

A blue-tinted illustration of a female figure representing Justice. She is blindfolded, holding a scale of justice in her raised right hand, and a sword in her left hand. She is wearing a classical-style dress. The background is a solid blue color.

RULE of LAW REPORT 2021

**COUNTRY CHAPTER
ABSTRACTS**

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ABSTRACT – BELGIUM

The Belgian justice system continues to undergo reforms relating to digitalisation and the autonomous management of resources by the judiciary, though little progress has been made in the past year. As regards digitalisation, comprehensive and ambitious initiatives are foreseen for the coming years. The transfer of autonomous resource management powers to the judiciary is planned to be completed by 2024, and a workload measurement tool will be established. The High Council for Justice has continued to take steps to improve the functioning of the justice system, in particular through recommendations on judicial investigations regarding law enforcement authorities, promoting the integrity framework for judges and adopting standard forms to improve annual reporting by judicial entities. The availability of sufficient human and financial resources remains a challenge, and initiatives are ongoing to improve the situation. A persistent lack of consistent, reliable, and uniform court data remains, which hampers progress on the efficiency of justice. Particularly lengthy delays in certain appeal courts raise concern.

Measures to prevent corruption are generally in place. However, shortcomings remain as regards the prevention of conflict of interest for Ministers and their advisors, the transparency of asset disclosure, as well as lobbying activities. The COVID-19 pandemic has had a negative impact on the investigation of corruption. Anti-corruption preventive measures are coordinated by several networks and cooperation platforms at the federal level. The agreement to increase the budget of the judiciary, of the federal police and of the security services is a positive element that is expected to strengthen the fight against corruption. Several reflections are ongoing to propose potential new rules to strengthen the anti-corruption framework. No comprehensive regulation on whistleblowers protection has been introduced.

The updated media laws further reinforced the independence of media regulatory authorities, notably by a new requirement of due justification of any decision to dismiss the head or members of the collegiate body of the regulator. The regulators have also received additional resources to carry out new tasks. The regional authorities have put in place media-specific measures to mitigate the impacts of the COVID-19 pandemic, including emergency support funds. Despite a robust framework for the protection of journalists, some, especially female journalists and journalists belonging to ethnic minorities, were targets of threats and attacks, especially online.

The advisory branch of the Council of State continues to face challenges for the effective exercise of its mandate to ensure the quality of legislation. The Court of Appeal found that COVID-19 measures were adopted on a correct legal basis, striking down a first-instance judgment. A pandemic law has been adopted to provide a new legal basis for pandemic emergency measures. The new Federal Human Rights Institution has been established and is now operational with a mandate to protect and promote human rights at the federal level. In the preparation of a future State reform, the Government has announced a wide citizen consultation process. Civil society is being involved in government initiatives, although certain concerns regarding funding have been reported.



ABSTRACT – BULGARIA

Reforms in Bulgaria in areas including justice and corruption have been first followed by the Commission through the Cooperation and Verification Mechanism (CVM) and are currently followed under the Rule of Law Mechanism. In response to the 2020 Rule of Law Report, the Bulgarian authorities adopted a dedicated Action Plan covering issues in all four pillars.

Judicial reform in Bulgaria has been a gradual process with important implications for judicial independence and public confidence, but challenges remain. A new law on the Prosecutor General and his/her deputies had entered into force. In the meantime, that same law has been challenged before the Constitutional Court, which declared it unconstitutional. As a consequence, the challenge with the accountability and criminal liability of the Prosecutor General remains. Concerns related to the composition and functioning of the Supreme Judicial Council also remain. A reform on this matter had been proposed in a draft new Constitution but this was ultimately not adopted. The Inspector General and the Inspectors of the Inspectorate to the Supreme Judicial Council continue their work despite their mandate ending in April 2020. The promotion regime within the judiciary raises concerns as appointments of judges to higher positions have not been carried out as per the ordinary procedure of open competition. Despite legislative efforts, digitalisation of justice is still lagging behind in practice. Efficiency of the administrative justice system is showing significant progress.

The implementation of the institutional reforms on anti-corruption has been consolidated. The new anti-corruption strategy for the period 2021-2027 was approved, with a new set of priorities, namely strengthening capacity to combat corruption; increasing accountability of local authorities; and creating an environment against corruption capable of timely responses. Significant challenges remain concerning the effectiveness of measures related to the integrity of public administration, lobbying and whistleblowing protection, where no dedicated regulation exists. Despite the increased investigative activity and the reinforcement of resources, final convictions for high-profile cases of corruption remains low and a solid track-record of final convictions remains to be established in this respect. As regards media pluralism, the Bulgarian legal framework is based on a set of constitutional safeguards and legislative measures. New legislation has been adopted to transpose the Audiovisual Media Services Directive, which aims to strengthen the independence of the media regulator, the Council for Electronic Media. Lack of transparency of media ownership remains a source of concern. The working environment and safety of journalists do not appear to have improved. The COVID-19 pandemic has affected media plurality and protection of journalists in economic terms, particularly when it comes to regional journalism, but no specific support measures have been put in place.

Regarding checks and balances, the limited use of impact assessment and public consultation in the legislative process remains a concern, especially for draft laws proposed by the Parliament. Similar concerns also remain with the practice of introducing important changes through amendments to other unrelated legal acts, which bypass public consultation and impact assessment requirements. The emergency regime related to the COVID-19 pandemic is still in place. The resources of the National Human Rights Institutions have been increased. The draft law on foreign funding for Non-Governmental Organisations was abandoned but civic space in the country remains narrowed.



ABSTRACT – CZECHIA

Two important reforms of the Czech judiciary, the selection procedure for judges and the disciplinary regime for judges, have advanced, with the former having been adopted in May 2021. As already noted in the 2020 Rule of Law Report, these reforms could strengthen the independence of the judiciary by increasing transparency of the process of selection of judges and offering additional safeguards in disciplinary proceedings against judges. Efforts to improve the digitalisation of justice, including publication of judgements and preparation of a digital file management system, continue. Efficiency of the proceedings in civil, commercial and administrative justice improved. The courts have managed to continue their work during the COVID-19 pandemic without major disruptions.

While the legal and institutional framework to address corruption is broadly in place, there is a lack of progress in the implementation of the Government Anti-Corruption Strategy 2018-2022 and accompanying Action Plans. More specifically, at the end of the current Government's term a number of important reform initiatives in the area of corruption prevention are still pending in the Czech Parliament, including bills on lobbying, on whistleblower protection and on the extension of the Supreme Audit Office's mandate. As regards high-level corruption, investigations and audits at national and European level of the use of EU funds have recently found evidence of conflicts of interest at the top executive level, on the basis of which a case has been accepted by the European Public Prosecutor's Office. Furthermore, in a related EU subsidy fraud case, national investigators have recently recommended indictment. Due to the COVID-19 pandemic, most of the anti-corruption measures in the healthcare sector that were planned to be introduced in 2020 were postponed.

Constitutional rules guarantee freedom of expression and the right to information, and expressly ban censorship. Rules to enhance information about transparency of beneficial ownership of media outlets were enacted in 2021. The Czech Broadcasting Council appears to carry out its tasks effectively, but political controversies have continued to affect the separate Czech TV supervisory board. The print media sector has been severely affected during the COVID-19 pandemic. No media support scheme was adopted to counter the effects of the COVID-19 pandemic.

Since the beginning of the COVID-19 pandemic, almost half of the legal acts adopted were subject to shortened legislative procedure with limited possibility of stakeholder consultation. Stakeholders note that the use of the shortened legislative procedure was not limited to laws directly related to the COVID-19 pandemic. The state of emergency was in place for a significant part of the year 2020. Its renewal in early 2021, despite the refusal of extension by the Chamber of Deputies, has been criticised, including on grounds of constitutionality. Courts were frequently asked to review emergency measures and annulled several of them. A bill establishing a new office of Children's Ombudsman is discussed in Parliament. The impact of the COVID-19 pandemic on civil society organisations has been substantial, forcing them to limit their activities.



ABSTRACT – DENMARK

The perception of judicial independence in Denmark remains very high, with a number of initiatives ongoing to further improve the efficiency and quality of the justice system. Several projects by the National Court Administration aim at addressing shortcomings regarding the digitalisation of the justice system already identified in the 2020 Rule of Law Report. The Government is also taking legislative and financial measures to reduce case handling times for criminal cases. However, the courts are still facing some challenges in view of limited resources, and the clearance rate has declined in recent years. The decision-making process for the closure of courts in March 2020 in the context of the COVID-19 pandemic has given rise to questions as regards the respect of judicial independence. In reaction, the Government and National Court Administration have acknowledged the importance of communicating with courts in a way that fully recognises their independence.

Denmark continues to be perceived as one of the least corrupt countries in the European Union and in the world. The anti-corruption system is to a large extent based on general rules on ethics and integrity, social norms and public scrutiny. Challenges identified regarding the implementation of international recommendations regarding the anti-corruption framework remain. While civil servants are subject to comprehensive ethical standards and conflict of interest rules, the framework applicable to ministers and top executives remain narrow in scope. Revolving doors and lobbying activities remain unregulated. A new mechanism to protect whistleblowers in the state administration has been introduced. A new National Investigative Unit for serious crime will be set up in early 2022 and will bring under the same roof prosecutors and investigators aiming to achieve a more efficient and coordinated approach to serious crime.

