prevention and ensure the implementation of the national anti-corruption strategy's activities in the relevant sector. The capacity to investigate and prosecute corruption crimes is effective and according to the the Prosecutor's Office, the budgetary resources are considered satisfactory. Provisions have been introduced to regulate 'revolving doors'. Lobbying activities are not regulated by law but a draft regulation is in the pipeline and a comprehensive whistleblower protection framework is still not in place. Estonia has largely invested in e-learning to support prevention of conflict of interest for all public sector employees.

The Estonian legal framework concerning media pluralism is based both on constitutional safeguards and sectorial legislation. The media regulator - the Consumer Protection and Technical Regulatory Authority (ECPTRA) - operates as an administrative part of the Ministry of Economic Affairs. The law transposing the revised Audiovisual Media Services Directive (AVMSD) will reinforce its independence. Transparency of media ownership is not fully ensured pending the adoption of new specific legal provisions. Yet, general information related to entrepreneurship is electronically available, and access to data in the Business Register is free. The framework for the protection of journalists is comprehensive and safeguards for the protection of journalists are included in several acts.

The system of checks and balances in Estonia is well-developed, with an inclusive process for the adoption of laws, which is being further developed. The Constitutional Review Chamber of the Supreme Court performs both ex-ante and ex-post control of constitutionality, including through a direct constitutional complaint. The Chancellor for Justice, plays a strong role in the system of checks and balances, and its accreditation with the A-status according to UN principles is ongoing (delayed due to COVID-19 pandemic).



ABSTRACT – IRELAND

A number of reforms of the justice system were carried out in 2019 or are under preparation. In particular, an independent Judicial Council was established at the end of 2019. While the perception of judicial independence is already high, the Council will contribute to further promoting judicial independence from the executive and legislative powers. Its Judicial Conduct Committee will be in charge of disciplinary proceedings, while the final decision on dismissal of judges remains a prerogative of the *Oireachtas* (Parliament). A planned reform aims at amending the system for judicial appointment and promotion. It is important that this reform safeguard judicial independence, taking into account the Council of Europe recommendations. A working group is to consider the number and type of judges required to ensure the efficient administration of justice over the next five years. The ongoing review of civil justice could provide an opportunity to improve access to justice in particular through the legal aid system. Digitalisation and the resources of the justice system, including the number of judges, remain a challenge.

Ireland has carried out several reforms aiming at strengthening the fight against corruption, in particular through the Criminal Justice (Corruption Offences) Act of 2018. The Criminal Justice Act included several offences relating to corruption. However, it contains a dual criminality provision, which may limit the scope for prosecuting foreign bribery. Ireland has in place a legal and institutional framework on asset declarations and interests, and codes of conduct and tax clearance obligations, which is currently under review. The Public Sector Standards Bill 2015 lapsed with the dissolution of the *Dáil* (lower House of the Parliament) in January 2020. The Programme of the new Government contains a commitment to reform and consolidate the Ethics in Public Office legislation. Ireland's defamation laws raise concerns as regards the ability of the press to expose corruption. A comprehensive review of Ireland's anti-corruption framework is currently being carried out, and a review of defamation legislation is currently being finalised.

Regarding media pluralism, constitutional guarantees and solid regulatory structures operate within a political culture that avoids intervention in editorial content of media outlets and prevents conflicts of interests in terms of media ownership. The media regulator took steps to update and publish information on media ownership on an annual basis. Freedom of expression and the right to access official information, are well established principles. The frequent use and high costs of defamation cases raise concerns. An independent private scheme established and funded by the print media, consisting of the Press Council and the Press Ombudsman, ensures handling of press complaints, on the basis of a Code of Conduct.

As regards checks and balances, there is an established practice of consultation on draft legislation by the Government and Parliament, and of ex-ante impact assessments. The scrutiny over private Members' bills that pass a certain stage of the legislative process is similarly developed. The independent Irish Human Rights and Equality Commission is well equipped to carry out its functions. While the space for civil society organisations in Ireland is generally considered open, concerns have been raised by civil society organisations as regards constraints on civil society actions in relation to the impact of the current interpretation of the Electoral Act, which imposes restrictions on funding possibilities for civil society organisations.



ABSTRACT – GREECE

Greece has adopted a significant number of justice reforms initiated in the context of the three economic adjustment programmes. Reform activities included changes in the organisation of courts, measures to improve the management of courts, the broadening of the use of information technology tools in courts and the promotion of alternative dispute resolution mechanisms. However, the implementation record shows mixed results and the justice system continues to face challenges as regards its quality and efficiency. Ongoing efforts to ensure the effective implementation of the recent reforms and further progress in the digitalisation of the justice systems are particularly important for achieving concrete results.

Greece embarked on a wide range of anti-corruption reforms in the past years and continues implementing a comprehensive national anti-corruption plan. Efforts have been made to streamline the institutional framework and improve coordination of various agencies and bodies tasked with fighting corruption. A modern legal framework for asset declarations and political party financing is in place, but implementation still shows some gaps. Some obstacles to the prosecution of high-level corruption were eliminated by way of constitutional review in 2019, as procedures regarding immunity regimes and statutes of limitation were modified. A revision of the criminal legislation in June 2019 raised a number of concerns, most notably as regards the criminalisation of bribery. While subsequent revisions remedied this situation, ongoing cases remain affected. Lobbying in Greece remains largely unregulated and the whistle-blower protection framework is incomplete.

The Constitution provides for the protection of freedom of expression and the right to access public information. Structures to ensure media pluralism and press rights are in place. However, some questions exist with regard to the effectiveness of rules geared at ensuring transparency of media ownership. Key concerns relate to insufficient mechanisms to ensure respect for professional standards in the practice of journalism, and precarious working conditions for journalists resulting from, among other things, the economic and financial crisis.

The system of checks and balances in Greece has been facing some challenges in practice. In particular, the process for enacting laws has been under considerable pressure in past years, mainly due to the consequences of the economic and financial crisis. Better regulation principles were not fully adhered to, but recent comprehensive legislation in this field aims at addressing these challenges and is gradually being implemented. Fundamental and constitutional rights are protected through the courts and independent authorities. There is no specific enabling framework for civil society in Greece, and there are civil society organisations active in the field of migration which have expressed concerns that the civic space to operate on the ground has narrowed.



