

# 2021 Rule of Law Report - targeted stakeholder consultation

Fields marked with \* are mandatory.

## Introduction

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The first annual Rule of Law Report was published on 30 September 2020. It is the core of the new European rule of law mechanism, which acts as a preventive tool, deepening multilateral dialogue and joint awareness of rule of law issues.

In the preparation of the first annual Rule of Law Report, the Commission relied on a diversity of relevant sources, including from Member States, country visits, and stakeholders' contributions collected through a targeted stakeholder consultation[1]. The information provided has informed the Member State-specific assessments of the Commission in preparing the Report. Building on the positive experience from the first Rule of Law Report, the Commission is inviting stakeholders to provide written contributions for the preparation of the 2021 Rule of Law Report through this targeted consultation.

The contributions should cover in particular (1) feedback and developments with regard to the points raised in the country chapters of the 2020 Rule of Law Report and (2) any other significant developments since January 2020[2] falling under the 'type of information' outlined in next section. This would also include significant rule of law developments in relation to the COVID-19 pandemic falling under the scope of the four pillars covered by the report.

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

Contributions should focus on significant developments both as regards the legal framework and its implementation in practice.

Please provide your contribution by 8 March. Should you have any requests for clarifications, you can contact the Commission at the following email address: [rule-of-law-network@ec.europa.eu](mailto:rule-of-law-network@ec.europa.eu).

[1] [https://ec.europa.eu/info/publications/2020-rule-law-report-targeted-stakeholder-consultation\\_en](https://ec.europa.eu/info/publications/2020-rule-law-report-targeted-stakeholder-consultation_en)

[2] Unless the information was already submitted in the consultation for the 2020 Rule of Law Report.

## Type of information

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

### **Legislative developments**

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

### **Policy developments**

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

### **Developments related to the judiciary / independent authorities**

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

### **Any other relevant developments**

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

Please include, where relevant, information related to measures taken in the context of the COVID-19 pandemic under the relevant topics.

If there are no changes, it is sufficient to indicate this and the information covered in the 2020 Rule of Law Report should not be repeated.

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

## About you

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\* I am giving my contribution as

Public authority or network of public authorities

\* Organisation name

*250 character(s) maximum*

Commission for the conflict of interest resolution

\* Main Areas of Work

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

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

*500 character(s) maximum*

<https://www.sukobinteresa.hr/>

Transparency register number

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

\* Country of origin

Please add the country of origin of your organisation

Croatia

\* First Name

Natasa

\* Surname

Novakovic

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

natasa.novakovic@sukobinteresa.hr

### \* Publication of your contribution and privacy settings

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

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

☒ I agree with the [personal data protection provisions](#).

## Questions on horizontal developments

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

Overview topics for contribution

[overview\\_topics\\_for\\_contribution.pdf](#)

Please provide any relevant information on horizontal developments here

*5000 character(s) maximum*

## Questions on developments in Member States

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The following four pillars are sub-divided into topics and sub-topics. You are invited to provide concrete information on significant developments, focusing primarily on developments since January 2020, for each of the sub-topics which are relevant for your work. Please feel free to provide a link to and reference relevant legislation/documents. Significant developments can include challenges, positive developments and best practices, covering both legislative developments or implementation and practices (as outlined under "type of information").

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

Please note that, due to the size of the questionnaire, certain elements may be slow to load, especially if selecting many Member States at once. In such cases, it is recommended to wait a few minutes to let the page load correctly.

## Member States covered in contribution [several choices possible]

Please select all Member States for which you wish to contribute information. For each Member State, a separate template for providing information will open. This may take several minutes to fully load.

- ☐ Austria
- ☐ Belgium
- ☐ Bulgaria
- ☒ Croatia
- ☐ Cyprus
- ☐ Czechia
- ☐ Denmark
- ☐ Estonia
- ☐ Finland
- ☐ France
- ☐ Germany
- ☐ Greece
- ☐ Hungary
- ☐ Ireland
- ☐ Italy
- ☐ Latvia
- ☐ Lithuania
- ☐ Luxembourg
- ☐ Malta
- ☐ Netherlands
- ☐ Poland
- ☐ Portugal
- ☐ Romania
- ☐ Slovak Republic
- ☐ Slovenia
- ☐ Spain
- ☐ Sweden

## Justice System - Croatia

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### Independence

#### Appointment and selection of judges, prosecutors and court presidents

(The reference to 'judges' concerns judges at all level and types of courts as well as judges at constitutional courts)

*3000 character(s) maximum*

#### Irremovability of judges; including transfers, dismissal and retirement regime of judges, court presidents and prosecutors

*3000 character(s) maximum*

Promotion of judges and prosecutors

*3000 character(s) maximum*

Allocation of cases in courts

*3000 character(s) maximum*

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)

*3000 character(s) maximum*

Accountability of judges and prosecutors, including disciplinary regime and bodies and ethical rules, judicial immunity and criminal liability of judges

*3000 character(s) maximum*

Remuneration/bonuses for judges and prosecutors

*3000 character(s) maximum*

Independence/autonomy of the prosecution service

*3000 character(s) maximum*

Independence of the Bar (chamber/association of lawyers) and of lawyers

*3000 character(s) maximum*

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

*3000 character(s) maximum*

## Quality of justice

(Under this topic, you are not required to give statistical information but should provide input on the type of information outlined under "type of information".)