New tasks have been given to the national media regulatory authority, the Radio and Television Board, as part of the transposition of the revised Audiovisual Media Services Directive. Persisting concerns regarding the exceptions to the Access to Public Administrative Documents Act, which restrict the right to access information in some cases, have been raised by the Parliament, independent researchers, the Parliamentary Ombudsperson and the journalistic community, including in the context of the COVID-19 pandemic. So far the Government has not announced concrete plans to revise the Act. The framework for the protection of journalists remains robust. The Ministry of Justice is working on a legislative proposal to introduce stricter sentences for threats to freedom of expression. The Government has provided state aid to compensate for the media industry's falling advertising revenues during the COVID-19 pandemic.

The role of Parliament in the system of checks and balances has been put into focus during the COVID-19 pandemic. It has handled a higher number of legislative procedures in an expedited manner in 2020 and 2021. A new epidemics law was adopted in February 2021 as a framework for measures related to the COVID-19 pandemic, with reinforced oversight powers for Parliament. This replaces the previous epidemics law of March 2020 under which significant powers had been delegated to the Minister of Health without an equivalent system of parliamentary control. A new system of commissions of scrutiny has been established; a first commission will examine the legality of the Government's actions related to the decision to cull all mink in late 2020 as a step to counter the COVID-19 pandemic. Civil society has received financial support by the Government in the context of the COVID-19 pandemic.



ABSTRACT – GERMANY

The German justice system, characterised by the important role of the Länder in the administration of justice, continues to benefit from a very high level of perceived judicial independence. A legislative proposal is under discussion to limit the rarely used, power of Ministers of Justice to issue instructions to prosecutors in individual cases, in light of the case law of the European Court of Justice. Discussions are on-going regarding the selection criteria for some presiding judges at the Federal Courts following some criticism by judges of the proposed removal of experience requirements. The creation of the additional posts for judges and prosecutors under the 2019 'Pact for the Rule of Law' is advancing. As noted in the 2020 Rule of Law Report, long-term challenges as regards recruitments in the judiciary persist, also in light of upcoming retirement waves of judges. Initiatives continue to further improve the digitalisation of justice. Specialised commercial courts focussed on international matters which can work in English, are being created in several Länder. The justice system continues to perform efficiently, showing improvements for administrative cases.

The strategic response to corruption prevention saw further positive developments, complementing the anti-corruption framework already in place. Germany is modernising its strategic framework for the prevention of corruption in the federal administration. A new law introduces a lobby register by January 2022, not envisaging, however, a 'legislative footprint'. Shortcomings remain in the regulation of secondary activities of parliamentarians and in the rules on asset disclosures, although some improvements are underway. Political party financing rules contain some legal gaps, including on sponsoring, while ceilings for donations are considered too high. The financial damage of corruption decreased significantly with classical cash bribery on the decline. Other forms of non-monetary bribery such as free event tickets and potential undue influence through private dinners for business and politics are coming into focus. Germany leads globally in the prosecution of individuals who commit foreign bribery, but there is no legal provision for criminal liability of companies.

Germany has a well-functioning regulatory framework on media freedom and pluralism. In the course of the transposition of the revised Audiovisual Media Services Directive, the German media law framework was updated, notably through the State Media Treaty, which entered into force in November 2020. The degree of independence of the media and the relevant regulatory authorities remains high. German law guarantees a good level of transparency of media ownership. Notwithstanding a solid legal framework, a main concern remains the physical safety of journalists, notably when covering protests. In this regard, 2020 was marked by a significant number of recorded cases of aggression against journalists.

The system of checks and balances has played an active role during the COVID-19 pandemic. Restrictive measures have been taken primarily by the Länder Governments on the basis of the Infection Protection Law, which has been amended several times, including in November 2020 to increase oversight by the Federal Parliament. These measures have been subject to extensive judicial review. Some concerns have been raised regarding a broader trend of shortened stakeholder consultation periods. On 9 June 2021 the Commission initiated infringement proceedings against Germany for breach of the principle of primacy of EU law in relation to the 5 May 2020 judgment of the Federal Constitutional Court. Civil society continues to benefit from a robust framework, but is facing uncertainty regarding the tax-exempt status of non-profit organisations. According to stakeholders, concerns over losing this status can lead them to refrain from taking positions on potentially sensitive issues.



ABSTRACT – ESTONIA

The advanced digitalisation of the justice system proved to be a determining factor in ensuring the Estonian justice system's resilience when faced with the challenges brought on by the COVID-19 pandemic. The e-File, a system for electronic communication in the justice system, is being further developed with new functionalities accompanied with training and has contributed to the courts resolving incoming cases efficiently. The powers of court presidents have been extended: where necessary for the good administration of justice, to transfer judges without consent, in extraordinary situations and for a limited time, to transfer cases and to request secondment of judges with their consent. These powers can be used to address any potential backlogs in the courts and emergency situations in the case of an increase in the number of incoming migration and asylum cases. The promotion of judges was made more transparent by amending the criteria for evaluation of first instance judges to include a procedure for collecting information on candidates.

The anti-corruption strategic framework has been further developed since last year's report with a new National Action Plan for 2021-2025, which was adopted by the Government in 2021. The Action Plan strengthens the involvement of ministries in the coordination and implementation of anti-corruption measures and develops civil society's engagement in addressing anti-corruption issues. As regards the prosecution of corruption, the criminal justice system has proven its effectiveness in identifying high-level corruption cases. Measures to strengthen the preventive side include new non-binding guidelines for lobbying and conflict of interests, although these lack clear implementing provisions. The legislative procedure to adopt comprehensive rules on whistleblowers protection is currently ongoing and it is expected to be finalised by the end of this year. The asset declaration system was updated to oblige ministers' political advisers to submit a declaration of financial interests. In addition, the Government has announced its intention to strengthen the political party financing framework.

Regarding media freedom and pluralism, the Government has proposed draft legislation to strengthen the independence of the media regulator and enhance the transparency of media ownership. The right of access to information generally finds legal and formal protection in the Constitution yet actual disclosure practices may vary between public bodies. Since the 2020 Rule of Law Report, the comprehensive framework for the protection of journalists has remained stable. The ongoing COVID-19 pandemic has caused declining advertising revenues, which has affected media plurality and journalists in economic terms by lowering the sector's job security, particularly when it comes to freelancers. The Government has adopted several supporting measures to address these concerns.

Estonia continues to improve its well-developed system of checks and balances through new projects aimed at a more inclusive legislative process. The Chancellor of Justice has expanded its competences and received A-status accreditation as a National Human Rights Institution, for full compliance with the UN Paris Principles. The new civil society programme was co-created by the Government and civil society, and emphasises building strategic partnership between Civil Society Organisations and public institutions. The Estonian government declared an emergency situation between March and May 2020. Since then amendments to the legislation gave the Health Board and Government the powers to address the COVID-19 pandemic. All COVID-19 pandemic-related Orders of the Government contain information on how they can be legally challenged.



ABSTRACT – IRELAND

The Irish justice system, characterised by a high level of perceived independence, is undergoing important developments. A new draft law aims at reforming the system for judicial appointments and promotions, alleviating certain previous concerns. However, the reform would continue to leave broad discretion to the Government, given there is no ranking of the candidates and the Government is not bound by this list, although its decisions must be published. It is important that this reform guarantees judicial independence, taking into account European standards. A disciplinary regime is being established to improve judges' accountability and the Judicial Conduct Committee is preparing draft guidelines on conduct and ethics and a complaints' procedure. In accordance with the Constitution, the final decision on dismissal of judges, which is only envisaged in cases of misbehaviour or incapacity, remains a prerogative of the Parliament, which could raise concerns as regards the politicisation of the procedure. The recently established Judicial Council has continued its work on a number of guidelines. Reflections are ongoing on limiting legal costs and improving legal aid schemes, which could improve access to justice. Measures are being taken to address challenges in relation to digitalisation, the low number of judges per inhabitant and the length of proceedings.

Ireland is extensively reviewing its anti-corruption and anti-fraud structures as well as its strategies to prevent, investigate and adjudicate economic crimes and corruption. The Government has committed itself to introduce new anti-corruption and anti-fraud structures, new legislation to provide for preliminary trial hearings, and to amend the Criminal Justice (Corruption Offences) Act 2018. Key challenges in Ireland's capacity to deter and punish corruption remain due to limited resources and institutional fragmentation. Prevention of corruption and promotion of integrity measures are in place, but challenges remain as regards enforcement, in particular on asset disclosure, lobbying and revolving doors. Concerns have been raised that the Standards in Public Office Commission, as the supervisory authority managing the disclosure of interests and tax clearance regimes of the public office holders, may not be adequately resourced. A capacity review is planned to examine the issue.

The broadcast media regulator (Broadcasting Authority of Ireland) is expected to undergo a major reorganisation in the framework of the new draft law on online safety and media regulation, aiming at transposing the revised Audiovisual Media Services Directive. The new draft law is planned to be adopted by the end of 2021. The recent developments aimed at increasing transparency in the sector include making available the database on media ownership, expected to be regularly updated. Amendments to the Defamation Act, foreseen for adoption in the coming months, are expected to have a positive impact on the operation of journalists. The Government has set up an advisory Future of Media Commission to launch a dialogue on new policy measures and possible long-term actions to support the sector.