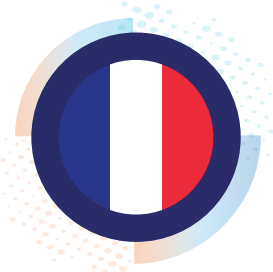
ABSTRACT – SPAIN

The Spanish justice system is facing challenges concerning its efficiency, with increasingly lengthy court proceedings. To address this issue, a new Code of Criminal Procedure aiming at accelerating criminal proceedings is in preparation, as well as a draft law on procedural and technological measures. The use of electronic means is well established in the justice system and further improvements are being implemented, while certain issues remain, especially regarding the interoperability among the systems used in different regions of the country. The situation of the Judicial Council is another challenge, in particular given that its new members have not yet been appointed. The relation between the Prosecutor General and the executive is subject to discussion, in particular the regime of the appointment and term of office of the Prosecutor General, as well as the registration of the communications with the Minister of Justice.

Spain has strengthened its anticorruption framework in recent years both on the preventive and repressive dimensions. While Spain has no overarching anticorruption strategy, the National Strategy against Serious and Organised Crime, adopted in February 2019, has the objective to improve investigative capacity and access to financial databases and to improve inter-agency cooperation. Although the Criminal Code and Criminal Procedure Code were revised in February 2019, new draft legislation amending the Code of Criminal Procedure is being prepared. As a result, Spain has put in place an improved legal framework for integrity in the public sector, strengthening the integrity mechanisms in Parliament, as well as reinforcing the regime of asset disclosure, conflict of interest and incompatibilities of high-ranking officials in the central state administration. An extended statute of limitations now exists for serious offences, and corruption-related crimes can be sanctioned more severely, including with a longer period of disqualification from public office. Legislative changes concerning lobbying and strengthening whistle-blower protection, and an omnibus anti-corruption bill have been proposed but not yet adopted. A new ethical code for members of Parliament was adopted in April 2019, establishing a Parliamentary Office of Conflicts of Interests to oversee its implementation.

The Constitution enshrines the rights to freedom of expression and media freedom, as well as the right to information. While the television and radio sectors are subject to reinforced ownership transparency requirements, this is not the case for the print media sector. The information available in the companies' registry (*'registro mercantil'*) is the same as for any other kind of company in Spain and is difficult to understand for the general public. Concerns were raised about new legislation on public security, allegedly restricting the freedom of information and the freedom of expression.

The process for enacting laws foresees guarantees of transparency and the involvement of stakeholders, in particular through public consultations. The transparency framework continues to be implemented and all Spanish regions now have their own legal framework in this area. The Government's legislative initiative and its right to issue decree-laws are subject to the control of Parliament and of the Constitutional Court. The Ombudsman has an extensive mandate, which it can exercise in defence of citizens' rights. The Government has been developing open government policies with the aim of further involving citizens in the development of public policies.



ABSTRACT – FRANCE

A number of recent initiatives have been taken, aiming at improving the independence, quality and efficiency of the French justice system. In particular, a reform has been proposed to expand the competences of the High Council for the Judiciary, which would further strengthen judicial independence. The perceived level of judicial independence among companies is high and average among the general public. Other initiatives to improve the quality and efficiency of the justice system have also been taken, in particular regarding digitalisation and resources for the justice system. These measures could inter alia contribute to improving the efficiency of civil justice, which has deteriorated in recent years.

France has strengthened its institutional framework for fighting and preventing corruption in the public and private sector in the last years. New specialised anti-corruption institutions have been established, such as the High Authority for the Transparency of Public Life (HATVP) and the French Anti-corruption Agency (AFA). With the adoption of the Sapin II law in 2016, the HATVP has seen its mandate extended to the management of the lobbying register and will now also be in charge of the regulation of ‘revolving doors’. The Sapin II law also introduced a comprehensive framework for whistle-blower protection. The system of assets declarations contains detailed information about previous and current activities and interests, which is published in open data format. The National Financial Prosecutor has established a good record on securing convictions in high-level cases of corruption and embezzlement of public funds.

France has a well-established legal and institutional framework supporting media pluralism. The audiovisual media regulator is independent and monitors closely the media market. The rules on media ownership transparency ensure that media ownership information is made available to the public. In addition, the impact of direct and indirect owners on competition is being assessed in case of media ownership developments. The allocation of state advertising is regulated and spread throughout different types of media. The political influence over the media is considered low, also because of safeguards relating to public officials and to members of the media regulator. Editorial independence enjoys a strong protection, but much of this protection only applies to contractual journalists. Moreover, recent years saw a surge of online and offline threats against journalists, including physical attacks.

The process for enacting laws includes impact assessments and frequent stakeholder consultations, and the Council of State contributes to ensuring the quality of legislation. The recent initiative on a Citizens Convention explores an innovative way of involving citizens in the legislative process. Several independent authorities, including the Defender of Rights and the National Consultative Commission on Protecting and Promoting Human Rights, contribute to safeguarding fundamental rights. The Constitutional Council, the Council of State and other independent authorities play a key role in the system of checks and balances.



ABSTRACT – CROATIA

The Croatian justice system has made progress on reducing backlogs and improving electronic communication in courts, but is still experiencing serious efficiency and quality challenges. The level of perceived judicial independence remains among the lowest in the EU. The State Judicial Council and the State Attorney's Council, autonomous and independent bodies, are facing challenges to adequately fulfil their mandate due to a lack of sufficient resources as well as the fact that their role in selecting judges and state attorneys has been reduced. These Councils also lack an upgraded IT system that would allow them to effectively verify the asset declarations of judges and state attorneys. The centralised postal delivery of court documents is a positive example of saving resources in courts.

Croatia has the legal and policy framework to promote integrity and prevent corruption in the public sector broadly in place. A network of authorities contribute to anti-corruption policy-making across all branches of government. However, shortcomings remain both in the legislation and practices to combat corruption. Important initiatives to strengthen ethics and integrity amongst top executive functions and Members of Parliament and to regulate lobbying remain unimplemented. Corruption remains of particular concern at the local level due to structural weaknesses in the integrity framework for local office-holders and the management of local State-owned companies. On 18 September 2020, the Minister of Justice and Public Administration announced a new Anti-Corruption Strategy for 2021-2030.

Croatia's legal and institutional framework guarantees media pluralism. The Agency for Electronic Media, which is the audiovisual media regulator, functions transparently, but it is not entirely shielded from political influence in relation to the selection procedure of the members of its governing body. The rules on transparency of media ownership ensure a solid system of ownership notification to the authorities and the public, but the identification of the beneficial owner can be problematic. Recent years witnessed a high number of lawsuits against journalists, threats of physical attack and online harassment, which may have an impact on the editorial policy of media companies and on the work of investigative journalists.

