

Annual Rule of Law  
Report - Council of  
Europe input

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

2021

**Directorate General Human Rights and Rule of Law (DG I)**

Germany

# I Justice System

## CEPEJ

CEPEJ – Country profile Germany - Scoreboard (2019 data) *(content of the link will be available after acceptance of the CEPEJ Study for the Scoreboard by DG-Just)*

[CEPEJ Country Profiles Germany Scoreboard](#)

CEPEJ European Judicial Systems Evaluation Report – Evaluation cycle 2018-2020 (2018 data) – Part 2 Country profile Germany

[CEPEJ Evaluation Report - Country Profiles - Germany](#)

CEPEJ website – General Country profile Germany (including answers to the Evaluation Scheme)

[General CEPEJ Country profile](#)

European Judicial Systems CEPEJ Evaluation Report – Evaluation cycle 2018-2020 (2018 data) – Part 1 Tables, graphs and analysis

[CEPEJ Evaluation Report 2020 Part 1](#)

CEPEJ Dynamic database of European judicial systems

[CEPEJ-STAT](#)

## A. Independence

### 1. Appointment and selection of judges and prosecutors

GRECO

<https://www.coe.int/en/web/greco/evaluations/germany>

4<sup>th</sup> round: corruption prevention in respect of MPs, judges and prosecutors

3<sup>rd</sup> round: incrimination and transparency of Party Funding

### 2. Irremovability of judges, including transfers of judges and dismissal

GRECO

<https://www.coe.int/en/web/greco/evaluations/germany>

4<sup>th</sup> round: corruption prevention in respect of MPs, judges and prosecutors

3<sup>rd</sup> round: incrimination and transparency of Party Funding

### 3. Promotion of judges and prosecutors

GRECO

<https://www.coe.int/en/web/greco/evaluations/germany>

4<sup>th</sup> round: corruption prevention in respect of MPs, judges and prosecutors

3<sup>rd</sup> round: incrimination and transparency of Party Funding

### 4. Allocation of cases in courts

GRECO

<https://www.coe.int/en/web/greco/evaluations/germany>

4<sup>th</sup> round: corruption prevention in respect of MPs, judges and prosecutors

3<sup>rd</sup> round: incrimination and transparency of Party Funding

5. Independence (including composition and nomination of its members), and powers of the body tasked with safeguarding the independence of the judiciary (e.g. Council for the Judiciary)

GRECO

<https://www.coe.int/en/web/greco/evaluations/germany>

4<sup>th</sup> round: corruption prevention in respect of MPs, judges and prosecutors

3<sup>rd</sup> round: incrimination and transparency of Party Funding

6. Accountability of judges and prosecutors, including disciplinary regime and ethical rules.

GRECO

<https://www.coe.int/en/web/greco/evaluations/germany>

4<sup>th</sup> round: corruption prevention in respect of MPs, judges and prosecutors

3<sup>rd</sup> round: incrimination and transparency of Party Funding

7. Remuneration/bonuses for judges and prosecutors

8. Independence/autonomy of the prosecution service

GRECO

<https://www.coe.int/en/web/greco/evaluations/germany>

4<sup>th</sup> round: corruption prevention in respect of MPs, judges and prosecutors

3<sup>rd</sup> round: incrimination and transparency of Party Funding

9. Independence of the Bar (chamber/association of lawyers)

10. Significant developments capable of affecting the perception that the general public has of the independence of the judiciary

GRECO

<https://www.coe.int/en/web/greco/evaluations/germany>

4<sup>th</sup> round: corruption prevention in respect of MPs, judges and prosecutors

3<sup>rd</sup> round: incrimination and transparency of Party Funding

11. Other - please specify

PACE

Democracies facing the Covid-19 pandemic

Rapporteur : Mr Ian LIDDELL-GRAINGER, United Kingdom, EC/DA

Doc. 15157

Consultative Council of European Judges (CCJE)

Statement by the President of the CCJE on the role of judges during and in the aftermath of the COVID-19 pandemic: lessons and challenges (24 June 2020)

<https://rm.coe.int/ccje-2020-2-statement-of-the-ccje-president-3-lessons-and-challenges-c/16809ed060>

Opinion No. 23 (2020) of the CCJE on the role of associations of judges in supporting judicial independence (6 November 2020)