As regards checks and balances, the ordinary legislative procedure continued to be used to legislate to address the COVID-19 pandemic, but concerns were raised regarding the limited parliamentary oversight over ministerial measures. While Ireland has a well-developed legislative procedure, there has recently been substantial recourse to possibilities to shorten discussions in Parliament. The Irish Human Rights and Equality Commission continues to carry out its work effectively and was re-accredited in June 2021. Ireland has a vibrant and diverse civil society but funding restrictions on NGOs continue to raise some concerns. There are plans to tackle these concerns in the context of the ongoing electoral reform.



ABSTRACT – GREECE

A number of measures aiming at improving the efficiency and the quality of the Greek justice system are under way. The Code of Judicial Staff was adopted on 24 April 2021 and the elaboration of the Code of Conduct for Administrative Justice is ongoing, though no draft has been made public. Measures are being implemented to improve the quality of justice, in particular as regards the collection of judicial statistics and the creation of specialised chambers in courts and measures related to e-justice, although challenges remain namely as regards digital signatures and the full implementation of electronic filing. The reform of the judicial map is a priority. Ongoing reforms in the civil procedure would have a positive impact on the administration of justice, which continues facing efficiency challenges. Concerns relating to the procedure of appointments in the most senior positions of judges and prosecutors remain.

A wide range of anti-corruption reforms that Greece has embarked on in the past years is being taken forward. The 2019 Constitutional review of the immunity regime for members of the Parliament and Ministers resulted in an extension of the statutory limit for investigations, and immunities have started to be lifted in some corruption cases, ending an important obstacle to the prosecution of high-level corruption. However, some practical issues remain, notably as regards resources for investigating corruption and delays in the management of court files. Legislative gaps have not yet been filled concerning the regulation of lobbying. Significant shortcomings remain in the effective oversight, in particular due to the division among four oversight bodies, and in the follow-up of the provisions concerning asset disclosures, conflicts of interest and party financing. While asset declarations from members of the Parliament and the Government are made public, this is done in a non-machine readable format and the reports on the outcome of the checks and on possible breaches or sanctioning procedures remain unavailable to the public.

The Greek Government has proposed new legislation to enhance the transparency of media ownership and public availability of media ownership information. The independence of the media regulator has been strengthened, while its financial capacity remains weak. The murder of an investigative journalist, currently under investigation, has highlighted concerns about the safety of journalists and the necessity of improving their protection. The working conditions of journalists have been impacted negatively by the COVID-19 pandemic and no significant measures supporting directly the media sector have been put in place.

While there have been some improvements in the system of checks and balances in Greece, some challenges remain. However, improvements are noted in the law making process, in particular as regards the further implementation of the Executive State Law. Specific initiatives aim at improving standardisation and uniformity of the law-drafting process, simplification and rationalisation, as well as the introduction of a higher degree of transparency and legal certainty. During the COVID-19 pandemic, Greece has not triggered a state of emergency and all relevant measures were taken according to the normal legislative procedure. The powers of the Ombudsperson were reinforced. The registration system of NGOs active in the area of asylum, migration and social inclusion continues to be questioned by a number of civil society organisations.



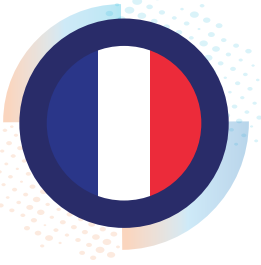
ABSTRACT – SPAIN

The Spanish justice system continues to face some challenges. In particular, the lack of renewal of the Council for the Judiciary persists in the absence of an agreement in Parliament to renew a number of constitutional bodies. A welcome development was the withdrawal of a proposed reform of the system for the selection of its judges-members that would have increased the perception of the Council as vulnerable to politicisation. In this context, calls were made for establishing a system of election of the judges-members of the Council by their peers in line with European standards. It is important that European standards are taken into account and that all relevant stakeholders are consulted. Concerns have also been raised regarding the competence of the Supreme Court for criminal liability of high-level positions, as well as the incompatibilities regime for judges and prosecutors. Several measures to improve the quality of justice have been adopted or are envisaged, such as the revisions of the legal aid system and of the Code of Criminal Procedure, as well as three draft laws on procedural, organisational and digital efficiency. The digitalisation of justice is progressing. There have been efforts to address backlogs such as the creation of new courts, but the low number of judges per inhabitant is a challenge. Concerns in relation to the autonomy of the prosecution service from the Government have been reiterated.

Spain continues improving the institutional and legal framework to prevent and combat corruption. Anti-corruption measures follow a strategic line of action but there is not a dedicated anti-corruption strategy that would guide preventive and repressive measures to fight corruption in a comprehensive manner. As regards the repression of corruption, corruption is criminalised under the Criminal Code and a number of dedicated institutions are in place. Prosecution authorities note that the lack of adequate resources affects the speed of the investigation and prosecution of corruption cases, including high-level corruption cases. As regards the prevention of corruption, Spain continues to improve its integrity framework and has committed to develop legislation on key areas including lobbying transparency, a Code of Ethics for civil servants, and the protection of whistleblowers. The new code of conduct for all members of Congress and Senate was adopted in October 2020, and a new Parliamentary Office for Conflicts of Interest monitors the parliamentarians' compliance.

As regards media freedom and pluralism, the Government is taking steps to address issues on access to information. Challenges remain in relation to transparency of media ownership. Concerns about the functional independence and resources of the audio-visual regulator were raised during the transposition of the revised Audio-Visual Media Services Directive. The Government has taken some measures to support media financially in the context of the COVID-19 pandemic. Journalists have continued to face challenges in their professional activities, but initiatives have been adopted to facilitate their work.

As regards checks and balances, the new Fourth Open Government Plan sets renewed commitments in relation to public participation, transparency, accountability and public integrity. The Autonomous Regions were designated as competent authorities for the implementation of the emergency measures related to the COVID-19 pandemic. The Ombudsperson, in function ad interim since 2017, has received an exponential increase of the number of complaints on measures taken to fight against the COVID-19 pandemic. Challenges remain for the civil society space, and a revision of the Citizen Security Law is ongoing, in light of the concerns raised. Several initiatives aimed at developing a rule of law culture, such as education programmes on justice for students, have taken place.



ABSTRACT – FRANCE

The French justice system continues to undergo a number of reforms aimed at improving its quality and efficiency. Long-standing initiatives to strengthen judicial independence, in particular by reinforcing the competences of the High Council for the Judiciary, have not advanced towards adoption, which would require a qualified majority of the votes cast by both chambers of Parliament. The resources devoted to the justice system received a significant increase. Projects aimed at achieving full digitalisation of the criminal procedure and some aspects of the civil procedure continue to advance. Two new draft laws to reinforce trust in the justice system cover issues such as the professional secrecy for lawyers, the creation of disciplinary courts for law professionals, and the broadcasting of hearings. The President of the Republic requested the High Council for the Judiciary to provide an opinion on ways to improve the regime for liability and protection of magistrates.

France has continued to strengthen its institutional framework for fighting and preventing corruption in the public and private sector. The specialised anti-corruption institutions, such as the High Authority for the Transparency of Public Life and the French Anti-corruption Agency, continue to perform their duties. Regulations for conflict of interest and the protection of whistleblowers are in place. While the lobbying legislation in place does not cover individuals initiating contact with senior officials, the Government has not put forward any proposal to this end yet. Assets declarations are disclosed and regularly verified. The National Financial Prosecutor was reorganised, and continues to show a robust record of convictions, also through public interest judicial agreements, including for high-rank officials and large-value cases. The human resources of the National Commission on Campaign Accounts and Political Financing appear insufficient compared to its workload. Specific public procurement actions were introduced in response to the COVID-19 pandemic.

France possesses a generally robust legal framework safeguarding media pluralism and freedom. An upcoming legislative change might result in an institutional reorganisation of the national media regulatory authority and creation of a single body in charge of audiovisual and digital communication. Journalists continue to be exposed to different types of threats. In view of the increase in attacks occurring during protests or demonstrations, the Government aims to implement measures to improve the communication between journalists and police forces during such events. French authorities envisaged a comprehensive recovery plan for media outlets to mitigate the impact of the COVID-19 pandemic as well as to support the transformation of the media sector.

Impact assessments and stakeholder consultations are frequent in the legislative process. However, the Government has significantly increased fast-track adoption procedures, limiting parliamentary debate on some sensitive draft laws. The emergency regime for the COVID-19 pandemic ended on 1 June 2021. Other measures affecting fundamental rights were reviewed by the Constitutional Council and the Council of State, which rejected a Government request to consider whether a ruling of the European Court of Justice could be in breach of the principle of conferral and the division of competences between the EU and its Member States. Independent authorities kept playing a very active role in safeguarding fundamental rights during the COVID-19 pandemic. The Defender of Rights acknowledged the need to improve the follow-up of its recommendations by national authorities. Recent legislation raises concerns as to its potential impact on the landscape for civil society. In particular, the new Law on Global Security received strong criticism from stakeholders and independent authorities, and the Constitutional Council declared some of its provisions unconstitutional, in particular the one aimed at protecting the anonymity of police officers on duty.



ABSTRACT – CROATIA

The Croatian justice system has seen improvements in reducing length of proceedings and backlogs, but further improvements are still needed to address serious efficiency and quality challenges. The continued extension of the new electronic communication tools in courts has led to a gradual increase in their use. The ongoing process for appointing the new Supreme Court President has given rise to controversy and to repeated disparaging public statements against judges. In the context of diverging views on the next Supreme Court President, the Constitutional Court stressed the importance of cooperation between state authorities. The State Judicial Council made proposals to strengthen its role in selecting judges – an issue already raised in the 2020 Rule of law Report. A series of alleged ethical breaches and disciplinary violations by judges led to proceedings before the State Judicial Council and Judges’ Councils, as well as to a criminal investigation. The level of perceived judicial independence remains very low. Shortages in human resources of the State Judicial Council and the State Attorney’s Councils remain, even if some limited reinforcements have been allocated to verify the newly published asset declarations of judges and state attorneys.