The system of checks and balances is supported, among others, through online tools for consultation of the public and other stakeholders, and by a People's Ombudsperson and an Information Commissioner competent for protecting the right to access public information. However, citizens' involvement in decision-making remains relatively weak. Constitutional review is carried out by the Constitutional Court, including on the basis of individual constitutional complaints. The Government is preparing a national plan to support the civil society for the period 2020-2026.



ABSTRACT – ITALY

The Italian justice system has a solid legislative framework to safeguard judicial independence, including prosecutors' independence. In August 2020, a reform regarding the High Council for the Judiciary and other aspects of the justice system has been proposed by the Government. It is important that such reform guarantee judicial independence, while strengthening transparency and integrity. As regards efficiency, the justice system continues to face important challenges. New reforms aiming at streamlining civil and criminal procedures are being discussed in Parliament. These reforms, coupled with an increase in human resources and further digitalisation, aim at addressing backlogs.

In 2019 Italy continued strengthening its institutional and legislative anti-corruption framework. Following previous efforts, the anti-corruption law adopted in January 2019 has further tightened sanctioning for corruption crimes and suspended limitation periods after the first instance judgment. In addition, investigative tools for the fight against organised crime have been extended to corruption offences. The National Anti-corruption Authority has reinforced its role in fostering a corruption prevention culture, while continuing its supervising and regulatory role for public contracts. A framework to protect whistle-blowers has been adopted. Italy has not yet adopted a comprehensive law regulating lobbying and the conflict of interest regime is fragmented. The capacity to detect, investigate and prosecute corruption is very effective and benefits from the expertise of the law enforcement authorities in the fight against organised crime. However, the effectiveness of repressive measures is hampered by the excessive length of criminal proceedings. A comprehensive reform to streamline criminal procedure is being discussed in Parliament.

The Italian Constitution enshrines freedom of expression and information as well as the principle of transparency of media ownership. The Italian regulatory authority for audio-visual media is deemed to be independent and effective. The political independence of the Italian media remains an issue due to the lack of effective provisions on preventing conflicts of interest in particular in the audio-visual media sector. Italy has established a Centre aiming at monitoring threats to reporters and developing the necessary protection measures to respond to concerns with regard to the safety of journalists. Prison sentences for defamation have been challenged in courts, drawing on the Constitution and the jurisprudence of the European Court of Human Rights on freedom of expression. The matter is currently pending before the Parliament.

As regards checks and balances, the Constitutional Court continues to have an important role, and has recently encouraged an increased participation of civil society and the general public to its proceedings. Regulatory impact assessments and stakeholders' consultations have improved, but can be further developed. Reforms aiming at establishing a national human rights institution, which is still missing, are being debated in Parliament. There is a vibrant civil society, although some NGOs, particularly on certain issues such as migration, are subject to smear campaigns.



ABSTRACT – CYPRUS

The Cypriot justice system has been undergoing a number of structural changes and reforms since 2019 with the aim to overcome important challenges as regards its efficiency and quality, in particular as regards digitalisation. Civil, commercial and administrative judicial proceedings remain very lengthy. These reforms include the establishment of new specialised courts, the restructuring of the courts, the creation of a training school for judges, the revision of the rules of civil procedure and measures to address the backlog of cases. There is also a pending reform on the establishment of a Supreme Constitutional Court and of a High Court. Many of these reforms are still under discussion or are experiencing delay. A review of the Law Office is ongoing with a view to enhance the capacity of the office, including separation of functions and recruitment procedures.

Cyprus has made some progress in tackling and investigating corruption, including high-profile cases. Key legislation for the prevention of corruption is still pending. Lobbying and whistle-blower protection remain unregulated by law and an independent anti-corruption authority remains to be established. Asset disclosure rules are in place but the existing regime could be further strengthened by improving the effectiveness of the monitoring of the asset declarations. While Codes of Conduct exist for members of the Government, public officials and prosecutors, there are no similar provisions for the members of the House of Representatives.

In Cyprus, freedom of expression and the right of access to information find legal and formal protection in the Constitution of the Republic of Cyprus. Secondary legislation expressly protects the right of journalists to protect their sources and fosters media pluralism in the radio and television sector. However, questions have been raised regarding the independence of the Authority on Media (e.g. regarding appointment procedures). Another issue of concern is that there is no framework guaranteeing ownership transparency in the written press and digital media sectors, which makes it difficult to identify and verify ultimate owners or cross-ownership in these sectors.

The system of checks and balances in Cyprus includes a consultation process as part of a Better Regulation Project as well as ex-post constitutionality review. This review is currently carried out by the Supreme Court and a draft legislation aims at transferring this task to a newly created Supreme Constitutional Court. Another draft legislation aims at improving the implementation of court decisions by the public administration. The Commissioner for Administration, which functions as the National Human Rights Institution, faced certain challenges, but has recently seen its capacities increased. While a structure has been set up to encourage civil participation in public life, it seems that the civil society organisations face certain concerns regarding the registration framework, which requires at least 20 founding members to be registered.



ABSTRACT – LATVIA

The Latvian justice system has been continuously improving its quality and efficiency, notably through a number of measures, among them training and consecutive judicial map reforms. The Information and Communication System in courts and the Prosecution Office is at an advanced level and is being further developed. The independence of the justice system has been strengthened by reinforcing the role of the judiciary in the selection of candidate judges and the Prosecutor General, as well as in the appointment of court presidents. However, despite gaining new powers, the Council for the Judiciary is experiencing a shortage of human resources, which could impede the exercise of its new powers. Discussions are ongoing on appropriate ways to increase the effectiveness of handling financial crime cases. The establishment of a separate Court of Economic Cases and the possible improvements in quality and efficiency it would bring in this area, have been questioned by the judiciary and the Council for the Judiciary is examining this issue. The removal of immunity of judges concerning administrative offences and the unified register of complaints regarding the justice system will contribute to further improving the accountability.

In recent years, Latvia has adopted several legislative reforms aimed at strengthening the efficiency of the anti-corruption framework. The criminal legislation has been amended to align the offences of abuse of office, bribery and trading in influence with international standards. The adoption of the Whistleblowing Law for the first time provides a holistic basis for the protection of whistleblowers. The capacity to investigate corruption cases has improved. However, challenges remain regarding the prosecution of corruption cases and their adjudication in courts, where proceedings often remain lengthy. Work is ongoing on legislation to improve the transparency of lobbying and to strengthen the regime to prevent conflict of interests.

