

2021 Rule of Law Report - targeted stakeholder consultation

About you

* I am giving my contribution as
Civil society organisation/NGO

* Organisation name

250 character(s) maximum

ILGA-Europe

* Main Areas of Work

☐ Justice System

☐ Anti-corruption

☐ Media Pluralism

☐ Other

If "Other", please specify

Human rights – LGBTI rights

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

500 character(s) maximum

ILGA-Europe are an independent, international LGBTI rights non-governmental umbrella organisation bringing together over 600 organisations from 54 countries in Europe and Central Asia. We are part of the wider international ILGA organisation, but ILGA-Europe were established as a separate region of ILGA and an independent legal entity in 1996. ILGA itself was created in 1978. <https://www.ilga-europe.org/who-we-are/what-ilga-europe>

Transparency register number

11977456675-84

* Country of origin

Belgium

* First Name

Belinda

* Surname

Dear

* Email Address of the organisation (this information will not be published)

belinda@ilga-europe.org

* Publication of your contribution and privacy settings

- ☐ 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 Organisation name, URL, transparency register number, first name and surname given above will not be published.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- ☐ No publication - Your contribution will not be published.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

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

Fundamental rights are one of the main building blocks of rule of law, and they are a key indicator of backsliding concerning rule of law and democracy. Throughout 2020, we have once again seen that

discrimination against LGBTI people is increasingly encouraged by governments and far-right groups, and we know that this is often a first indication of backsliding regarding rule of law. Broadly speaking, the scapegoating of minority groups by politicians is a tool used to consolidate majority votes during elections, so that they can eventually make constitutional changes that threaten the independence of the judiciary, the media and democracy itself. It is therefore essential that the Rule of Law Reports assess the structural attacks on fundamental rights that we are seeing at the level of the judiciary, media, administration and civil society space.

The scapegoating of LGBTI people in the pursuit of populist politics has meant that we are increasingly seeing LGBTI people being branded as an “ideology”, “enemies of the nation”, a “corrupting influence”, the “destruction of society” or a “foreign import” in a number of countries across the EU. This has led to a stark increase in hate-crime and hate-speech against LGBTI people both online and offline, and in governmental or state media, and has resulted in increasingly unsafe and unsustainable environments for LGBTI organisations and human rights defenders in a growing number of countries in the EU. We have also been noticing this year, an alarming rise in neo-nazi groups intimidating LGBTI events and organisations. All of this, in the context of Covid-19 which has placed extraordinary burdens on civil society, whilst State actors use it as an excuse to pass laws that limit the rights of LGBTI people (see <https://ilga-europe.org/resources/news/latest-news/ilga-europes-10th-annual-review-shows-result-unprecedented-events-2020>).

ILGA-Europe, in collaboration with some of our member organisations in Belgium, Bulgaria, Czech Republic, Croatia, Hungary, Italy, Slovenia and Sweden has compiled this submission to the 2021 Rule of Law report consultation. We have also included information for Poland and Romania. We address rule of law concerns as regards LGBTI rights in the following areas:

- Independence of the judiciary
- Enforcement of both national and European law and judgements
- Accessibility of courts
- Biased distribution of EU funds (discriminatory against LGBTI groups)
- Transparency and public involvement in legislative and policy-making processes, particularly under Covid-19
- Independence of national human rights bodies
- Attacks on journalists and whistleblowers
- Attacks on LGBTI people by government-sided media
- Attacks on civil society space, enabled by public authorities

Breaches of rule of law which affect the fundamental rights and freedoms of LGBTI people often come in the form the breaching of Article 2 of TEU and which should be addressed by Article 19 of the TFEU. Regarding the Charter of Fundamental Rights, in a number of Member States we are seeing Article 11 (the right to freedom of expression and information), Article 12 (the right to freedom of assembly and association) and Article 21 (the right to non-discrimination) being breached. The increasing attacks on LGBTI people by public authorities demonstrates the importance of the inclusion of civil society

throughout the process of the Rule of Law report drafting and follow-up actions, including the inclusion of civil society in debates at national and European level.

ILGA-Europe is the main European LGBTI network, with over 600 member organisations across Europe and Central Asia. We were joined in this submission by the following organisations. Please contact us at Belinda@ilga-europe.org if you wish to obtain the contact details of these organisations.