A new Strategy on the Prevention of Corruption for 2021–2030 is in the public consultation process. As the previous Strategy, the draft proposal of the Strategy also envisages the strengthening the legal framework on prevention of conflict of interest, which is currently being drafted. Codes of Ethics for members of the Government and for members of Parliament are still missing, while “revolving doors” are only partially regulated. Detailed rules on lobbying activities remain to be introduced. While changes to the framework of political immunity of the members of Government were announced, the legislative action has yet to follow. Public procurement procedures remain a high-risk area for corruption, and several cases have been discovered due to reporting by whistleblowers. The prosecution and investigation of high-level corruption continues, but due to protracted proceedings convictions are often delayed.

Croatia is updating its media legislation to transpose the Audiovisual Media Services Directive, with the revision of the Electronic Media Act to be adopted still in 2021. Concerns about the political independence of the Agency for Electronic Media persist, and new qualification requirements are envisaged for potential members of its governing body in the context of the revision of this law. Croatia has a solid framework on transparency of media ownership information and envisages further improvements. While state advertising is partly regulated by the Electronic Media Act, stakeholders report it often undermines the political independence of media outlets which are economically dependent on such funding, notably at local level. A legal framework for the protection of journalists is in place, but they continue to face threats. In particular, the high number of strategic lawsuits against public participation (SLAPPs) targeting journalists continues to be a serious concern. Access to information is ensured by law, but delays in the processing of requests from journalists persist.

As regards checks and balances, while public consultations are embedded in legislative procedures, stakeholders perceive citizen participation to be rather formalistic than substantive. Croatia did not declare a state of emergency, and COVID-19 pandemic measures were based on the twice-amended law regarding infectious diseases. The Constitutional Court has reviewed these measures, finding that they were compatible with the Constitution and also ruled that Parliament should find ways to guarantee its functions during the pandemic. The People’s Ombudsperson’s access to the information required to undertake investigations needs further improvement. The National Plan for Creating and Enabling Environment for the Civil Society Development 2021–2027 remains in drafting phase since 2016 – an issue raised in the 2020 Rule of law Report.



ABSTRACT – ITALY

The Italian justice system continues to undergo a number of reforms aimed at improving its quality and efficiency, including draft laws to streamline civil and criminal procedures, which are still discussed by the Parliament. Digitalisation of the justice system continues to be developed and human resources have been increased with plans to further expand them. These measures are particularly important to address the serious challenges related to the efficiency of the justice system, including backlogs and length of proceedings. The draft law regarding the High Council for the Judiciary and other aspects of the justice system, aiming at strengthening judicial independence, is still under discussion in Parliament. This draft law intends in particular to modify the way in which the members of the Council are elected. It is important that these reforms take into account Council of Europe recommendations.

Italy continues strengthening its legislative framework to fight corruption and corruption-related crimes. Cooperation, specialisation and resources for investigators and prosecutors of corruption and corruption-related crimes are generally considered sufficient to repress corruption, including high-level corruption. A lack of resources and limited experience and legal expertise affect the capacity of law enforcement authorities to pursue and prosecute foreign bribery effectively. Excessive disposition time, in particular at the appeal level, continues to constitute an obstacle to the fight against corruption, and comprehensive reforms to streamline criminal procedures are still pending in Parliament. Several legislative proposals and amendments to strengthen preventative measures against corruption are pending, including on conflicts of interest, lobbying and 'revolving doors'. The COVID-19 pandemic significantly increased the risk of corruption and corruption-related crimes being committed to further infiltrate the legal economy of Italy.

Italy has a robust legislative framework regulating the media sector as well as an independent, well-resourced and effective media regulator. Italy's scheduled reform of its defamation laws remains pending in Parliament and the political independence of the Italian media remains an issue of concern in particular in the audio-visual sector. Rescue packages provided in 2020 by the Government to counteract the financial impact of the COVID-19 pandemic included some media-specific measures. Numerous physical attacks and death threats as well as other forms of intimidation against journalists remain an issue of concern.

As regards checks and balances, the emergency regime related to the COVID-19 pandemic is still in place, but the Government is adopting measures to progressively reduce restrictions. A new proposal is under discussion to strengthen the role of Parliament during emergency situations. The use of public consultations and ex post regulatory impact assessments has been slightly improved but they are still not systematically applied. A draft law establishing an independent human rights institution is being examined in Parliament. Some progress has been reported on the legislation on civil society organisations dealing with migrants, such as provisions governing the activities of civil society organisations carrying out search-and-rescue operations at sea, although concerns remain within an overall context where migration management in the EU is challenging.



ABSTRACT – CYPRUS

The structural reform of the Cypriot justice system continues, but is experiencing delay. Draft legislation on splitting the current Supreme Court into a Supreme Constitutional Court and a High Court, and on the appointment procedures of the judges and Presidents of these two new jurisdictions, is pending before Parliament. These appointments would be decided by the President of the Republic, following the non-binding advice of the Advisory Judicial Council. It is important that this reform guarantees judicial independence, in line with EU law and taking into account Council of Europe recommendations. The establishment of a Court of Appeal is also being discussed before the Parliament. The establishment of specialised courts and the restructuring of the courts are ongoing. The new rules of civil procedure have been approved, which aim at accelerating judicial proceedings. The enhancement of the capacity of the Law Office continues, including the separation of functions and recruitment procedures. Further reforms aim at overcoming important challenges for the efficiency and quality of the justice system, in particular for digitalisation. Civil, commercial and administrative judicial proceedings remain very lengthy.

Cyprus continues to improve its legislative framework to combat corruption, although a few important reforms remain pending, such as setting up an anticorruption agency, protection of whistleblowers, regulation of lobbying and asset disclosure for elected officials. The Office of Transparency and Prevention of Corruption has been tasked to oversee the implementation of a new anti-corruption plan for 2021-2026. The investigation of corruption cases continued, with the manipulation of sports competition standing out as a particular risk area, although adjudication of corruption cases remains low. The Attorney General's Office received new resources, and an amendment to the Criminal Code increased the sanctions for the crime of abuse in office, triggering the possibility to use special investigation techniques in the investigation of this offence. The Government launched an inquiry into the investor-citizen schemes to respond to allegations of corruption involving foreign individuals and high-ranking officials. A new code of conduct focused on anticorruption seeks to improve integrity in the police. During the COVID-19 pandemic, actions launched to provide financial relief were accompanied by measures that sought to mitigate the risk of fraud and corruption.

Freedom of expression and the right of access to information find legal and formal protection in the Constitution. Secondary legislation expressly ensures protection of journalistic sources, fosters media pluralism in the radio and television sectors. Since December 2020, secondary law establishes the framework and conditions for public access to information and establishes the office of the Commissioner for Information. Draft laws envisaged for adoption in the second half of 2021 are geared at strengthening the independence of the Cyprus Radio and Television Authority, reinforcing free speech guarantees and ownership transparency.

The system of checks and balances includes a consultation process as part of a Better Regulation Project. However, the consultation process on draft legislation is limited to discussions within the House of Representatives and concerns exist on the access to drafts by the public. The state of emergency enshrined in the Constitution was not declared during the pandemic. However, restrictions were imposed to citizens and businesses under the Quarantine Law, which empowers the Council of Ministers to issue decrees related to COVID-19 pandemic. Some civil society organisations still face certain challenges regarding the registration framework, as noted in the 2020 Rule of Law Report, though improvements are noted in new legislation, which allows an easier registration of federations of NGOs.



ABSTRACT – LATVIA

The Latvian justice system has benefitted from measures to further improve its independence, quality, and efficiency. The new procedure for selecting candidate judges, established to strengthen judicial independence, started to be applied. The Judicial Council approved a new strategy for 2021-2025 aiming at increasing judicial independence. However, the Council keeps operating with limited resources, in particular as regards its staff – an issue already raised in the 2020 Rule of Law Report. A new Code of Ethics for judges has been adopted to modernise guidance on ethics, which had not been amended since 1995. The level of digitalisation of courts and the prosecution services is high, and efforts are ongoing to develop it further. The Government intends to create a new training centre, centralising all training in the justice system. It would be important that the judiciary is adequately involved in its governance and supervision. The newly created Economic Court is becoming operational and will require sufficient resources as regards both staff and training to be able to handle complex economic and financial cases efficiently.

The legislative reforms adopted by Latvia to strengthen the effectiveness of the anti-corruption framework remain to be fully implemented. Legislation criminalises the offences of abuse of office, domestic and foreign bribery, and trading in influence. A new Action Plan to prevent corruption is under preparation. The investigation and prosecution of corruption-related offences continues to be a shared task among different authorities. Measures were taken to increase the capacity of the Corruption Prevention and Combating Bureau to investigate corruption cases. Work on the integrity framework for the prevention of conflicts of interest continued, but the provisions regulating “revolving doors” and post-employment restrictions remain limited. Lobbying remains unregulated, while the draft legislation continues to be discussed by the Parliament. The State Audit Office audited more than 90% of the funding spent in 2020 for COVID-19 related support measures.