The Latvian Constitution guarantees freedom of speech and information and prohibits censorship. The Law on the Press and Other Mass Media prohibits monopolisation of the press and other mass media. In recent years, questions have been raised on the effective independence of the National Electronic Mass Media Council. The draft law transposing the revised Audiovisual Media Services Directive aims to strengthen the authority's independence by providing that the Council shall not seek or take instructions from any other body. The main risk for media pluralism comes from the high concentration of the media market. A comprehensive framework for the protection of journalists is in place, although journalists increasingly face insults and other verbal attacks, especially in the online environment.

The system of checks and balances is supported, among others, by an Ombudsman's Office, who acts also as an Equality Body, and by constitutional review before the Constitutional Court, including on the basis of an individual constitutional complaint. In addition, sittings of the Cabinet of Ministers are open, which includes the possibility for media and non-governmental organisations to participate in such meetings. Furthermore, the Constitution provides that only a two-thirds majority of the Parliament can determine that a law is "urgent". New 'Guidelines for Cohesive and Active Civil Society 2021-2027' are in preparation in consultation with stakeholders.



ABSTRACT – LITHUANIA

The Lithuanian justice system has been subject to a significant number of reforms, related to the appointment of judges, the structure of the Supreme Court and the judicial map. These reforms appear to have had a positive impact in the efficiency and quality of the justice system. The perceived independence of the judiciary has improved. The Constitutional Court has clarified the scope of the functional immunity of judges. The case surrounding the dismissal of the Chairperson of the Civil Division of the Supreme Court and a consequent lack of appointment to the post of President of that Court was submitted to the Constitutional Court, which ruled that the legal acts relating to the dismissal were in conflict with the Constitution and the Law on Courts. The justice system presents good results in terms of efficiency, with short disposition times and low backlogs of cases, and new measures to further improve it are foreseen. The use of digital tools in the justice system is widespread, in particular electronic case management and court statistics are available in all courts.

Lithuania has largely put in place an institutional framework to fight corruption with a key role played by the Special Investigations Service, which combines policy coordination and preventive competences with investigative powers. The implementation of some of the measures in the anti-corruption action plan are delayed. Procedures on whistle-blowers reporting and protection were adopted at the end of 2018. Parliament adopted the amendments to the Law on Lobbying in June 2020. The verification of conflict of interest declarations is hampered by the lack of a single registry of interest.

The legal framework for media pluralism in Lithuania guarantees the basic right of freedom of expression and the right to information. The media regulators are considered independent and effective. Availability of information on media ownership raises some concerns, as in practice public information on media ownership is often limited or outdated. A recently adopted law on public information is intended to ensure greater transparency and objectivity of public information. Another issue of concern is indirect political ownership of media through subsidiaries with political interests, especially with regard to local and regional media. A new media policy document 'Strategic Directions of the Public Information Policy 2019–2022' envisages a range of measures to strengthen media pluralism in Lithuania.

As regards the checks and balances, the legal framework governing the legislative process ensures its transparency and the involvement of stakeholders. A reform from 2019 has given the possibility to individual citizens to trigger constitutional review. The Parliament Ombudsman plays an important role in safeguarding fundamental rights, and the Equal Opportunities Ombudsman has a mandate to investigate complaints and provide conclusions and recommendations on any issue related to discrimination. The participation of the civil society in the decision making process is ensured and a new Law creates the legal basis for a National NGO fund, which is set to become a sustainable mechanism of strengthening institutional capacities of NGOs in 2020.



ABSTRACT – LUXEMBOURG

The Luxembourgish justice system is marked by a high level of perceived judicial independence and an overall good level of efficiency. A constitutional reform is being discussed in Parliament to further strengthen judicial independence, by anchoring it in the Constitution and by establishing a council for the judiciary. As regards the quality of the justice system, measures are underway to foster the digitalisation of justice, which currently leaves room for improvement. In particular, the availability of means to submit cases, transmit summons and monitor legal proceedings online could be improved. Additionally, a reform of the legal aid system is being discussed to simplify certain procedures and make it accessible to a larger number of citizens. The efficiency of civil justice is consistently high, but data on administrative justice are still needed.

Luxembourg has the legal and institutional anti-corruption framework broadly in place. There is no specific anti-corruption strategy nor anti-corruption agency in place and the Ministry of Justice is in charge of the overall policy coordination. The institutional framework to prevent and fight corruption is divided between several authorities. Corruption is tackled by the prosecution service from a financial and economic crime angle, whilst the Court of Audit controls the financial management of the organs, administrations and services of the State. Shortages as regards resources of the prosecution have been reported and the recruitment process and resource allocation are being reviewed. There is stronger focus on preventive measures such as a Code of Ethics and a Code of Conducts for ministers and members of Parliament. Furthermore, lobbying and ‘revolving doors’ are not regulated and no national lobby register has been established.

The audiovisual media regulator functions independently, although there are concerns as regards its effectiveness, notably in view of limited human resources and the large number of foreign services licensed in the country. All entities registered in the Luxembourg Business Register, including media companies, have to provide detailed information on their ultimate beneficial owners and make such information publicly accessible. The law on freedom of expression in media ensures protection for journalists and, overall, the framework for journalists’ protection is robust. There were no reports of threats against journalists in recent years. Some concerns exist regarding delays in dealing with requests for access to documents held by public authorities.

The process for enacting laws includes conducting impact assessments and stakeholder consultations, and independent authorities play an important role in the system of checks and balances. A separate constitutional reform adopted on 15 May 2020 reinforced the role of the Constitutional Court and remedies the situation where a legal provision declared unconstitutional continues to create legal effects. Another proposed reform still under debate in the Parliament seeks to anchor the Ombudsman institution in the Constitution, which would contribute to further strengthening this institution. Furthermore, Luxembourg is considered to have an open civil society landscape, and recent initiatives aim at further fostering this environment.



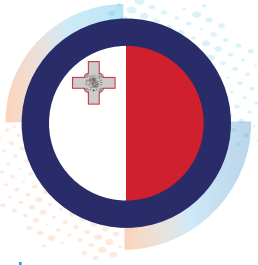
ABSTRACT – HUNGARY

Over the past years, judicial independence in Hungary has been raised by EU institutions as a source of concern, including in the Article 7(1) TEU procedure initiated by the European Parliament. The call for strengthening judicial independence, made in the context of the European Semester, remains to be addressed. In particular, the independent National Judicial Council faces challenges in counter-balancing the powers of the President of the National Office for the Judiciary in charge of the management of the courts. Developments related to the Supreme Court (*Kúria*) also raise concerns, notably its decision to declare unlawful a request for preliminary ruling to the European Court of Justice. New rules allow for appointment to the Supreme Court of members of the Constitutional Court, elected by Parliament, outside the normal procedure, and lower the eligibility criteria for the Supreme Court President. As regards efficiency and quality, the justice system performs well in terms of the length of proceedings and has a high level of digitalisation.