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

*3000 character(s) maximum*

### Resources of the judiciary (human/financial/material)

Material resources refer e.g. to court buildings and other facilities.

*3000 character(s) maximum*

### Training of justice professionals (including judges, prosecutors, lawyers, court staff)

*3000 character(s) maximum*

### Digitalisation (e.g. use of digital technology, particularly electronic communication tools, within the justice system and with court users, including resilience of justice systems in COVID-19 pandemic)

(Factual information presented in Commission Staff Working Document of 2 December 2020, SWD(2020) 540 final, does not need to be repeated)

*3000 character(s) maximum*

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

*3000 character(s) maximum*

### Geographical distribution and number of courts/jurisdictions ("judicial map") and their specialization

*3000 character(s) maximum*

## Efficiency of the justice system

(Under this topic, you are not required to give statistical information but should provide input on the type of information outlined under "type of information".)

### Length of proceedings

*3000 character(s) maximum*

Other - please specify

*3000 character(s) maximum*

## Anti-Corruption Framework - Croatia

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

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

*3000 character(s) maximum*

The Republic of Croatia does not have a single centralized anti-corruption institution. It has a network of competent institutions active in the field of anti-corruption.

The Ministry of Justice is the central corruption prevention body. Its internal organizational unit in charge of conducting activities in this area is the Sector for the Suppression of Corruption.

The Commission for the Resolution of Conflicts of Interest exists since 2003, but from 2011, the Commission has been established as a standing, independent, autonomous state authority with a professional membership. The President and four members of the Commission are elected by the Croatian Parliament for a five-year term of office. The President and members of the current term of the Commission have been elected by the Croatian Parliament and entered upon office in February/March 2018. The Commission is established as a specialized body whose role is preventing corruption. The task of the Commission is on the one side prevention and education, its first and foremost scope being best practices promotion in the performance of a public duty. But also there is repressive role, which represents conflict of interest proceedings, decisions on whether a particular action or failure to act on the part of the public official represents an infringement of the provisions of the Act and pronouncing the prescribed sanctions. The Commission has professional staff - the Commission Office which conducts all professional, administrative and technical work for the Commission. 14 civil servants are employed in the Commission Office. Funds for the operation of the Commission are earmarked in the state budget.

The Information Commissioner is the competent authority for supervising the implementation of the Right to Access to Information Act, which aims at ensuring transparency of the work of public authority bodies.

The State Commission for the Control of Public Procurement Procedures is an independent state body responsible for resolving complaints in public procurement procedures, concessions and public-private partnerships. The State Audit Office is established by the Constitution of the Republic of Croatia as the highest audit institution of the Republic of Croatia. The Ombudsperson has been designated by the Protection of Reporters of Irregularities Act („Whistle-blowers Act“) as the body competent for external reporting of irregularities. The State Election Commission is the competent body for conducting elections and referendums and for monitoring and strengthening the transparency of financing of political activities, election campaigns and referendums.. The repressive part of the anti-corruption mechanisms is consisting of the Office for the Suppression of Corruption and Organized Crime (USKOK) as a special prosecutor's office charged with prosecuting corruption and organized crime, established in 2001.



## Prevention

Integrity framework including incompatibility rules (e.g.: revolving doors)

*3000 character(s) maximum*

The Civil Servants Act and the Code of Ethics for Civil Servants (the Code) establish basic ethical principles. The Code sets out the rules of conduct and establishes an institutional framework for its implementation. The Ethics Commission for Civil Servants is a second-instance body dealing with complaints from citizens and officials, and an Ethics Department within the Ministry of Public Administration provides educational activities.

Whilst a code of ethics is in place for civil servants, a code of conduct for Members of Parliament is lacking. A related GRECO recommendation asked to develop and adopt such a code several years ago.

A draft of a new Strategy for the prevention on corruption for the period 2021 - 2030 is being prepared, in which, among other measures, the measure "Strengthening the ethical standards of officials in local and regional (regional) self-government " and the measure "Strengthening the ethical standards of officials and members of parliament" are planned.