As regards media freedom and pluralism, new legislation has been adopted to transpose the Audio-visual Media Service Directive, which aims to strengthen the independence of the media regulator, the National Electronic Mass Media Council, while its remit has been reduced by excluding the operational oversight of public service media. Although a comprehensive framework for the protection of journalists and the right to access information is in place, it appears that journalists continue to face personal attacks online, often from politicians. Steps were taken to mitigate the economic impact of the COVID-19 pandemic on the media. In addition, some concerns were expressed about journalists’ limited access to information during the COVID-19 pandemic.

Measures to address the COVID-19 pandemic were adopted in the framework of the state of emergency, which ended in April 2021. The Parliament continued to work remotely and reviewed the pandemic-related measures. However, Parliament could only approve or reject ex post the Government measures that mostly had already entered into force under the state of emergency and could not amend them. The Ombudsperson’s Office was re-accredited with an A-status and continued to monitor measures related to the pandemic. New Guidelines for the development of a more cohesive civil society for the period 2021-2027 were adopted by Government, which also allocated financial support to NGOs to mitigate the impact of the COVID-19 pandemic.



ABSTRACT – LITHUANIA

The Lithuanian justice system continues to present good results in terms of efficiency, and further measures to improve this are being implemented. Digital tools are widely used in the justice system, which has contributed to ensuring the continued functioning of courts during the COVID-19 pandemic. Appointments to high judicial positions remain subject to delays. While appointments to the Constitutional Court have resumed, the president of the Supreme Court remains in function ad interim since September 2019. Initiatives to strengthen anti-corruption culture in the judiciary are being developed by the National Courts Administration and the Judicial Council. Amendments to the legal aid system are being discussed, responding to long-standing concerns of lawyers.

On 4 November 2020, the new anti-corruption action plan 2020–2022 was adopted with the aim of improving the implementation of the National Anti-Corruption Programme. Asset disclosure now has a more efficient and effective regulation and updated rules on lobbying activities aiming at ensuring more transparency and publicity of meetings between elected officials and lobbyists are in force since January 2021. The implementation of the revised legal framework on revolving doors and cooling off periods has started after their approval in July 2020. Whistleblowers protection provisions are in place and the prosecution office is raising awareness to promote the use of reporting channels. Several high-level corruption cases were investigated or brought to court. The public procurement legal framework has been improved to prevent frauds and corruption risks in the context of the COVID-19 pandemic. Furthermore, recommendations and guidance for improving transparency and reducing corruption risks in the implementation of the COVID-19 economic relief plan were issued by the Special Investigations Service.

The legal framework for media pluralism in Lithuania guarantees the basic right of freedom of expression and the right to information. While the media regulators continue to be considered independent and effective, a debate about the effectiveness and impartiality of media self-regulatory bodies has taken place. To strengthen media ownership transparency, the Ministry of Culture is putting in place a publicly available Information System of Producers and Disseminators of Public Information. The professional environment for journalists is gradually improving in Lithuania, especially as regards access to information held in the main public registers. Nevertheless, it appears that authorities sometimes invoke data protection in order to unduly limit access to information. Lithuanian authorities have taken several measures to alleviate the impact of the COVID-19 pandemic on media outlets.

A project aimed at improving the quality of law-making is under preparation, which will include the revision of existing legislation, in order to eliminate outdated or disproportionate regulation. Lithuania adopted emergency measures in the context of the COVID-19 pandemic, which are still in place. While the activity of Lithuanian NGOs was impacted by the COVID-19-related restrictions, the authorities have provided specific financial support to NGOs. Civil society space remains open, and a new NGO foundation has been created to provide sustainable institutional support for NGOs. The Lithuanian authorities are developing initiatives to improve legal education, and there are plans to integrate legal and anti-corruption education in general education programmes.



ABSTRACT – LUXEMBOURG

The justice system of Luxembourg continues to operate with a high level of perceived judicial independence and an overall good level of efficiency. A constitutional revision procedure aimed at further strengthening judicial independence is advancing, and the latest draft includes the creation of a council for the judiciary and a clear reference to the independence of the judiciary and the prosecution service. This would lead to removing the power of the Minister of Justice to give instructions to prosecutors in individual cases. The COVID-19 pandemic has illustrated that digitalisation of justice remains to be further developed in order to ensure the resilience of the justice system, as well as the modernisation of justice, in general, in the longer term. Concrete proposals for amendments are being prepared to improve the legal aid system.

The Government is currently assessing the need to strengthen anti-corruption rules, its main focus being on corruption prevention. A code of conduct for members of the Parliament partially regulates lobbying activities but shortcomings remain as to the overall consistency and implementation. Room for improvement remains with regard to revolving doors, as specific provisions exist only for members of the Government. This has also been underlined by the Ethics Committee which is an external monitoring body. The political party financing regulation has been revised to ensure more transparency. Legislation to protect whistleblowers remains to be introduced, but specific reporting channels exist within the Grand Ducal Police. In the framework of the COVID-19 pandemic, the Grand Ducal Police addressed a reminder of the applicable ethical principles to all law enforcement officials after identifying potential corruption risks during the pandemic.

Luxembourg has strengthened further regulatory safeguards for the independence and effectiveness of the media regulator and increased its resources. These should allow to alleviate concerns raised in last year's report regarding its effectiveness. Furthermore, a reform of the press aid scheme, to make it technologically neutral and extend to online news media, is ongoing but at this stage it is unclear whether it will include freelance journalists as well. The framework for the protection of journalists remains robust. In order to alleviate the impact of the COVID-19 pandemic on the media, the authorities established a temporary aid scheme for publishers and journalists. Concerns remain about the lengthy procedures for access to official documents.

Parliament proposed two new constitutional revisions notably introducing direct access of citizens to the Constitutional Court and to streamline provisions related to the State, the Head of State and the Government. Both are currently debated at Parliament while consultations are ongoing. Luxembourg has relied mostly on ordinary legislative procedures to enact measures for addressing the COVID-19 pandemic, but concerns have been raised that the opportunities for involvement of stakeholders are limited. The "House of Human rights" project, aiming at fostering synergies and bringing together institutions protecting fundamental rights, was finalised. Although the COVID-19 pandemic has had an impact on the work of NGOs, the civic space in Luxembourg remains open, and the Government made grants available to support NGOs during this period.



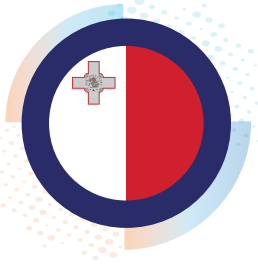
ABSTRACT – HUNGARY

As regards efficiency and quality, the Hungarian justice system performs well in terms of the length of proceedings and has a high level of digitalisation. The gradual increase of salaries of judges and prosecutors continues. However, as regards judicial independence, the justice system has been subject to new developments adding to existing concerns, expressed also in the context of the Article 7(1) TEU procedure initiated by the European Parliament. The new rules allowing for appointment of members of the Constitutional Court to the Supreme Court (Kúria) outside the normal procedure, have been put in practice, and enabled the election of the new Kúria President, whose position was also endowed with additional powers. This Kúria President was elected despite a negative opinion of the National Judicial Council. The recommendation to strengthen judicial independence, made in the context of the European Semester, remains unaddressed. This includes the need to formally reinforce the powers of the independent National Judicial Council to enable it to counter-balance the powers of the President of the National Office for the Judiciary.

The implementation of the anti-corruption strategy is ongoing but its scope remains limited. Shortcomings persist as regards political party financing, lobbying and ‘revolving doors’. Risks of clientelism, favouritism and nepotism in high-level public administration as well as risks arising from the link between businesses and political actors remain unaddressed. Independent control mechanisms remain insufficient for detecting corruption. Concerns remain regarding the lack of systematic checks and insufficient oversight of asset and interest declarations. New criminal law provisions aim to address foreign bribery and informal payments in healthcare. While the indictment rate for corruption cases is high, and some new high-level corruption cases were opened since 2020, the track record for investigations of allegations concerning high-level officials and their immediate circle remains limited.

Media pluralism remains at risk. Concerns persist with regard to the independence and effectiveness of the Media Authority, also in the light of the Media Council’s decisions leading to independent radio station Klubrádió being taken off air. While no media support schemes were established to counter the impact of the COVID-19 pandemic on news media outlets, significant amounts of state advertising have continued to permit the government to exert indirect political influence over the media. Access to public information was tightened through emergency measures introduced during the pandemic, making timely access to such information harder for independent media outlets. Independent media outlets and journalists continue to face obstruction and intimidation.

As regards the system of checks and balances, the transparency and quality of the legislative process remain a source of concern. An amendment to the constitution will limit the powers of Government as regards the ‘state of danger’ regime after July 2023. The Commissioner for Fundamental Rights has gained more competences, but its independence has been questioned by stakeholders. The Commission launched infringement proceedings to ensure the implementation of the Court of Justice judgment on the law on the transparency of foreign-funded civil society organisations. Subsequently, Parliament repealed the law and introduced new rules on legality checks for civil society. Pressure remains on civil society organisations critical towards the government, whilst concerns have been expressed about newly established private trusts receiving significant public funding, managed by board members close to the current government.