The institutional anti-corruption framework is shared among different bodies. Deficient independent control mechanisms and tight interconnections between politics and certain national businesses are conducive to corruption. When serious allegations arise, there is a systematic lack of determined action to investigate and prosecute corruption cases involving high-level officials or their immediate circle. This has been raised in the European Semester and by GRECO in view of the lack of commitment to comply with its recommendations. The verification of assets and interests declarations may be improved as regards systematic checks and independent oversight. Whilst the regulation of lobbying remains incomplete, corruption prevention policies have focused on integrity in state administration and law-enforcement agencies. The shrinking possibilities of civic oversight in the context of restrictions to media freedom, a hostile environment for civil society organisations and constant new challenges in the application of the transparency and access to public information rules further weaken the anti-corruption framework.

The independence and effectiveness of the Media Council is at risk. Transparency of media ownership is not fully guaranteed. Media concentration via the creation of the Central European Press and Media Foundation (KESMA) conglomerate increased risks to media pluralism. Significant amounts of state advertising channelled to pro-government outlets have permitted the Government to exert indirect political influence over the media. Independent media outlets face systematic obstruction and intimidation, while a trend of economic take-over of such outlets raises additional concern.

The transparency and quality of the legislative process is a source of concern as the use of public consultations and impact assessments has diminished. The new possibility for public authorities to challenge final court decisions in the Constitutional Court raises questions of legal certainty. The weakening of independent institutions and the increased pressure on civil society further affect checks and balances. The Court of Justice found that the legislation on the transparency of foreign-funded civil society organisations is incompatible with EU law. Legislative measures required to execute the judgment are under preparation.



ABSTRACT – MALTA

A number of significant reforms of the Maltese justice system have recently been unanimously adopted by Parliament. In particular, reforms of the system of judicial appointments and of disciplinary proceedings aim at improving the checks and balances by limiting the role of the Prime Minister and Parliament. These reforms aim at strengthening judicial independence and the system of separation powers and at responding to some of the Venice Commission's December 2018 recommendations and to recommendations from the European Commission and the Council in the framework of the European Semester. The Venice Commission overall welcomed the plans for reforms and is currently preparing an additional opinion on the legislative texts of these reforms. A Prosecution Service, under the authority of the Office of the Attorney General and fully separate from the State Advocate, is being set up. As regards the efficiency of the justice system, important concerns remain, with judicial proceedings being very long at all levels and in all categories of cases.

Deep corruption patterns have been unveiled and have raised a strong public demand for a significantly strengthened capacity to tackle corruption and wider rule of law reforms. A track record of securing convictions in high-level corruption cases is lacking. A broad reform project has been launched to address gaps and strengthen the institutional anti-corruption framework, including law enforcement and prosecution. The reform includes new rules on the appointment of the Police Commissioner, the transfer of prosecution responsibilities - including for corruption-related cases - from the police to the Attorney General, a reform of the Permanent Commission Against Corruption, and new provisions to allow appeals against non-prosecution by the Attorney General. The effective implementation of these reforms will show the extent to which the recommendations from the Venice Commission and GRECO, in addition to those from the European Commission, have been addressed.

The Constitution of Malta provides for freedom of expression and media freedom. The assassination of Malta's foremost investigative journalist Daphne Caruana Galizia in October 2017 was widely seen as an attack on freedom of expression and triggered concerns about media freedom and the safety of journalists in Malta. Other areas of concern include the effective independence of the media regulator, as well as legal and online threats to investigative journalists. The ownership, control or management by the two main political parties represented in Parliament of multiple Maltese media outlets and broadcasters continues to have a significant bearing on the Maltese media landscape.

As regards checks and balances, a number of reforms have recently been adopted by Parliament. In particular, new rules on the election and removal of the President of the Republic have been adopted, as well as reforms reinforcing the role of the Ombudsman. Other draft legislation has been tabled on limiting the role of the Prime Minister in the appointment of a number of independent commissions. These reforms aim at strengthening the overall system of checks and balances, and at responding to some of the recommendations made by the Venice Commission, which is also preparing an additional opinion on the legislative texts of these reforms. The need for other possible constitutional reforms is being considered, including on the functioning of Parliament. Civil society organisations are playing an increasing role in the public debate.



ABSTRACT – NETHERLANDS

The Dutch justice system is characterised by a high level of perceived judicial independence, and a particular attention for fostering the quality of justice. Several initiatives to further strengthen judicial independence are underway or are being discussed, inter alia concerning the method of allocation for court cases and the appointment procedures of members of the Council for the Judiciary and of the Supreme Court. As regards the quality of the justice system, numerous small-scale projects aimed at fostering access to justice are ongoing and are being rolled out on a larger scale. A reform of the legal aid system is also envisaged, giving rise to discussions among legal professionals. Furthermore, the justice system is characterised by a consistently high level of efficiency.

According to surveys, the Netherlands is perceived as one of the least corrupt countries in the EU and the world. There is a strong integrity culture in the public administration. The legal and institutional framework to fight corruption is in place and there are several initiatives underway to further strengthen the framework to detect, investigate and prosecute corruption, in particular in relation to the financial sector. The Whistleblowers' Act is currently undergoing evaluation, which may result in a revision of the Whistleblowers' authority's mandate. Certain gaps in the integrity framework exist, particularly as regards persons entrusted with top executive functions and law enforcement authorities, and some concerns have been raised as regards lobbying, 'revolving doors' and the transparency of political party funding, though some steps are being taken to address these gaps.

The Netherlands has a strong tradition, as well as a strong legal and institutional framework regarding media pluralism. The independent audiovisual media regulator plays an important role for ensuring transparency of media ownership. The authorities contribute to fostering independent journalism, notably via the allocation of grants to the Journalism Promotion Fund. Overall, the framework for journalists' protection is robust. The Council for Journalism, a self-regulatory mechanism, is entitled to issue opinions on complaints concerning journalistic practices. Media workers, including journalists, photographers and cartoonists, are occasionally confronted with threats, online and offline. The protection of journalists has come to the forefront in recent years and has resulted in increased cooperation between journalists associations, the police and the prosecution service. The recent "*PersVeilig*" initiative that helps journalists report and handle threats is a good example.