Arcigay & Certi Diritti - Italy

Bilitis, GLAS Foundation & Deystvie - Bulgaria

Çavaria - Belgium (Flanders)

Háttér Társaság - Hungary

Legebrita – Slovenia

PROUD - Czech Republic

RFSL – Sweden

Zagreb Pride - Croatia

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*
*
*

Questions on developments in Member States

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 - Belgium

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 - Belgium

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

Prevention

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

3000 character(s) maximum

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

Rules on preventing conflict of interests in the public sector.

3000 character(s) maximum

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

3000 character(s) maximum

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

3000 character(s) maximum

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 - Belgium

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 - Belgium

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

According to LGBTI organisation Cavaria, due to COVID-19, policy and legislative decisions are happening via ministerial decisions, which has significantly reduced the opportunity for stakeholders to input to the processes.

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

Cavaria LGBTI organisation has reported that due to Belgium having a variety of equality bodies, this makes reporting human rights abuses more difficult, and working with the bodies more difficult. Ideally they would like to have one main point of contact.

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

Cavaria LGBTI organisation report that they do not have access to federal funding.

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

Justice System - Bulgaria

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

A good example of judicial independence was the sent preliminary ruling of Administrative Court Sofia City to the Court of Justice of the European Union (CJEU) on the issuing of a birth certificate of a Bulgarian citizen with two mothers subscribed in her Spanish birth certificate.

The case now pending before the Court of Justice of the European Union (CJEU) V.M.A. v Stolichna Obsthina, Rayon 'Pancharevo' (C-490/20) concerns a child born in Spain to a family of a Bulgarian and a British citizen. At birth, the child received a birth certificate listing her two mothers, but without specifying who the child's biological mother was (an example of good practice of Spain that takes into account the child's relationship with both parents). Since the child does not have access to British or Spanish citizenship, the parents requested Bulgarian citizenship for their child. Bulgarian authorities rejected the application, arguing that a baby cannot have two mothers, and refused to issue a birth certificate in which the parents are two persons of the same sex.

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

Trans people in the country suffer violation of their right to self-determination. *The Bulgarian Identity Documents Act*¹ (1999) recognizes the right of a person to change their legal gender. However, there is no statutory procedure for such a change, nor any medical standards or protocols on gender reassignment. In the beginning of 2017, the Bulgarian Supreme Court set a requirement that persons seeking change of their legal gender should prove their determination with hormonal treatment in progress. This, however, cannot be done since hormonal treatment and gender reassignment surgery require decision by the court before being appointed, otherwise they are considered a crime under the Penal Code of Bulgaria. Additionally, the courts are appointing forensic examinations in order to prove the transgender identity of the person seeking change of their legal gender. These forensic examinations are paid by the trans person and their cost varies court by court and it could reach €1000 which is unaffordable for trans people in Bulgaria.

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

¹ <https://www.lex.bg/laws/ldoc/2134424576>

The Supreme Administrative Court (SAC) annulled a decision by the Commission for Protection against Discrimination (CPD), by which it refused to exercise its powers on a filed complaint for homophobic threats and insults, expressed on Facebook by two users on the occasion of the exhibition “Balkan Pride # Balkan Pride” in Plovdiv in 2019. With its ruling, the court returned the file to the CPD and obliged it to continue working on the appeal made by the GLAS Foundation and the activist Radoslav Stoyanov.

The CPD had terminated the proceedings, citing a letter from the Ministry of Interior, according to which the identities of the owners of the Facebook accounts could not be established. The Ministry of Interior reached this conclusion only on the basis of the fact that the homophobic remarks were made through Facebook, which is owned by a company outside Bulgaria and there was no way to obtain traffic data for the owners of the accounts. However, no real verification has been made as to whether persons with such names live in the settlements indicated on the Facebook profiles. The termination was confirmed by Sofia City Administrative Court. However, with its ruling, the SAC finds that the CPD has not exercised its powers to require the bodies of the Ministry of Interior to take specific actions, but has uncritically accepted their response. In recent years the number of cases in which the Ministry of the Interior has precisely identified persons, authors of posts on social networks, such as organizers of protests or persons who have filmed offenses by police officers, who are summoned in administrative proceedings without collecting traffic data from foreign companies, has increased.