ABSTRACT – MALTA

The reforms of 2020, in particular the reform of the system of judicial appointments and of judicial discipline, have contributed to strengthening the independence of the Maltese justice system. The perception of judicial independence has notably improved. Steps have been taken to depoliticise the appointment of the Chief Justice, while certain aspects of this procedure require further attention. The transfer of prosecutions from the police to the Attorney General is progressing. Whereas this transfer needs time, it is important that it also covers less serious offences. There are ongoing discussions to enhance the independence of specialised tribunals. Serious challenges remain as regards the efficiency of the justice system, in particular the length of court proceedings, the impact of the low number of judges and the digitalisation of justice.

A new targeted anti-fraud and corruption strategy was approved by the Government. While investigative and prosecution bodies have improved their capacity to deal with corruption cases, as shown by an increase in the number of cases opened, investigations continue to be lengthy depending on their complexity and a track record of convictions in high-level cases remains to be established. The reforms concerning the appointment of the Police Commissioner and of the Commissioners of the Permanent Commission against Corruption, as well as the reorganised cooperation between the Police and the Attorney General, are recent and results are yet to be seen. Concerning the rules on integrity for public officials, including members of Parliament and ministers, further changes are envisaged. Specific guidance has been put in place to mitigate the risks of corruption in public procurement during the COVID-19 pandemic.

The public inquiry into the assassination of investigative journalist Daphne Caruana Galizia continued to hear testimonies throughout 2020 and 2021, concluding its work on 15 July 2021. There have been developments in the separate criminal proceedings relating to this case. Journalists still face obstacles when requesting access to information held by public authorities as well as in the exercise of their profession more generally. Amendments to Malta's Broadcasting Act have not introduced any changes which would enhance the Broadcasting Authority's effective independence. In the light of the ownership by the two main political parties of their own television and radio stations, a constitutional case has been lodged challenging the relevant section of the Maltese Broadcasting Act and the media regulator's application of that provision. In 2020, Malta established a support scheme for news media providers to counteract the adverse effects of the COVID-19 pandemic.

Further reforms have been carried out to enhance checks and balances. Reforms of the appointment of persons exercising top executive functions and appointments to certain independent commissions, proposed in 2020, have been adopted. Remaining concerns regarding the appointment process for certain other public bodies will be addressed under the Constitutional Convention. However, due to the COVID-19 pandemic, the timing and organisation of this Convention are still to be set. The Ombudsman's role has been strengthened, although he noted a lack of consistency in the follow-up to his recommendations. The draft law on the establishment of a national human rights institution is still under discussion in Parliament. Challenges remain in relation to the limited use of public consultations in the law-making process, including on structural reforms. While civil society organisations continue to participate actively in the public debate, they raised certain concerns on access to funding and actions by the Commissioner for Voluntary Organisations.



ABSTRACT – NETHERLANDS

The Dutch justice system continues to be characterised by a very high level of perceived judicial independence, and efforts continue to further foster the quality of justice. Several initiatives relating to judicial independence are being taken forward, such as the Constitutional revision to reform the appointment procedure for Supreme Court judges. As regards the quality of justice, the development of small-scale projects to enhance quality has entered a new phase of rolling out initiatives on a larger scale. Efforts to improve the level of digitalisation continue for civil, administrative and criminal justice, and have been accelerated by the COVID-19 pandemic. Some concerns persist as to the adequate funding of the current system for legal aid, and the reform of the legal aid system is foreseen to be completed by 2025. Overall, the justice system continues to perform efficiently, although the COVID-19 pandemic created a backlog for 2020 and 2021.

As last year, the Netherlands continues to be perceived as one of the least corrupt countries in the EU and the world. Integrity is a key component of the framework governing the public administration. In 2020, an extensive programme on combating subversive organised crime was launched, including a holistic approach to prevent, detect and sanction corruption, after investigations showed that criminals are actively looking to exercise undue influence on civil servants. The capacity of the National Police Internal Investigations Department and of the prosecution service has been strengthened through additional funding. New legislation extending screening of police officers and external consultants was adopted in October 2020. Further legislation to strengthen the integrity of elected and appointed officials is foreseen to be implemented by March 2022. Concerns remain as regards the integrity framework applicable to top executive functions within the public sector as well as regards lobbying, revolving doors and the transparency of political party financing.

The Netherlands continues to have a high degree of media freedom. The authorities continue to contribute to fostering independent journalism via grants from the Journalism Promotion Fund, and an additional temporary fund has been set up during the COVID-19 pandemic for local media. The independent audiovisual media regulator reports regularly on media ownership structures. However, there is scope for more comprehensive disclosure of such structures to the public. The legislative framework for access to information is being amended to improve transparency of the Government and provide better access to public information after many delays and incomplete answers have been reported. The murder of an investigative journalist, currently under investigation, and increased threats highlight the importance of initiatives like “PersVeilig”, which helps journalists report and handle threats.

Extensive debates and reflections on the proper functioning of the system of checks and balances are taking place following a Parliamentary investigation report on the implementation of the child-care allowances system finding that principles of the rule of law had not been respected. Follow-up measures and inquiries are currently envisaged or ongoing. The COVID-19 pandemic has continued to be high on the legislative and judicial agenda, in particular with a law adopted to provide a more solid legal basis for COVID-19 measures, and high-profile COVID-19 measures challenged in court. Independent authorities continue to play an important role in the system of checks and balances, including for safeguarding fundamental rights. The landscape for civil society continues to be open, although some questions have been raised regarding new draft legislation on transparency and legislation expanding the possibilities to prohibit so-called ‘radical organisations’.



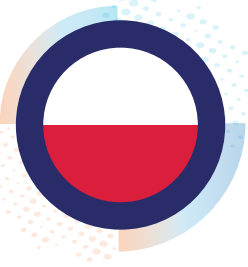
ABSTRACT – AUSTRIA

The Austrian justice system continues to benefit from a very high level of perceived independence and discussions are ongoing regarding the announced reform to introduce an independent Prosecution Service. It is important that this reform takes into account European standards regarding the independence of the prosecution. Meanwhile, changes to reduce the reporting obligations for prosecutors have been concluded. Other measures have been taken concerning compliance management systems for courts and prosecutors and an obligation to provide feedback to staff panels regarding proposals for judicial appointments. As regards recruitment standards at the administrative courts, in particular the appointment of vice-presidents and presidents, some concerns remain. Austria is making efforts to further improve the digitalisation of justice. The justice system continues to perform efficiently, showing improvements regarding administrative cases.

The implementation of the National Anti-Corruption Strategy is ongoing but some delays have been reported due to the COVID-19 pandemic. Investigations into high level political corruption have intensified following recent political scandals. However, prosecutors working on these cases have faced negative narratives from politicians. Reporting obligations for the specialised prosecution service are burdensome, leading to delays with a negative impact on the effectiveness of anti-corruption investigations, but recent amendments aim to reduce the reporting burden. New measures to prevent corruption of civil servants and top executive functions have been introduced, but measures to effectively address integrity risks for parliamentarians remain limited, with no obligation to disclose assets, interests, debts and liabilities. Though a legal framework on lobbying exists, its scope and information publically available remain limited. The control of political party financing remains a concern.

The legal framework and enabling environment for media continue to be strong, and media authorities continue to function in an independent manner. Risks to media pluralism have been identified in relation to the lack of a comprehensive and enforceable legal framework for access to documents and public information. To address this, the Government has proposed a new law on freedom of access to information. Media continue to receive high amounts of state advertising spending, but concerns persist as regards the fairness and transparency of their allocation, potential political influence in the process and insufficient reflection of media pluralism considerations. The dedicated public financial support to the media sector during the COVID-19 pandemic was widely considered as effective, but doubts about its objective distribution were raised. While some steps have been taken to improve journalists' protection during protests, their safety is increasingly threatened, in particular by online harassment and intimidation.

As regards checks and balances, steps are being taken to improve stakeholder and citizens' involvement in policy-making. In the context of the COVID-19 pandemic, the executive has been empowered to act by ordinance based on dedicated legislation, with increased parliamentary scrutiny since autumn 2020. The Constitutional Court has played an important role in reviewing these measures, annulling several of them for being insufficiently justified. The Ombudsperson, which has also played an active role in the context of the COVID-19 pandemic, is preparing for re-accreditation as the National Human Rights Institution. The Government has made efforts to further develop dialogue with civil society organisations, in particular consulting them regarding the support allocated to civil society during the COVID-19 pandemic.



ABSTRACT – POLAND

The reforms of the Polish justice system, including new developments, continue to be a source of serious concerns as referred to in 2020. Reforms carried out since 2015 increased the influence of the executive and legislative powers over the justice system to the detriment of judicial independence and led the Commission to launch the procedure under Article 7(1) TEU, which is still ongoing. In April 2021, the Commission referred Poland to the Court of Justice in view of a law on the judiciary which undermines the independence of judges and is incompatible with EU law. In July 2021, the Court ordered interim measures in that case. On the same day, the Constitutional Tribunal held that interim measures ordered by the Court of Justice in the area of the judiciary are inconsistent with the Polish constitution. Also in July 2021, the Court of Justice found that the disciplinary regime for judges in Poland is not compatible with EU law. The National Council for the Judiciary continues to operate despite its contested independence and the functioning of the Supreme Court was further affected, including by changes in legislation. In May 2021, the European Court of Human Rights found irregularities in an appointment procedure to the Constitutional Tribunal.