Act on the prevention of conflict of interest prescribes in Article 5 principles of action. The Commission can initiate conflicts of interest proceedings and render decisions on whether a particular action represents an infringement. The commission rendered a dozen decisions in which it found violations of the principle of action ( transparency, conscientiousness etc.) . Following the new decision of the Constitutional Court, this practice of the commission was reviewed and the Administrative courts revoked some of the decisions of the commission. That all happened after there was open criticism against such proceedings from the politicians. So now some judges in High administrative court changes the practice of that Court after seven years, and all that in cases of mayor of Zagreb and Premier. Commission appealed now to DORH because we think that this is wrong decision and that Supreme Court should decide because, among the other things, there is lack of legal security (decisions of the High administrative court are depending on which court chamber will render decision).

General transparency of public decision-making (including public access to information such as lobbying, asset disclosure rules and transparency of political party financing)

*3000 character(s) maximum*

Assets declarations of public officials are publicly disclosed on the Commission's web site, along with the Commission's decisions finding violations of the Act for which sanctions are imposed on public officials. The number of visits to the Commission's web site and the number of newspaper articles reporting cases within the Commission's competence, in particular in relation to high ranking public officials, testify to the strong interest in the public and media in the issue of conflict of interests. These circumstances motivate public officials to take account of the impression they are making when they exercise their public office, respecting the statutory obligations prescribed by the Act, as well as the ethical principles of their work. The fact that interest and assets declarations are publicly disclosed, including the decisions of the Commission finding that individual public officials have failed to meet their obligations or have violated provisions of the Act, leads to a decrease in the number of violations, and the honoring of the obligations prescribed by the Act. In 2019. several ministers lost their positions because they failed to fulfill asset declaration properly, so now officials are taking this task more seriously.

The need to regulate the area of lobbying in the Republic of Croatia is highlighted in the Strategy for Combating Corruption 2015-2020. In the area of lobbying, several activities related to the implementation of the accompanying action plans have been implemented thus far during this strategic period. Within the framework of the implementation of the Action Plan for 2015 and 2016) the Analysis for the Regulation of the Legal Framework for Lobbying was made, and within the next Action Plan for 2017 and 2018 a public debate was held on the need and models of lobbying regulation. Within the framework of the implementation of the Action Plan for 2019 and 2020 a draft framework regulating lobbying is planned. A draft of a new Strategy for the prevention on corruption for the period 2021 – 2030 emphasizes that regarding the area of lobbying, a regulatory framework needs to be developed. The regulation of lobbying in the Republic of Croatia would enable the establishment of lobbying activities as legal and legitimate professions according to the highest ethical standards, and with a goal transparency of work, efficient management of corruption risks and positive impact on the quality of regulations and decisions made by the legislature and the executive. Therefore, a measure to build a framework for lobbying regulation is proposed for the next period.

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

*3000 character(s) maximum*

The Law on the Prevention of Conflicts of Interest contains detailed rules on conflicts of interest, incompatibilities, gifts and financial declarations. It sets out the general principles of action in the exercise of public office, including persons entrusted with top executive functions.

Most international institutions point a need to change the normative framework, that is, the enactment of a new Law on the Prevention of Conflicts of Interest. Also, practice is showing that a change in the existing Act is necessary. A legislative framework is needed to adjust also in accordance with the needs detected in the assessments of international bodies. The most important recommendations relate to expanding the scope of application of the Act in terms of addressees (more officials from local level, for example), on the frequency of filing the Assets Report (every year), on the imposition of sanctions and so on. Also GRECO recommend to introduce sanctions for the state body which doesn't want to give to the Commission all the relevant data for processing the cases ( there was such cases on the highest level). One of the planned measures in new Strategy for the prevention on corruption for the period 2021 – 2030 is "Improving the normative framework for conflict of interest management". For this purpose, the Ministry of Justice and Administration established a working group to enact a new law on the prevention of conflicts of interest, and a couple of working group meetings were held.

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

*3000 character(s) maximum*

Whistle-blower protection was introduced by the July 2019 Law on the Protection of Reporters of Irregularities Act. The law has a wide scope of application, which extends beyond corruption to include violations of laws, regulations and actions that pose threats to the public interest. The People's Ombudsperson is the body competent for the external reporting of irregularities. The Law has a wide scope of application, which is evident from the very definition of irregularities. Reporter i.e. a whistleblower can file a complaint not only in relation to corruption, but also more broadly, since the definition of irregularities includes violations of laws, regulations and actions related to the malpractice management of public goods, public funds and European Union funds which pose threats to the public interest. Furthermore, protection of whistleblowers in public authority bodies and private employers is envisaged. The Act prescribes three channels of reporting irregularities, internal to the employer (generally), external to the competent authority (if internal reporting is not possible or does not work) or in certain exceptional situations, disclosure to the public. The Ombudsperson's competence is primarily aimed at protecting the rights of the whistleblower, while examining the content of the whistleblowing complaint is the responsibility of other bodies. The Act also provides for judicial protection for whistleblowers and provides for misdemeanour sanctions for the protection of whistleblowers and the prevention of malicious reporting.