Hate crimes on the basis of sexual orientation and gender identity are not part of the Penal Code of the Republic of Bulgaria. Neither as crimes, nor as aggravating circumstances. Hate speech is left unpunished in 98% of the cases. The Prosecution of the Republic of Bulgaria has refused to open investigation or has stopped investigation in all the cases brought before them from 2015-2020 by the legal representatives of LGBTI organization Deystvie. This respectively serves as a barrier for LGBTI people in the country to seek justice. According to [Amnesty International's 2015 report on human rights in Bulgaria](#), 86% of LGBTQ people in Bulgaria who suffered violence or threats of violence did not report them to the police.

Anti-Corruption Framework - Bulgaria

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

Prevention

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

3000 character(s) maximum

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

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Rules on preventing conflict of interests in the public sector.

3000 character(s) maximum

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

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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).

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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

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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 - Bulgaria

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 - Bulgaria

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

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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

The Commission Against Discrimination refused to pronounce discrimination in all court cases for institutionalized discrimination (discrimination enshrined in laws) from 2015-2020. The Commission against Discrimination rarely plays a leading role in finding and pronouncing discrimination in cases of hate speech by politicians against marginalized groups.

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

On 1 July 2020, a group of MPs from the United Patriots Parliamentary Group submitted a Draft Law amending and supplementing the Non-profit Legal Entities Act in the Bulgarian Parliament.

The Draft Law proposes an amendment to the Non-profit Legal Entities Act in two parts – the part regarding the functioning of the Civil Society Development Council, as well as proposing the creation of a new legal framework on declaring and controlling the funding of NGOs received from a foreign country or from a foreign natural or legal person.

The Civil Society Development Council is a newly formed structure that was established in May 2020 after carrying out online voting among pre-registered Bulgarian NGOs. The Civil Society Development Council is an advisory body to the Council of Ministers, which is established on the basis of Art. 4 of the Non-profit Legal Entities Act. The Council has functions for developing and implementing policies to support the development of civil society in Bulgaria. The Council consists of 14 NGOs and hasn't officially started its work yet. However, the Draft Law envisages taking away some of the functions of the Council, including setting the priorities for financial support of NGOs and the distribution and control of financial resources that the state provides to NGOs.

Of particular concern is the second part of the Draft Law – introducing a new Article 40, which proposes the creation of “a special register at the Ministry of Finance to reflect all sources of funding for the activities of non-profit legal entities working in public benefit, as well as those working in private benefit, in the amount of over BGN 1,000, when the sources of financing are from a foreign state or from a foreign natural or legal person, with the exception of the funds received from the European Union, in order to achieve transparency regarding their financing”.

The Draft Law envisages a 7-day period from the receipt of financing of over BGN 1000 (approx. EUR 500), to submit (on paper or electronically) the written evidence for the source and the amount of the received financing. In case of non-fulfilment of the obligation, a property sanction and/or "temporary suspension of the status in public benefit" is envisaged.

In addition, an amendment to the Anti-Corruption and Confiscation of Illegally Acquired Property Act is proposed, providing for the creation of an obligation for the chairpersons and members of the management bodies of non-profit legal entities to declare when in the previous calendar year the NGO has received foreign funding.

Due to the vast anti-government and anti-prosecutor-general protests from the summer of 2020 in Bulgaria, this topic was put on hold and as of March 2021 there is no further development. Statements from different institutions have been filed to the Parliamentary group, incl. by the Ministry of Finance, Ministry of Foreign Affairs and the Ombudsman Office, all of which have been against the proposed changes to the law.

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

Justice System - Croatia

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

32

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

In the case *Sabalic vs Croatia*, announced on the 14th of January 2021, the ECHR found that the "response of the domestic authorities through the minor offences proceedings is not capable of demonstrating the State's Convention commitment to ensuring that homophobic ill-treatment does not remain ignored by the relevant authorities and to providing effective protection against acts of ill-treatment motivated by the applicant's sexual orientation". The Court stressed that "the sole recourse to the minor offences proceedings against [the aggressor] could be considered rather as a response that fosters a sense of impunity for the acts of violent hate crime." Such conduct by Croatian authorities was found to be "particularly destructive of fundamental human rights".