The legal and institutional framework to prevent and combat corruption is largely in place. Yet, there are risks as regards the effectiveness of the fight against high-level corruption, including a risk of undue influence on corruption prosecutions for political purposes. In this context, concerns remain over the independence of the main institutions responsible for the prevention and fight against corruption, considering in particular the subordination of the Central Anti-Corruption Bureau to the executive and the fact that the Minister of Justice is also the Prosecutor-General. The dedicated government anti-corruption programme was implemented in the years 2018-2020, yet key legislative tasks remain unfinished. Structural weaknesses continue to exist as regards the asset declaration system and lobbying.

Regarding media freedom and pluralism, the Government is expected to adopt legislation to transpose the Audiovisual Media Service Directive to strengthen the independence of media regulators. The Polish media market has been so far considered diverse, but stakeholders fear negative impacts of the acquisition of Polska Press by the state-owned company Orlen. While the competition authority (UOKiK) approved the transaction, the Polish Ombudsperson challenged this decision considering that this authority did not examine whether the acquisition would result in restricting press freedom. Concerns were also raised about a draft tax legislation targeting some media groups, in an environment considered as increasingly unwelcoming towards foreign-owned media outlets. Since 2020, journalists' professional environment has deteriorated, with use of intimidating judicial proceedings, growing failure to protect journalists and violent actions during protests, including from police forces.

The system of checks and balances continues to be under considerable pressure. The expedited adoption of legislation continues to be used, also beyond issues linked to the COVID-19 pandemic, including for structural reforms of the judiciary, with no or limited consultation of stakeholders. Some measures introduced by the Government in 2020 to address the COVID-19 pandemic have been considered unlawful by courts in individual cases. The Ombudsperson continues to play a key role as a rule of law safeguard. Following a decision of the Constitutional Tribunal, the continued exercise of core powers by the outgoing Ombudsperson ended in July 2021. Parliamentary proceedings now point to an appointment of a new Ombudsperson with cross-party support. The civil society space is still vibrant but has been affected further by general problems concerning women's rights, and by attacks on LGBTI groups.



ABSTRACT – PORTUGAL

The efficiency of the Portuguese justice system remains a challenge, especially for administrative and tax courts. The Government is taking measures to address this challenge, in particular reinforcing administrative arbitration centres and creating rapid reaction teams. Measures are also under way to address the human resource deficit, and to invest in digitalisation. Following repeated concerns regarding the allocation of cases in courts, the High Council for the Judiciary is taking steps to improve case management, through enhanced transparency in the allocation system. Initiatives to strengthen the integrity in the justice system are ongoing, in particular through the preparation of codes of conduct for magistrates. Hierarchical relations within the prosecution service remain subject of discussion, and the issue is under consideration in the Supreme Administrative Court. Reforms of criminal procedure are under discussion to allow for a more timely treatment of complex cases. It is important that these issues are addressed in consultation with all relevant stakeholders and take into account European standards.

The Anti-Corruption Strategy for 2020–2024, approved by the Government, is awaiting a vote in the Parliament. It aims at answering a long-standing need to create a robust anti-corruption framework. The Government has proposed measures to ensure a more efficient treatment of complex corruption cases. While the efforts to improve the track record of investigations and prosecutions of corruption continue, prosecution authorities consider the lack of resources for police and prosecution to be a concern. A new amendment completed the 2019 reform of the asset declaration system, but the Transparency Entity mandated to verify disclosures is not yet operational. While revolving doors rules updated in 2019 still need to be implemented, new lobbying legislation is under discussion in Parliament and there are plans to revise the whistleblower legislation. Resources attributed to the Council for Prevention of Corruption remain limited. An Anti-Corruption Mechanism has been created to contribute to the prevention capacity. Corruption risks, including conflicts of interest, under the COVID-19 pandemic, have been the subject of several recommendations at national level.

The media regulator has seen its competences extended in line with the revised Audiovisual Media Services Directive to include video sharing platforms, media literacy, and new reporting and registry obligations. The Government put in place media-specific support measures to mitigate the difficulties faced by media due to the COVID-19 pandemic. The legislative framework ensures the protection of journalists. Nevertheless, there have been instances of threats and limitations to journalists' professional activities, including a case of surveillance seeking to identify journalists' sources, into which the Prosecutor-General's Office launched an investigation to be examined by the High Council of the Public Prosecution Service. Stakeholders also point to a lack of any systemic collecting of data related to threats or violence against journalists in particular online.

Measures to improve the transparency of law-making and the quality of legislation have been adopted. In particular, the new Parliamentary Rules of Procedure aim at strengthening stakeholders' involvement in the legislative process. The use of emergency powers by the Government during the state of emergency in the context of the COVID-19 pandemic was subject to authorisation by Parliament, and ex post control by Parliament, courts and the Ombudsperson. The COVID-19 pandemic and the emergency measures have had an impact on the work of civil society organisations, and specific support was allocated. A new law on the statute of public utility aims at streamlining the legislative framework. While civil society space is considered to be open, new challenges are emerging, in particular due to instances of hostility and pressure against civil society organisations and human rights defenders.



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 in these areas. The CVM continues in parallel to the rule of law mechanism, of which Romania is an integral part – as any other Member State until all benchmarks are satisfactorily met.

The Government is proposing reforms aimed at addressing the concerns raised by the amendments of the justice laws of 2017–2019, which drew criticism for their negative impact on independence, quality and efficiency of justice. In a preliminary ruling of 18 May 2021, the Court of Justice of the EU has examined several aspects of these reforms and confirmed those concerns, in particular in relation to the Section for the Investigation of Offences in the Judiciary. A draft law to dismantle this Section is being examined in Parliament. A legislative procedure has been initiated to amend the justice laws. Human resources shortages have been accentuated by the lack of recruitment of new magistrates, combined with the retirement of a significant number of magistrates. These shortages have added more pressure on magistrates, with implications for the quality and efficiency of justice.

The institutional framework to combat corruption is comprehensive, but its effectiveness will require sustained political will as committed by the Government. The adoption of a new Anti-corruption Strategy for 2021–2025 is a key priority. The effectiveness of the investigation and sanctioning of medium and high-level corruption has improved, confirming the previous track-record. The National Anti-Corruption Directorate has achieved better results, though the 2017–2019 amendments to the justice laws continue representing a major impediment to its good functioning. Amendments to the criminal codes remain necessary. In the absence of solid legislative and policy solutions to Constitutional Court decisions, there are increased obstacles and legal uncertainty for the fight against corruption. Increased institutional cooperation in the context of the elections in 2020 could mark a change of approach on the integrity for elected officials. The Agency for the Management of Seized Assets remains fully operational and the PREVENT electronic system on conflict of interests is effective.

Legal safeguards concerning media freedom and pluralism are in place. However, concerns remain in relation to the implementation and enforcement of the existing legislative framework, particularly regarding access to information. The National Audiovisual Council still lacks the resources to fully perform its tasks, and its activity has been affected by the expiry of several mandates of its members. Transparency of media ownership continues to be incomplete. Media can be prone to political pressure, especially when their revenues depend on state advertising. Lawsuits against investigative journalists for defamation continue to be reported. In the context of the COVID-19 pandemic, media received support through funds allocated for governmental media campaigns aimed at preventing the spread of COVID-19.

Concerns remain on the stability and predictability of legislation, as legislation is changed often and the resulting laws can be contradictory, and on a limited use of impact assessments. Following the May 2019 referendum, no significant Government Emergency Ordinances were adopted in the field of justice. In the context of the COVID-19 pandemic, a state of alert is in place, with increased parliamentary scrutiny. Following the ruling of the Court of Justice of the EU of 18 May 2021 on several aspects of the justice laws, the Constitutional Court gave a judgment on 8 June 2021, which raises serious concerns, as it questions the principle of primacy of EU law. The legislation on associations and foundations was amended in 2020 to lower the bureaucratic burden for NGOs.



ABSTRACT – SLOVENIA

The Slovenian justice system has seen some positive developments, including on issues raised in the 2020 Rule of Law Report. In particular, the Constitutional Court ruling declaring as unconstitutional the rules governing parliamentary inquiries for lack of safeguards on judicial independence provides an important protection for judges. The judiciary initiated a discussion on improving the framework for disciplinary proceedings regarding judges. Appointments of state prosecutors are unjustifiably delayed and the failure to timely nominate European Delegated Prosecutors raises concerns. Challenges in proceedings relating to economic and financial crime cases remain. The COVID-19 pandemic exposed the need to accelerate improvements to electronic communication tools. Access to court and prosecution documents has become a sensitive matter leading to a Supreme Court judgment and a legislative amendment.

The legal and institutional framework for preventing and fighting corruption continues to improve. Legislative amendments have improved the independence, organisation and functioning of the Commission for the Prevention of Corruption although its human resources remain limited. The same amendments have also strengthened the legal framework on lobbying, protection of whistleblowers and declaration of assets. Nevertheless, concerns remain over the effective enforcement of the anti-corruption rules, e.g. on conflict of interest and whistleblowers. Furthermore, the previous strategy has largely been implemented but some actions remain pending and no new plan has been adopted. Although the number of prosecutions has increased, challenges remain, notably as regards the capacity for effective investigations, and the low number of convictions for corruption cases, especially for high-level instances. A series of risk-assessments during the COVID-19 pandemic were launched by the Government, particularly concerning the risk of corruption in public procurement.