The system of checks and balances is well established and the process for enacting laws is inclusive. An impact assessment framework and the involvement of stakeholders contribute to the quality and transparency of the legislative process, which includes a constitutionality check. Several independent authorities, including the College for Human Rights and the National Ombudsman, contribute to safeguarding fundamental rights. The government has a policy of pursuing a dialogue with civil society and making information accessible to citizens. Regular discussions in Parliament as well as initiatives and reflections by different authorities on rule of law topics contribute to fostering a dynamic rule of law culture.



ABSTRACT – AUSTRIA

The level of perception of independence of the Austrian justice system is high. At the same time, concerns have been expressed regarding the procedures for the appointment of administrative court presidents as well as the right of the Minister of Justice to instruct prosecutors in individual cases. The Government has announced a general reflection on the issues of judicial recruitment, including in administrative courts, and on reporting obligations for prosecutors, which could contribute to addressing these concerns. Efforts to further develop the high level of digitalisation of the justice system are ongoing and the resources of the justice system have been increased. This could contribute to addressing certain efficiency challenges which administrative courts are facing.

Austria has the legal and institutional framework broadly in place to prevent and prosecute corruption. Austria has undergone and is still undergoing important legislative anti-corruption reforms, following prominent cases linked to political party financing and subsequent investigation of high-level public officials. However, challenges remain with respect to the integrity framework for members of Parliament. A legal framework on lobbying exists, but its scope and the information made available in the lobbying register to the public are limited. The Central Public Prosecutor's Office for Combating Economic Crimes and Corruption plays a key role in combatting corruption, but it is facing challenges related to comprehensive reporting obligations and limited resources.

The legal framework concerning media pluralism is based on a set of constitutional and legislative safeguards. The foundations of the democratic media system are strong and media authorities function in an independent manner. However, risks to media pluralism have been identified in relation to the lack of a comprehensive and enforceable framework guaranteeing the right of access to information, and the Government is reflecting on a reform for its improvement. Some concerns were raised over regulatory safeguards for media outlets' editorial independence. Media ownership is subject to strict transparency rules, although media proprietors' shareholdings in other companies are not always fully covered. Austria allocates relatively high levels of state advertising to media companies, and concerns were raised over potential political influence over such allocation, in the absence of rules on its fair distribution.

The process for enacting laws usually includes a consultation of stakeholders and general public, although there is no specific legal framework in that respect and consultation sometimes does not take place or with short deadlines. The Constitutional Court and the Ombudsman Board play an important role in the checks and balances, as illustrated in the context of the COVID-19 pandemic. Besides the Ombudsman Board, which functions as the National Human Rights Institution, other independent authorities, such as the Ombudsperson for Equal Treatment, the Disability Ombudsman, and the Ombudsperson for Children and Youth contribute to upholding fundamental rights in their respective areas. The Government has announced measures to further support civil society and has committed to fostering active dialogue and respectful engagement with civil society organisations.



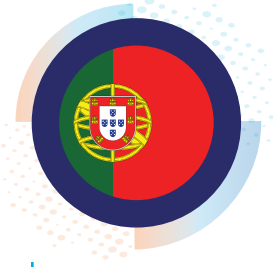
ABSTRACT – POLAND

Poland's justice reforms since 2015 have been a major source of controversy, both domestically and at EU level, and have raised serious concerns, several of which persist. The reforms, impacting the Constitutional Tribunal, the Supreme Court, ordinary courts, the National Council for the Judiciary and the prosecution service, have increased the influence of the executive and legislative powers over the justice system and therefore weakened judicial independence. This led the Commission to launch the procedure under Article 7(1) TEU in 2017, which is still under consideration by the Council. In 2019 and 2020, the Commission launched two new infringement procedures to safeguard judicial independence and the Court of Justice of the EU has granted interim measures to suspend the powers of the Supreme Court's Disciplinary Chamber with regard to disciplinary cases concerning judges.

A developed legal and institutional framework exists to prevent corruption and promote transparency. A dedicated government anti-corruption programme focusses on providing training and guidance for officials. However, structural weaknesses have been identified in areas such as the current asset declaration schemes and lobbying regulations. Plans are ongoing for transparency of public life legislation to reorganise key preventive provisions into a single legal act, but concerns exist over repeated delays. Concerns also exist over the independence of the main institutions responsible for preventing and fighting corruption, considering in particular the subordination of the Central Anti-Corruption Bureau to the executive and the fact that the Minister of Justice is at the same time the Prosecutor General.

The Polish legal framework concerning media pluralism is based both on constitutional safeguards and sectorial legislation. Relevant safeguards for the media regulator, the National Broadcasting Council, appear to be in place, however some concerns regarding its independence have been raised. The role of the regulator has been also reduced by the 2016 reform, which assigned the competences over the management of the Polish public media to a National Media Council (RMN). The legal framework on media ownership transparency is not equally applicable to all media actors. With regard to the protection of journalists, the criminalisation of insulting public officials remains problematic.

Other components of the system of checks and balances are also under pressure. Reforms have been adopted through expedited legislative procedures with limited consultation of stakeholders or opportunities for the opposition to play its role in the law-making process. Poland has a vibrant civil society and strong professional associations of judges and prosecutors, which participate in the public debate. Nevertheless, organisations have been subject to unfavourable statements by politicians. Despite the difficult environment, the Ombudsman has continued to play a key role as a rule of law safeguard.



ABSTRACT – PORTUGAL

The Portuguese justice system continues to face challenges as regards its efficiency, in particular in administrative and tax courts. Several initiatives are underway to improve the quality and the efficiency of justice, and special attention is being given to the implementation of digital solutions in all types of courts. Important reforms have been undertaken regarding the adaptation of the judicial map and for matching the existing resources with the identified needs. Following allegations of specific breaches in the electronic case allocation system, the High Council for the Judiciary has applied disciplinary sanctions and is investigating possible irregularities in the allocation of cases.

The criminal legal framework to fight corruption is broadly in place. A National Anti-Corruption Strategy is in preparation. Until December 2019, when the Government announced that it will work on a national anti-corruption strategy, there was no coordinated strategic approach to corruption. Policy and legislative responses were largely introduced in a patchwork manner, to address various shortcomings as they were revealed. Progress in the fight against corruption has continued to be achieved by the specialised prosecution and criminal police. Nevertheless, constraints as regards an effective anti-corruption prosecution result from a lack of resources and specialisation of the law enforcement bodies. A legislative package on transparency in public office, asset declarations, and incompatibilities has been adopted in 2019 and has entered into force. Preventive action so far remains limited and the Council for Prevention of Corruption lacks capacity in terms of resources and specialisation, and does mostly awareness work. The newly established Transparency Entity in charge of the monitoring and supervision of asset declarations and conflict of interest is not yet functional.