We are now waiting if the conduct of the Croatian police and judiciary will change accordingly. For the time being the practice of treating homophobic and transphobic hate crimes as misdemeanours is continuing in Croatia. In the last couple of years, three hate-crime complaints by Zagreb Pride have also been rejected by the public prosecutor because of the police misconduct.

In a recent brutal homophobic attack in Zagreb, the initial response of the police was not to believe the victim, but to seek other potential reasons of the attack.

<https://www.zagreb-pride.net/en/for-months-now-a-homophobic-gang-has-been-beating-up-and-burning-gays-in-zagrebs-parks/>

Anti-Corruption Framework - Croatia

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

Prevention

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

3000 character(s) maximum

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

Rules on preventing conflict of interests in the public sector.

3000 character(s) maximum

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

3000 character(s) maximum

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

3000 character(s) maximum

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

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

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

Contrary to past practice and recommendations from the Strategy, LGBTIQ organisations are not included or consulted in the development of two key national documents: the National Plan for Human Rights Protection and Anti-Discrimination (Office for Human Rights and Rights of National Minorities of the Government of the Republic of Croatia) and National Gender Equality Plan (Office for Gender Equality of the Government of the Republic of Croatia). Also, according to unofficial information, none of the two documents will have chapters or sections on LGBTIQ rights.

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

In January Zagreb Pride participated in public consultations on amendments on the Protocol for Procedure in Cases of Hate Crimes. We proposed to: include in the statistical and data section also information gathered by CSOs; to regulate and better define the cooperation between the competent authority and civil and human rights organizations; to mention explicitly the directive EU/2012/29; and to regulate the issues and problems emerged from the Sabalic vs. Croatia case. All our proposals were rejected.

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

Justice System - Czechia

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

Generally, LGBTI+ people have the same access to justice as anybody else if it is a case connected to their sexual orientation or gender identity. Generally, Czech judicial system suffers from lengthy delays but not only in LGBTI+ cases.

Other - please specify

3000 character(s) maximum

Czech law does not recognize equal marriage for same-sex couples. Due to this in some areas gay and lesbian couples are not able to refer to the courts for court in cases such as cases of child care after the breakup of a relationship of the same-sex couple or after a biological parent dies, a lot of property issues for example division of joint property of the spouses etc.

The Czech Republic is one of a few countries in the EU which still has not removed mandatory sterilization of trans* people in order to access legal gender recognition from its law. Even though there is a decision of the European Court of Human Rights, politicians have not reached consensus on this in order to change the law to align with the judgement of the ECtHR.

Anti-Corruption Framework - Czechia

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

Prevention

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

3000 character(s) maximum

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

Rules on preventing conflict of interests in the public sector.

3000 character(s) maximum

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

3000 character(s) maximum

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

3000 character(s) maximum

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 - Czechia

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

In the Czech Republic (such as in other countries) we have some organizations or individuals opposing LGBTI+ rights on social media and traditional media. LGBTI+ topics are quite well covered by the media in the country.

Other institutional issues related to checks and balances - Czechia

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

There have been some cases during the Covid-19 pandemic in which the government forgot to include LGBTI+ people in consideration of measures. For example, registered partners (the only legal recognition for same-sex couples in the Czech Republic), were excluded from exceptions for border crossings. Then, in October 2020, Government Decree n. 1113 was published, which lifted the ban on the freedom of movement for the purposes of a wedding but not for the purposes of registration of same-sex partnership. Hence, unlike different-sex couples, who can marry freely, the only requirement being a restriction on the number of guests at their weddings, same-sex couples could only register their partnership in the case of urgency, such as if one of their lives is at risk. While current COVID-19 crisis requires the adoption of stricter rules, all measures taken to curtail the rights of the citizens must be proportionate, justifiable and cannot be discriminatory. Now, in the Czech Republic there is quite a strict lockdown which also includes a ban on crossing district borders (with some exceptions, see the following). People can get married or register their partnership but they are not allowed to cross district borders for it. However, it is only possible to get a registered partnership in the Czech Republic in fourteen registry offices in regional capitals (in the case of marriage it is possible in every registry office). Districts are smaller administrative units than regions, there are few districts in one region. Therefore if you live in the district where there is no specific registry office which can register your partnership, you are not able to get registered at all. LGBTI+ civil society should have been consulted in the drawing up of these laws, or their concerns listened to after the publishing of these laws, so that they could be amended to no longer discriminate against same-sex couples.