The situation of media freedom and pluralism has been deteriorating. The independence of the media regulator is ensured by law but challenges remain regarding resources for its broad spectrum of tasks and commitment to further strengthen its independence. A revision of the media and audiovisual services laws is still pending. Some concerns are still present on these drafts, however certain amendments proposed to the media law in 2020 could improve media ownership transparency. Allocation of state advertising is not regulated and is often non-transparent, especially in case of local media. Obtaining access to public information remains lengthy for the public and journalists. Online harassment of and threats against journalists are a growing source of concern, and several lawsuits against journalists with intimidating effects have been reported. Concerns have been raised by national and international stakeholders following the refusal by the authorities to finance the Slovenian Press Agency for 2021. No specific measures for the media sector have been taken relating to COVID-19 pandemic; but journalists could access general relief measures.

Slovenia has not declared a state of emergency during the COVID-19 pandemic. The Communicable Diseases Act, amended four times since the beginning of the pandemic, has been the basis for the adoption of restrictive measures. Parliament continued to function, after quickly amending its Rules of Procedure to allow for online sessions. Financial independence of certain independent bodies has been protected by a Constitutional Court judgment. The Constitutional Court improved its efficiency, raised in the 2020 Rule of Law Report, and played an active role in reviewing COVID-19 measures. To discuss the rule of law, the President of the Republic convened a first-ever meeting of all three branches of government. The civil society had to cope with several challenges affecting the enabling environment for non-governmental organisations.



ABSTRACT – SLOVAKIA

Important efforts to improve the independence, integrity, quality and efficiency of the Slovak justice system, already noted in the 2020 Rule of Law Report, have continued. In December 2020, the Parliament adopted an extensive reform of the Constitution and implementing legislation regarding the justice system, in particular the Constitutional Court and the Judicial Council. Authorities have also stepped-up efforts to address corruption in the judiciary. A reform of the judicial map is under preparation, involving the Council of Europe, which has generated a number of comments from stakeholders. A Supreme Administrative Court has been established. A new Prosecutor General and a Special Prosecutor were elected through a new transparent procedure. These reforms reflect efforts to improve the justice system and it is important that their implementation takes into account the relevant European standards to safeguard judicial independence. This is also important considering that the level of perceived independence of the judiciary, although it has improved among companies, remains very low among the general public.

Slovakia's efforts to repress corruption have significantly increased and show effect with a number of high-level corruption cases being investigated and prosecuted. Leading officials were also selected and appointed, including the Head of the new Whistleblower Protection Office, that will take up its functions as of 1 September 2021. The capacity to detect and investigate corruption offences can still be strengthened by investments in specialisation, dedicated analytical expertise and integrity trainings for the National Crime Agency. There is slow progress in preventing corruption. Several attempts to regulate lobbying have so far failed. However, draft legislation on lobbying, 'revolving doors', asset declarations, conflicts of interest of members of Parliament and public procurement are planned or at the initial stage.

Slovakia's Constitution and secondary legislation provide the legal framework for the protection of freedom of expression, the right to access public information, media pluralism and press rights. A draft law under discussion and scheduled for adoption in September 2021 is expected to introduce a framework to ensure media ownership transparency. The government plans to propose legislation aimed at securing a more favorable environment for journalists have been postponed. The distribution of state advertising remains unregulated. A number of convictions were pronounced with regard to individuals involved in the assassination of investigative journalist Ján Kuciak and his fiancée in 2018. The acquittals of the alleged masterminds of the murder were annulled by the Supreme Court, which returned the case to the Specialised Criminal Court. One conviction was confirmed. No news media support scheme was introduced to counter the impact of the COVID-19 pandemic.

As concerns the system of checks and balances, the need remains to improve the legislative process by strengthening the involvement of stakeholders and civil society, as already noted in the 2020 Rule of Law Report. The Constitutional reform of December 2020 explicitly excludes the competence for the Constitutional Court to review Constitutional laws, which triggered the review by the Constitutional Court of this provision. The state of emergency related to the COVID-19 pandemic lasted for most of 2020 and ended in May 2021, following a change of legislation in December 2020 to allow its extension. The Public Defender of Rights and the National Centre for Human Rights took an active role in defending fundamental rights during the pandemic. Concerns grow over financing of certain NGOs, in particular limitations for NGOs working in the field of gender-equality.



ABSTRACT – FINLAND

The Finnish justice system continues to enjoy a very high level of perceived judicial independence. The recently established National Courts Administration has become fully operational and, apart from performing its regular tasks, assisted the courts in their response to the COVID-19 pandemic. The reform of the National Prosecution Service has helped to increase its efficiency by enabling centralisation, development of uniform practices, better cooperation and more even distribution of resources. The authorities are undertaking several projects to improve the digitalisation of the justice system and to make the system of legal aid more accessible.

Finland continues to be perceived as one of the least corrupt countries in the EU and the world. A dedicated comprehensive Government strategy to fight corruption was adopted on 27 May 2021. The Strategy aims to strengthen the fight against corruption, including through the clarification of responsibilities, awareness raising and prevention, the improvement of transparency and of the effectiveness of anti-corruption legislation, as well as relevant research. While the authorities place a strong emphasis on fighting financial crime and have taken steps to address foreign bribery, detection and prosecution of the latter remains a challenge. Lobbying remains currently unregulated, however, the Government is drafting legislation that would provide for a transparency register. Legislative initiatives are also being discussed to address concerns over revolving doors between the public administration and private interests. A revised system for asset declaration for public officials is under discussion and the proposal to regulate whistleblower protection in a new standalone law is expected to enter into force by the end of 2021.

Finland generally enjoys a free and protected environment for journalists and media professionals. The main media regulatory authority, the Finnish Transport and Communications Agency, is perceived as fair and transparent but its economic situation continues to be challenging. New specific legislation has been adopted obliging media service providers to make publicly accessible information on their ownership structure. A preparatory working group has been appointed in view of further extending the constitutionally guaranteed access to documents by enforcing compliance and covering more information. The Government is also planning changes in the Criminal Code to facilitate the prosecution of unlawful threats and targeting of vulnerable victims, such as freelance journalists. To address hate speech directed towards female journalists, the Government is preparing another change in the Criminal Code for gender to be added among the motives that constitute grounds for increasing the punishment for (any) crime. Moreover, the Government is reflecting on a permanent aid mechanism to support journalism in Finland besides a temporary support scheme that was specifically linked to the COVID-19 pandemic.

The Government has adopted an Action Plan on Better Regulation, which aims at improving the quality, planning and transparency of legislation. Most of the measures taken in the context of the COVID-19 pandemic were adopted based on ordinary legislation. Where emergency powers were used, the approval of Parliament and ex ante constitutionality review were required. The reform process to clarify the tasks of the Chancellor of Justice and the Ombudsman, two key independent authorities involved in safeguarding fundamental rights, is supported by both authorities and is planned to be presented to Parliament in autumn 2021. A new Advisory Board for Civil Society Policy, a platform that has been facilitating fruitful interaction between public authorities and civil society, will be elected in the autumn 2021.



ABSTRACT – SWEDEN

Efforts to further strengthen legal safeguards for judicial independence within the Swedish justice system are continuing, in particular through the work of the committee of inquiry on strengthening democracy and judicial independence, which is also reviewing the process for amending the Constitution. A targeted reform of the system for security clearances for judges has also been carried out. Sweden has also taken certain steps to further improve the digitalisation of the justice system, in particular setting up a new council on digitalisation, focused on criminal proceedings. However, concerns about the long-term resources of the justice system persist. The justice system has continued to function efficiently, including in the face of the challenges of the COVID-19 pandemic, where specific measures regarding their continued functioning were left to the courts to decide.

As in previous years, Sweden's perceived corruption levels are among the lowest in the EU and the world. Transparency is the cornerstone of Sweden's anti-corruption approach. In 2020, Sweden adopted its first strategic National Action Plan to prevent corruption in its public administration. Among others, it prescribes the systematic use of corruption risk analysis to strengthen corruption risk awareness and risk management practices among public officials. Although this action plan is seen as an important step, it lacks concrete actions and a time plan and it was subject to only limited consultation among relevant stakeholders. Additional prevention initiatives have been undertaken in the reporting period, including the extension of revolving doors rules to top executives of the National Audit Office, and new guidelines for public officials to declare their assets. Lobbying continues to be unregulated and there is no consistent practice to publicly disclose those that seek to influence specific legislative proposals ('legislative footprints'). Foreign bribery remains a risk area where only moderate levels of prosecution are seen.

Media freedom and pluralism in Sweden continue to be generally robust, mainly due to safeguards stemming both from the Constitution and from legislation. Sweden has further strengthened the legal safeguards for independence and has increased the budget of the Swedish Press and Broadcasting Authority. As noted in the 2020 Rule of Law Report, the Government is also analysing the possibility to introduce specific legislation on transparency of media ownership, which currently does not exist. Sweden is taking steps to improve journalists' protection, as part of the ongoing review of the criminal law protection for certain vital functions in the society. Journalists increasingly experience threats and harassment, especially online. Sweden has adopted economic measures to address the negative economic effect the COVID-19 pandemic has had on media and journalists, particularly on freelancers.

As there is no state of emergency for a health crisis foreseen under the Swedish Constitution, measures related to the COVID-19 pandemic have been taken primarily by recommendations. In January 2021, Sweden adopted a new legislative framework enabling the Government to take more restrictive measures to combat the COVID-19 pandemic. This framework has been subject to ex-ante constitutionality review, but short consultation times have been criticised by the Constitution Committee. A proposal to establish a National Human Rights Institution in compliance with international standards has been submitted to Parliament. Civil society space remains open, and the Government is considering steps to clarify requirements for civil society organisations to receive government funding.