The Constitution enshrines freedom of expression and information as well as media freedom and pluralism, and a culture of respect for the editorial freedom of journalists prevails. The regulatory authority for audio-visual media - *Entidade Reguladora para a Comunicação Social* (ERC) - is deemed independent and effective. As regards the remaining areas of concern criminal sentences for defamation have been considered by the European Court of Human Rights as violating freedom of expression. The legal system includes provisions regarding the disclosure of media ownership and financing, as well as the transparency of state advertising campaigns. Both aspects are monitored by the media regulator. Access to information and documents held by public authorities is safeguarded through specific legislation.

As regards checks and balances, the system of constitutional review provides for the possibility of ex ante and ex post control, and covers the omission to legislate. The Ombudsman has an extensive mandate to safeguard fundamental rights, and unjustified lack of cooperation with the Ombudsman is criminally punished. There are safeguards for the transparency of the legislative process, and the participation of stakeholders is ensured. The High Council for the Judiciary is entitled to propose legislative initiatives regarding the improvement of the judicial institutions. Civil society benefits from an enabling legislative framework and is active.



ABSTRACT – ROMANIA

Since accession to the EU in 2007, Romanian reforms in the areas of justice and anti-corruption have been followed by the Commission through the Cooperation and Verification Mechanism (CVM), as an important framework for progress towards meeting the set benchmarks.

In 2020, the Government continued to affirm its commitment to restore the path of judicial reform after the reverses of 2017-2019. This led to a significant decrease in tensions with the judiciary. The recent appointments of new leadership for the key prosecutorial services could pave the way for more efficient continuation of prosecutorial activity. However, progress towards amending the relevant legislation has been postponed due to the COVID-19 pandemic combined with the forthcoming national elections. The controversial measures with negative impact on judicial independence continue to apply, such as the Section for the Investigation of Offences in the Judiciary, tasked exclusively with the prosecution of crimes committed by judges and prosecutors. The continued implementation of these measures increases uncertainty for the functioning of the justice system, in particular through their combined effect. Moreover, some of these measures may also negatively affect the human resources within the justice system, with implications for its efficiency.

Romania has a comprehensive national anti-corruption strategic framework based on the large participation of national and local institutional actors. Despite Romania's progress and track record in the fight against corruption over the last decade, the challenges faced by the judiciary during 2017-2019 have raised questions as to the sustainability of anti-corruption reforms. Even if the current political context means less confrontation, key institutions face a challenging environment with consequences for the implementation of legal framework and institutional capacity. Although key competent institutions have continued their activity, this poses challenges to maintaining the strong track record of prosecuted cases and court judgments convicting high-level corruption. The pending amendments of the Criminal Code and Code of criminal procedures raise uncertainty about the effectiveness of the anti-corruption legal framework, making it important that legal and policy solutions are found responding to key Constitutional Court decisions. The current Government has shown a renewed commitment to make progress on the preventive side through the comprehensive National Anti-Corruption Strategy.

The relevant legal safeguards concerning media freedom and pluralism are in place. Nonetheless, issues arise in relation to the implementation and enforcement of the existing legislative framework. Transparency of media ownership appears to be incomplete, and the audio-visual media regulatory authority lacks the resources to fully perform its tasks. Media may be prone to political pressures, as specific legal safeguards for editorial independence are mostly lacking, apart from some self-regulation at newsroom or publisher level.

The ordinary process for preparing and enacting laws is well regulated, including an extended institutional set-up of checks and balances, but its effectiveness varies. Government Emergency Ordinances continue to be widely used and successive uncoordinated legislative amendments also have an impact on the quality of legislation and legal certainty, including for the business environment. There is an enabling legislative framework for civil society, which is an active force and has been able to react against attempts to limit its activities. Civil society has had an important role in defending the rule of law in Romania.



ABSTRACT – SLOVENIA

The Slovenian justice system is characterised by an important role for the Judicial Council and the Supreme Court in the appointment, career, and governance of the judiciary, and by an advanced level of Information and Communication Technology tools for case management. Providing adequate resources for the Judicial Council, as well as the State Prosecutorial Council, is an important condition for the independent and effective functioning of these self-governance bodies. The Constitutional Court's upcoming decision on the merit regarding the constitutionality of the Parliamentary Inquires Act may give guidance as regards protecting the independence and autonomy of judges and prosecutors. While the State Prosecution increased its efficiency, challenges remain in effectively prosecuting economic and financial crime. Although the backlogs continued to decrease and do not present a systemic issue, the length of court proceedings in money laundering cases continue to present a challenge.

Slovenia has the legal and institutional framework for preventing and fighting corruption broadly in place. Comprehensive policies on access to public information, public consultation and transparency of the legislative process are well observed in practice. Slovenia also has an autonomous and independent specialised anti-corruption body, the Commission for the Prevention of Corruption, which oversees the prevention of corruption and the strengthening of integrity of public office. Its human and financial resources are limited and raise concerns. Furthermore, concerns remain over its capacity and the gap between legislation and practice, especially as regards implementation of the Integrity and Prevention of Corruption Act, Slovenia's foremost anti-corruption legislation.

While the independence of the media regulator – the Agency for Communication Networks and Services – is ensured by law, the Agency operates with low resources considering its competences, which affects its effectiveness. The current system of media ownership declaration makes certain information publicly available and thus ensures partial ownership transparency, but it does not extend to the ultimate owners. The lack of media-specific rules to prevent conflicts of interest in the sector affects negatively media pluralism in Slovenia, at national and regional level. Obtaining access to public information can be a lengthy process for the general public and journalists. Besides lawsuits with an intimidating effect, online harassment of and threats against journalists is an issue of concern, and the response of the criminal justice system is lacking.

The system of checks and balances is supported, among others, through well-developed online tools for consultation of the public and other stakeholders, assisted by a Human Rights Ombudsperson and an independent Advocate of the Principle of Equality. However, the consultation period is often short and the position of the independent bodies is not always taken into account. The Constitutional Court can carry out ex-post constitutional review. However, due to an increase in incoming constitutional complaints and rising backlogs, proceedings before the Constitutional Court are becoming lengthier, which could influence its effective functioning. A national strategy has been presented for improving support to non-governmental organisations by 2023.