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

There is a non-profit organization called Alliance for Family which is against all LGBTI+ policies (and gender also) which for a long time has been organizing a campaign with the support of some politicians, including Members of Parliament. They all speak quite regularly against so-called "gender ideology". They are strongly supported by a Church which is not very strong in the Czech Republic, however, in this case they have quite a loud platform.

Very few cases of LGBTI-phobic hate-crime or hate-speech are reported, due to people being afraid of discrimination by the police and the justice system. According to the FRA LGBTI Survey II, which surveyed LGBTI respondents in 2019, 96% of respondents from the Czech Republic stated that they did not report the last incidence of discrimination.

Repeatedly in the last few years there were attempts of conservative MPs to reduce money for gender projects for NGOs during the approval of the state budget in the Lower Chamber of the parliament. They were only partially successful. The money was reduced but not cancelled.

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

Justice System - Hungary

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

The prosecution service often fails to carry out its duty to supervise criminal investigations and initiate public interest procedures. In particular, the prosecution service has been largely inactive in case the police rejected or stopped investigation of hate crime and hate speech cases against LGBTQI people (B.V.5640/2020/3; B.VI-VII.902/2020/3.). In the latter case the prosecution service argued that an LGBTQI organization whose billboard posters have been vandalized has no right to submit a complaint as they are not a victim in the criminal procedure. According to the law on the prosecution service, prosecutors have the power to intervene in administrative procedures in case an administrative decision is unlawful. Háttér Society requested that the prosecution service reviews an administrative decision imposing a fine of 500.000 HUF on Coca Cola for featuring same-sex couples in their advertisement, as the decision was discriminatory and infringed on the right to freedom of expression. The prosecution service refused to intervene in the case arguing Háttér has no standing in the procedure, even though Háttér was urging a public interest intervention that can be requested by anyone.

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

On 19 October 2020 András Zs. Varga. was elected as the president of the Curia. Varga's election was strongly opposed by the National Judicial Council (Decision no. 120/2020 of 9 October 2020) on the grounds that he has not served as a judge before, and has no courtroom experience. Varga was a law professor at the Pázmány Catholic University and has published multiple academic papers arguing against the legal equality of same-sex couples. Varga considers developments in international human rights law regarding the recognition of family ties between same-sex couples as "deviation from European culture" based on Christianity

(<https://folyoirat.ludovika.hu/index.php/actahumana/article/view/5115/4134>). Having such a person appointed to the highest judicial position in the country, with the increasing power of the president of the Curia to sanction judges deviating from the legal standards set by the Curia might have a chilling effect on judges holding views more in line with the development of international human rights norms regarding same-sex families.

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

Human rights organizations offering training to judges, including Háttér Society providing training on respectful and sensitive treatment of LGBTQI persons in the courtroom, have been attacked in pro-government media for "brainwashing judges" and "pushing the agenda of George Soros". Since then, these organizations find it very difficult to organize any training for the judiciary.

(<https://tuzfalcsoport.blogstar.hu/2017/05/04/hogyan-szovi-be-soros-haloja-a-magyar-igazsagszolgaltatast-2-resz-/37866/>)

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

The statistical system of the courts is focusing largely on procedural indicators and is not detailed enough to generate data on human rights-relevant court cases, such as the overall number of hate crime

cases or the overall number of discrimination cases, let alone disaggregation by protected characteristics.

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

The Constitutional Court has no deadline for adjudicating constitutional complaints or petitions by the Commissioner for Fundamental Rights, and the procedures take unreasonably long. Even where there is a deadline (constitutional reviews initiated by lower level courts), the deadlines are not kept. For details see under *Regime for constitutional review of laws*.

Other - please specify

3000 character(s) maximum

Anti-Corruption Framework - Hungary

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

Prevention

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

3000 character(s) maximum

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

Rules on preventing conflict of interests in the public sector.

3000 character(s) maximum

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

3000 character(s) maximum

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

3000 character(s) maximum

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 - Hungary

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

The Media Council of the National Media and Infocommunications Authority consists only of members nominated by the governing parties. In 2019 an *ad hoc* parliamentary committee was set up to select new members, but the committee voted down all candidates nominated by opposition parties. The Media Council applies clear double standards regarding LGBTQI issues: it allows for hate speech against LGBTQI people, while restricts the positive portrayal of LGBTQI people (see details under other).