<https://rm.coe.int/opinion-23-en-ccje-2020/1680a03d4b>

Consultative Council of European Prosecutors (CCPE)

Opinion No. 15 (2020) of the CCPE on the role of prosecutors in emergency situations, in particular when facing a pandemic (19 November 2020)

<https://rm.coe.int/opinion-no-15-ccpe-en/1680a05a1b>

GRECO

9 December 2020 – International Anti-Corruption Day - Newsroom (coe.int)

GRECO President: “No quarter to corruption in healthcare, governments must lead by example”

## B. Quality of justice

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12. Accessibility of courts (e.g. court fees, legal aid)

13. Resources of the judiciary (human/financial)

14. Use of assessment tools and standards (e.g. ICT systems for case management, court statistics, monitoring, evaluation, surveys among court users or legal professionals)

15. Other - please specify

European Commission for the Efficiency of Justice (CEPEJ)

<https://www.coe.int/en/web/cepej/country-profiles/germany>

## C. Efficiency of the justice system

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GRECO

<https://www.coe.int/en/web/greco/evaluations/germany>

4<sup>th</sup> round: corruption prevention in respect of MPs, judges and prosecutors

3<sup>rd</sup> round: incrimination and transparency of Party Funding

16. Length of proceedings

17. Enforcement of judgements

18. Other - please specify

European Court of Human Rights - country profile

[https://echr.coe.int/Documents/CP\\_Germany\\_ENG.pdf](https://echr.coe.int/Documents/CP_Germany_ENG.pdf)

Execution of Judgments of the European Court of Human Rights - country factsheets

<https://rm.coe.int/168070974b>

## II Anti-corruption framework

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

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

GRECO

Guidelines addressed to GRECO 50 Member States

Corruption Risks and Useful Legal References in the context of COVID-19

Published 21/04/2020

Office of the Commissioner for Human Rights

Corruption undermines human rights and the rule of law [Corruption undermines human rights and the rule of law - Human Rights Comments - Commissioner for Human Rights \(coe.int\)](#) – published on 19 January 2021

GRECO

<https://www.coe.int/en/web/greco/evaluations/germany>

4<sup>th</sup> round: corruption prevention in respect of MPs, judges and prosecutors

3<sup>rd</sup> round: incrimination and transparency of Party Funding

19. List of relevant authorities (e.g. national agencies, bodies) in charge of prevention detection, investigation and prosecution of corruption. Where possible, please indicate the resources allocated to these (the human, financial, legal, and practical resources as relevant).

B. Prevention

GRECO

Guidelines addressed to GRECO 50 Member States

#### GRECO

<https://www.coe.int/en/web/greco/evaluations/germany>

4<sup>th</sup> round: corruption prevention in respect of MPs, judges and prosecutors

3<sup>rd</sup> round: incrimination and transparency of Party Funding

20. Integrity framework: asset disclosure rules, lobbying, revolving doors and general transparency of public decision-making (including public access to information)

21. Rules on preventing conflict of interests in the public sector

22. Measures in place to ensure Whistle-blower protection and encourage reporting of corruption

23. List the sectors with high-risks of corruption in your Member State and list the relevant measures taken/envisaged for preventing corruption in these sectors. (e.g. public procurement, healthcare, other).

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

### C. Repressive measures

#### GRECO

<https://www.coe.int/en/web/greco/evaluations/germany>

4<sup>th</sup> round: corruption prevention in respect of MPs, judges and prosecutors

3<sup>rd</sup> round: incrimination and transparency of Party Funding

25. Criminalisation of corruption and related offences,

26. Overview of application of sanctions (criminal and non-criminal) for corruption offences (including for legal persons)

27. Potential obstacles to investigation and prosecution of high-level and complex corruption cases (e.g. political immunity regulation)

## III Media pluralism

### A. Media regulatory authorities and bodies

28. Independence, enforcement powers and adequacy of resources of media authorities and bodies

Relevant recommendation of the Committee of Ministers of the Council of Europe to member states:

[Recommendation Rec \(2000\) 23 of the Committee of Ministers to member states on the independence and functions of regulatory authorities for the broadcasting sector](#)