In accordance with the measures from the new Anti-Corruption Strategy, it is necessary further improve the legal framework to comply with Directive (EU) 2019/1937. Also, it is necessary to continue the implementation of educational activities with the aim strengthening the judicial protection of whistleblowers in accordance with the Law.

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

*3000 character(s) maximum*

Strategy for Combating Corruption for 2015-2020, was adopted in February 2015. It focuses primarily on the prevention of corruption and is based on identification of areas of high corruption risk involving a wide range of stakeholders in relevant public authority bodies (many state bodies, judicial bodies, independent state bodies, local and regional self-government units), civil society associations, media and social partners. Accordingly, Strategy proposes goals in seven horizontal areas (integrity within the political system and administration, local and regional self-government, public procurement, majority state-owned enterprises, prevention of conflicts of interest, the right to access to information and the role of civil society and corruption) and in seven sectoral areas (judiciary, economy, public finance, agriculture, health, science, education and sport, and infrastructure, environment and transport).

New Strategy for the prevention on corruption for the period 2021 – 2030, in its draft defines priority areas of intervention: 1. Strengthening the institutional and legislative framework for combating against corruption, 2. Strengthening transparency and openness of public bodies, 3. Strengthening the integrity and conflict of interest management system, 4. Strengthening anti-corruption potentials in the public procurement system, 5. Raising public awareness about the harmfulness of corruption

Measures taken to address corruption risks in the context of the COVID-19 pandemic

*3000 character(s) maximum*

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

*3000 character(s) maximum*

## Repressive measures

Criminalisation of corruption and related offences.

*3000 character(s) maximum*

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

*3000 character(s) maximum*

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

*3000 character(s) maximum*

Other – please specify

*3000 character(s) maximum*

## Media Pluralism - Croatia

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### Media authorities and bodies

(Cf. Article 30 of Directive 2018/1808)

Independence, enforcement powers and adequacy of resources of media regulatory authorities and bodies

*3000 character(s) maximum*

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

*3000 character(s) maximum*

Existence and functions of media councils or other self-regulatory bodies

3000 character(s) maximum

## Transparency of media ownership and government interference

The transparent allocation of state advertising (including any rules regulating the matter); other safeguards against state / political interference

3000 character(s) maximum

Rules governing transparency of media ownership and public availability of media ownership information

3000 character(s) maximum

## Framework for journalists' protection

Rules and practices guaranteeing journalist's independence and safety

3000 character(s) maximum

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

3000 character(s) maximum

Access to information and public documents

3000 character(s) maximum

Lawsuits and convictions against journalists (incl. defamation cases) and safeguards against abuse

3000 character(s) maximum

Other - please specify

3000 character(s) maximum

## Other institutional issues related to checks and balances - Croatia

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## The process for preparing and enacting laws

Framework, policy and use of impact assessments, stakeholders'/public consultations (particularly consultation of judiciary on judicial reforms), and transparency and quality of the legislative process

*3000 character(s) maximum*

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

*3000 character(s) maximum*

Regime for constitutional review of laws.

*3000 character(s) maximum*

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

- judicial review (including constitutional review) of emergency regimes and measures in the context of COVID-19 pandemic
- oversight by Parliament of emergency regimes and measures in the context of COVID-19 pandemic
- measures taken to ensure the continued activity of Parliament (including possible best practices)

*3000 character(s) maximum*

## Independent authorities

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

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

*3000 character(s) maximum*

## Accessibility and judicial review of administrative decisions

Transparency of administrative decisions and sanctions (incl. their publication and rules on collection of related data) and judicial review (incl. scope, suspensive effect)

3000 character(s) maximum

Implementation by the public administration and State institutions of final court decisions

3000 character(s) maximum

## The enabling framework for civil society

Measures regarding the framework for civil society organisations (e.g. access to funding, registration rules, measures capable of affecting the public perception of civil society organisations, etc.)

3000 character(s) maximum

## Initiatives to foster a rule of law culture

Measures to foster a rule of law culture (e.g. debates in national parliaments on the rule of law, public information campaigns on rule of law issues, etc.)

3000 character(s) maximum

Other - please specify

3000 character(s) maximum

Training of justice professionals (including judges, prosecutors, lawyers, court staff)

3000 character(s) maximum

## Contact

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