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

Even though legislation requires that public bodies respond to freedom of information requests concerning data of public interest within 15 days (Act no. CXII. of 2011), public bodies often reject the completion of such requests. E.g. in July 2020 the Ministry of Human Capacities refused access to

national health programs adopted by the government in 2018 arguing that they served the purpose of later decision-making, even though the programs had been finalized in 2018 and had been adopted by a government resolution (II/8153-1/2020/ADATVED).

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

3000 character(s) maximum

Other - please specify

3000 character(s) maximum

The Media Council applies clear double standards regarding LGBTQI issues: it allows for hate speech against LGBTQI people, but penalizes anti-majoritarian speech and restricts the portrayal of LGBTQI people. E.g. the Media Council found no violation when a TV program promoted conversion therapies for gay and lesbians, even though the program described same-sex sexual attraction as sickness, deviance and distortion of personality (221/2019. (II. 19.)); found no violation when a TV program likened same-sex families to dog poo (568/2019. (V. 14.)); and found no violation when a guest on a TV program expressed his support for illegally removing the “faggot flag” from public buildings, which is a symbol for “sick and deranged life form” (MN/23195-6/2019.). The Media Council, however, did impose a 100.000 HUF fine when a left-wing mayor criticized the hate-speech of the governing parties which he described as “fearful bunch of white, Christian, heterosexual men” (405/2020. (IV.28.)). Most recently, the Media Council launched an investigation against RTL Klub, the largest commercial channel for airing a video about rainbow families as public service advertisements. The Council argued that the video featuring same-sex families and experts was harmful to children under the age of 16, and thus should not have been aired before 9pm. The investigation is ongoing, no decision has been issued yet (MN/31406-9/2020.).

Other institutional issues related to checks and balances - Hungary

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

While there is legislation that requires public consultation on all bills drafted by ministries and all government and ministerial decrees (Act no. CXXXI of 2010), these requirements are routinely disregarded. Since March 2020 only one draft legislation was published for public consultation (https://kormany.hu/dokumentumtar?categories=2&limit_rows_on_page=8&limit_page=0), while hundreds of bills and decrees have been adopted.

In particular, there were no public consultations on any of the legislation adopted in 2020-2021 restricting the rights of LGBTQI, in particular bills banning legal gender recognition of trans people (Act no. XXX of 2020), adding transphobic provisions to the Fundamental Law (9th Amendment of the Fundamental Law), restricting adoption by non-married persons (Act no. CLXV of 2020), and on amendments to government and ministerial decrees on detailed rules of the adoption procedure (EMMI decree no. 35/2020. (X. 5.); Govt. Decree no. 94/2021. (II. 27.)). The explanatory memoranda of these pieces of legislation make no reference to impact assessments, and remain vague about why the changes were needed.

The bill abolishing the Equal Treatment Authority (Act no. CXXVII of 2020) was introduced by the Justice Committee in Parliament circumventing the requirement for public consultation. The Hungarian LGBT Alliance requested the bill to be discussed by the LGBT Working Group of the Government's Human Rights Roundtable, but the online meeting on the issues was convened by the Ministry of Justice after the bill had already been adopted by the Parliament.

All these bills were debated in Parliament during the lockdown, civil society organisations had no chance to participate in the committee hearings due to COVID-19 restrictions on who can enter the Parliament building.

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

The Constitutional Court has no deadline for adjudicating constitutional complaints or petitions by the Commissioner for Fundamental Rights, and the procedures take unreasonably long. E.g. the Commissioner requested the constitutional review of the definition of next-of-kin and the exclusion of (same-sex) registered partners from this definition on 16 July 2013. The Constitutional Court delivered its decision seven and a half years later, on 14 January 2021 (3003/2021. (I. 14.) CC decision).

There is a 90-day deadline for constitutional reviews initiated by lower level courts, but that deadline is not kept either. E.g., on 13 March 2020 the Debrecen Administrative and Labour Court initiated the constitutional review of the legislation on legal gender recognition of trans people prior to the adoption of the legal gender recognition ban, but nearly a year after the case was submitted, it has still not been decided by the Constitutional Court (III/00559/2020). Similarly, on 4 December 2020, the Miskolc Court of Appeal initiated the constitutional review of the legislation banning legal gender recognition, the 90 days have passed and no decision has been issued yet (III/02030/2020).