ABSTRACT – SLOVAKIA

Efforts have been undertaken in recent years to improve the quality and efficiency of the Slovak justice system and have started to show some promising results. However, the justice system is characterised by a very low level of perceived judicial independence among both the general public and businesses. Since 2019, this has been exacerbated by serious concerns about the full integrity of the judiciary and prosecution services. The Government appointed in March 2020 announced a range of reforms in sensitive areas, such as the appointment procedures for members of the Judicial Council, the Constitutional Court and the Supreme Court as well as the Prosecutor General and introducing a fixed retirement age for judges.

The fight against corruption has been identified as one of the key priorities in the political programme of the new Government, which announced a range of reforms to improve the situation. The capacity to detect, investigate and prosecute corruption offences is hampered by a lack of resources and dedicated analytical expertise in both the Special Prosecution Office and the National Crime Agency, as well as difficulties in obtaining evidence. Lobbying activities are not regulated and ‘revolving doors’ provisions are weak. New legislation concerning asset declarations and conflict of interests of members of the government and other public office-holders took effect at the beginning of 2020.

Slovakia’s Constitution and secondary legislation provide a robust legal framework for the protection of freedom of expression, the right to access public information, the establishment of structures to ensure media pluralism and press rights. However, concerns have been raised about a lack of robust rules for ensuring transparency of media ownership, at preventing conflicts of interests between media owners and political parties and establishing a framework for the distribution of state advertising. The assassination of investigative journalist Ján Kuciak and his fiancée in 2018 is widely considered to have marked a genuine turning point in Slovak society and raised awareness about the need to improve the safety of journalists.

As regards the system of checks and balances in Slovakia, there is a need to improve the legislative process by strengthening the involvement of stakeholders and civil society and making better use of the existing impact assessment framework. Independent authorities such as the National Centre for Human Rights or the Public Defender of Rights have an important role to play in securing checks and balance, but need to be fully mandated and equipped to effectively exercise their roles. The Government announced plans for reforms to strengthen rule of law, in particular reforms to increase the powers of the Constitutional Court. The rule of law as a subject of public debate has gained in importance over the last years, which could foster the emergence of a more robust rule of law culture.



ABSTRACT – FINLAND

The Finnish justice system is characterised by a consistently high level of perceived judicial independence among both businesses and the general public. The recent creation of an independent National Courts Administration, which has taken over tasks concerning the management of the courts from the Ministry of Justice since January 2020, aims at further strengthening the independence of the judiciary. In addition, a recent restructuring of the National Prosecution Service aims at improving its effectiveness and consistency in prosecution practices. Certain challenges regarding digitalisation of the justice system remain.

According to surveys, Finland is perceived as one of the least corrupt countries in the EU and the world. The country relies on an administrative culture of transparency and openness in order to combat corruption. Finnish public institutions have built a reputation for transparent administration and a reliable and functional corruption prevention framework. Setting up a dedicated Government strategy to fight corruption has been under discussion for several years but its adoption is still pending. There are currently no specific rules to regulate contacts of top executive functions with third parties and lobbyists and there are no reporting or disclosure requirements applicable to those who seek to influence Government actions and policies. However, work on measures for increasing ethics and transparency is ongoing. Finland is currently taking steps with regard to regulating lobbying and limiting ‘revolving doors’. In March 2020, a parliamentary Working Group was set up to establish a transparency register related to lobbying with the aim to supplement the legislation on openness of Government and strengthen administrative transparency.

A high level of press freedom in Finland is internationally recognised. The tasks and powers of the media regulatory authority are ensured by law, although it reports some challenges regarding resources. While no media-specific rules governing transparency of media ownership currently exist, a reasonable level of transparency exists in practice through voluntary disclosures and general publicity rules for limited liability companies. The Government is considering a reform for further extending the constitutionally guaranteed access to documents. In addition, the Government has started to reflect on measures to protect journalists more effectively from unlawful threats and targeting online, a phenomenon detected in recent years. No physical threats towards journalists have been reported.

The process for enacting legislation involves a multi-step procedure with impact assessment and consultation procedures. For recent reforms relating to the justice system, an inclusive process involving the judiciary has been followed. Furthermore, a reform process is currently ongoing to clarify the partially overlapping mandates of the Chancellor of Justice and the Ombudsman, two key independent authorities involved in safeguarding fundamental rights. In this regard, a legislative proposal is planned to be presented to Parliament in autumn 2020. A National Democracy Programme has been launched to further improve the framework for civil society and participatory democracy.



ABSTRACT – SWEDEN

The Swedish justice system is characterised by a high level of perceived judicial independence. To further foster judicial independence, Sweden has, in a cross-party inquiry, launched a parliamentary process to examine certain elements of the constitutional framework relating to the judiciary. Additionally, a recent amendment to the Code of Judicial Procedure has codified the rules that govern the allocation of cases. The Government launched a legislative initiative to address challenges relating to the digitalisation of the justice system. In particular, the possibility to complete certain steps of the judicial procedure online is partially available, both as concerns submitting a case and transmitting summons.

According to surveys, Sweden is perceived as one of the least corrupt countries in the EU and the world. The Penal Code criminalises most forms of public and private corruption. While there is no codified comprehensive anti-corruption strategy in place, the Government has announced its initiative to develop a National Action Plan on anti-corruption. The public institutions have built a reputation for transparent administration and a reliable and functional corruption prevention framework. Lobbying is not regulated by law. A broad right to information is a core element of the Swedish approach to corruption prevention and public officials are entitled to disclose information to the media. Measures are in place to ensure whistle-blower protection and a review is ongoing to assess the need for amendments in view of the EU Directive (EU) 2019/1937 on the protection of persons who report breaches of Union law. Foreign bribery remains an area of risk.

Sweden has a long regulatory tradition of media freedom and pluralism. Its legal safeguards concerning media freedom and pluralism stem from both constitutional and legislative framework and appear to be fully implemented in practice. The Swedish media regulator possesses strong guarantees of its independence, enshrined in the constitutional provisions. No major issues are reported in the area of media ownership transparency, despite the fact that there are no specific rules for media companies. Sweden also proves to have a robust system concerning journalists' protection. The conditions in which Swedish journalists operate are estimated as one of the most favourable in the world. Nevertheless, some physical and online threats to journalists were reported in 2020.

A particular characteristic of the system of checks and balances is the inclusive and structured process for preparing legislation. This process is being used for the above-mentioned examination of the constitutional framework relating to the judiciary. In this process, a reform of the procedure for amending the constitution will also be considered as a means to enhance the protection of the basic structures of the democratic system. Several independent authorities play a role in safeguarding fundamental rights, and a reform process to extend the mandate of the National Human Rights Institution is ongoing. Furthermore, the Government has implemented specific instruments for dialogue with civil society.