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

## B. Transparency of media ownership and government interference

30. The transparent allocation of state advertising (including any rules regulating the matter)

31. Public information campaigns on rule of law issues (e.g. on judges and prosecutors, journalists, civil society)

Office of the Commissioner for Human Rights

[Time to take action against SLAPPs - Human Rights Comments - Commissioner for Human Rights \(coe.int\)](#) – published on 27 October 2020

32. Rules governing transparency of media ownership

Relevant recommendation of the Committee of Ministers of the Council of Europe to member states:

[Recommendation CM/Rec\(2018\)1 of the Committee of Ministers to member States on media pluralism and transparency of media ownership](#)

PACE

The impact of the Covid-19 pandemic on human rights and the rule of law

(Rapporteur : [Mr Vladimir VARDANYAN](#), Armenia, EPP/CD)

[Doc. 15139](#) / See also the [Opinion](#) by the Committee on Culture, Science, Education and Media on the aforementioned report.

## C. Framework for journalists' protection

33. Rules and practices guaranteeing journalist's independence and safety and protecting journalistic and other media activity from interference by state authorities

34. Law enforcement capacity to ensure journalists' safety and to investigate attacks on journalists

Relevant recommendation of the Committee of Ministers of the Council of Europe to member states:

[Recommendation CM/Rec\(2016\)4 of the Committee of Ministers to member States on the protection of journalism and safety of journalists and other media actors](#)

35. Access to information and public documents

Office of the Commissioner for Human Rights

[Access to official documents is crucial – let's make it a reality - Human Rights Comments - Commissioner for Human Rights \(coe.int\)](#) – published on 1 December 2020

36. Other - please specify

Office of the Commissioner for Human Rights

[Tapping the full potential of Equality Bodies for a fairer Europe - Human Rights Comments - Commissioner for Human Rights \(coe.int\)](#) – published on 26 June 2020

Platform to promote the protection of journalism and safety of journalists

<https://www.coe.int/en/web/media-freedom/germany>

Freedom of expression chapters of the annual reports of the Secretary General of the Council of Europe featuring indicators on media pluralism and transparency of ownership, media independence and safety of journalists as well as country-specific assessments:

2018

<https://rm.coe.int/state-of-democracy-human-rights-and-the-rule-of-law-role-of-institutio/168086c0c5>

2017

<https://edoc.coe.int/en/an-overview/7345-pdf-state-of-democracy-human-rights-and-the-rule-of-law.html>

2016

[https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectId=0900001680646af8](https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=0900001680646af8)

2015

[https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectID=090000168058e01e](https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=090000168058e01e)

## IV Other institutional issues related to checks and balances

### A. The process for preparing and enacting laws

37. Stakeholders'/public consultations (particularly consultation of judiciary on judicial reforms), transparency of the legislative process, rules and use of fast-track procedures and emergency procedures (for example, the percentage of decisions adopted through emergency/urgent procedure compared to the total number of adopted decisions).

38. Regime for constitutional review of laws

### B. Independent authorities

39. independence, capacity and powers of national human rights institutions, ombudsman institutions and equality bodies

### C. Accessibility and judicial review of administrative decisions

40. modalities of publication of administrative decisions and scope of judicial review

41. implementation by the public administration and State institutions of final court decisions

### D. The enabling framework for civil society

42. Measures regarding the framework for civil society organisations

43. Other - please specify

Expert Council on NGO Law report on criminalisation of NGO activity in relation to migration and a compendium of developments 2017-2019 in NGO law, freedom of association

<https://rm.coe.int/expert-council-conf-exp-2020-1-ngos-developments-in-standards-mechanis/16809ccd3a>

<https://rm.coe.int/expert-council-conf-exp-2019-1-criminal-law-ngo-restrictions-migration/1680996969>

Private Office procedure on human rights defenders interacting with the Council of Europe

[https://www.coe.int/en/web/secretary-general/news-2019-thorbjorn-jagland/-/asset\\_publisher/9j1gCsAwfdMt/content/revised-private-office-procedure-on-human-rights-defenders-interacting-with-the-council-of-europe](https://www.coe.int/en/web/secretary-general/news-2019-thorbjorn-jagland/-/asset_publisher/9j1gCsAwfdMt/content/revised-private-office-procedure-on-human-rights-defenders-interacting-with-the-council-of-europe)