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

Laws restricting the rights of LGBTQI people were adopted at the peak of the COVID-19 pandemic. The bill banning legal gender recognition of trans people was submitted in Parliament the day after the state of danger was confirmed by the Parliament in March 2020. The bills adding transphobic provisions to the Fundamental Law and restricting adoption by non-married persons were submitted to Parliament on the same day as the state of danger was confirmed by the Parliament in November 2020. While these legislations were adopted via regular procedures, their timing was clearly chosen to divert attention away from the inability of the government to tackle the pandemic, at a time when LGBTQI organizations could

not use regular advocacy methods (demonstrations were outlawed, organizations had no access to parliamentary procedures and could not meet politicians, media attention to anything not-COVID-19 related was limited). The government gave no reason why these legislative proposals should be debated and adopted at the time of a major health and economic crisis.

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

On 1 December 2020, the Parliament adopted legislation to abolish the Equal Treatment Authority (ETA), Hungary's most important equality body set up in 2005. The ETA had a broad mandate to investigate cases of discrimination on grounds of sex, race/ethnicity, religion, age, disability, sexual orientation and gender identity. In recent years the ETA was one of the last public bodies standing up for the rights of LGBTQI people in Hungary: they have delivered several decisions finding discrimination based on sexual orientation and gender identity by public bodies, and in April 2020 they criticized the Government's plan to ban legal gender recognition. From 1 January 2020, the tasks of ETA were taken over by the Commissioner for Fundamental Rights.

Since September 2019, the Commissioner for Fundamental Rights has been Ákos Kozma, former professor of Pázmány Catholic University, a loyal supporter of the government. As opposed to his predecessor, the new Commissioner has not commemorated the International Day Against Homophobia and Transphobia in May 2020, and has not responded to official petitions submitted by LGBTQI organizations concerning the ban of legal gender recognition, growing homophobic hate speech by government officials, and restricting LGBTQI freedom of expression. In recent months several staff members have left the Office of the Commissioner complaining that they can no longer perform their tasks according to professional standards.

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

In June 2018, in a case launched by a transgender refugee from Iran, the Constitutional Court found that there was a constitutional omission because Hungary has no procedure for legal gender recognition for transgender people who are not Hungarian citizens, but lawfully reside in the country permanently. The Court gave a deadline of 31 December 2018 for the government to adopt new legislation (6/2018. (VI. 27.) CC decision). No such legislation has been adopted to date, and in May 2020, the Parliament adopted legislation that banned legal gender recognition for Hungarian citizens as well. The same person also turned to the ECtHR, which also sided with the applicant arguing that the lack of such procedure infringes on the right to respect for private life (Art. 8) of the applicant (Rana v. Hungary, no.

40888/17). The just satisfaction was paid to the applicant, but he still has to live with official documents that are not in line with his gender identity.

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

The government and pro-government media conduct a smear campaign against human rights organizations, targeting specifically organizations working on the rights of LGBTQI people. Pro-government news portal such as Pesti Srácok, Origo, 888.hu, Vasárnap talk about LGBTQI issues as a form of ideology, and claim that LGBTQI organization work to recruit more children to become LGBTQI. LGBTQI organizations are often referred to as “LGBTQP” - the “P” standing for pedophilia - conflating lawful sexual orientation and gender identity with unlawful paraphilias. Leading government officials also talk about the need to stop LGBTQ propaganda (see more under Other).

LGBTQI organizations find it extremely difficult to receive public funding. Calls for proposals prioritize issues that make successful application of LGBTQI organizations nearly impossible. In case LGBTQI organizations do apply with strong proposals, their proposals are evaluated unfavorably or unlawful measures are applied to exclude them from funding. E.g. Tempus Foundation distributing Erasmus+ funds in Hungary disqualified the proposal of Háttér Society on grounds of conflict of interest with an evaluator, even though there was no such conflict of interest, and even if there was, it was the evaluator, not the applicant that should have been disqualified (since the list of evaluators is not public applicants are in no position to prevent such conflict of interest). When the proposal was resubmitted, Tempus rejected the proposal arguing that there was not enough funding, even though the money earmarked for that category of proposals was not spent.

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

For the past two years, the Hungarian government has been conducting a hate campaign against LGBTQI people, targeting in particular transgender people and same-sex couples raising children. In May 2019 the Speaker of the Parliament, László Kövér talked about gays and lesbians as “second class citizens” and likened same-sex adoption to pedophilia. Vice-chair of the parliamentary group of FIDESZ, István Boldog called for banning the Pride March and boycotting Coca Cola. In October 2020 following the publication of the storybook *Fairyland is for everyone*, PM Viktor Orbán said that homosexuals should “keep their hands off our children”, in March 2020 he called for getting rid of “LGBTQ-madness”.

The discourse was coupled with legislative changes: the ban on legal gender recognition for transgender people (Article 33 of Act no. XXX of 2020), the constitutional amendments on defining the sex of the parents and the protection of identity and the corresponding state duty (“The mother is female, the

father is male." "Hungary protects children's right to their identity in line with their birth sex, and their right to education according to our country's constitutional identity and system of values based on Christian culture.") (9th amendment to the Fundamental Law), or introducing a restriction on adoptions by individuals making it conditional on the permission of the Minister of Family Affairs (Act no. CLXV of 2020). The aim of the latter was unequivocally to exclude persons living in same-sex partnership from adoption, which was acknowledged by the Minister herself in a public interview. Several local governments (Mezőkövesd, Budapest XXI. Csepel, Diósd, Veszprém) banned the use of the storybook *Fairyland is for everyone* in their educational institutions, and one local government (Nagykátá) adopted a ban on "LGBTQ-propaganda" in all of its institutions.

Besides the newly adopted legislation, public bodies also started using existing legislation to restrict freedom of expression of LGBTQI people. In October 2019, the Consumer Protection Department of the Pest County Government Office imposed a 500.000 HUF fine on Coca Cola for featuring same-sex couples in their advertisement. The authority opined that the portrayal of a gay and a lesbian couple "may impair the physical, mental, emotional, and moral development of children and minors" (PE-06/01/01076-10/2019). In January 2021, the Consumer Protection Department of the Budapest Government Office ordered Labrisz Lesbian Association to clearly indicate on the book *Fairyland is for everyone* that it contains "patterns of behavior deviating from traditional gender roles" (BP/2200/00868-2/2021). In March 2021 the Media Council launched an investigation against RTL Klub, the largest commercial channel for airing a video about rainbow family as public service advertisement before 9pm. The Council argues the video featuring same-sex families and experts was harmful for children under the age of 16 (MN/31406-9/2020.).

Justice System - Italy

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

According to the general principles of the Italian constitution all citizens are equal before the law without any distinction of sex, social and personal condition. However, trans people encounter a *de facto* unfair legal treatment when it comes to the sex reassignment legal process.

Since 2011 (Law 150/2011) the sex reassignment process is brought on in the form of litigation: a trans person has to sue significant ones who may be affected by the reassignment through a full scale litigation process. This provision is in contrast with the 2048/2015 Resolution of the Council of Europe Parliamentary Assembly that states the need for «quick, transparent and accessible procedures, based on self-determination, for changing the name and registered sex of transgender people on birth certificates, identity cards, passports, educational certificates and other similar documents.»

This procedural choice has three main ill effects:

1. curtailed self-determination of the trans people;
2. Lengthy legal process;
3. Increase of the legal fee;

4. Due to the litigation nature of the process, a fixed trial fee of 518 euro, has to be paid as opposed to other marital status trials that may not request any trial fee.

Other - please specify

3000 character(s) maximum

Positive example – Filiation within the civil union: The Courts fill the gap

In two separate cases, the Supreme Court has pointed out the need for the legislator to increase the legal protection of minors by allowing for same-sex marriages. In the first case, the Lower Court had denied the recognition of a foreign judicial measure that attributed the paternity of a child born through surrogacy to two male spouses. In the second case the Lower Court had dealt with a case of attribution of maternity of a child born through heteronomous insemination to two women. In both cases the Supreme Court has upheld the Lower Courts' decisions on the ground of a lack of a comprehensive legal framework and at the same time has invited the Parliament to fill the gap.

The law 76/2016 provides for the institute of Civil Union exclusively to same-sex couples which cannot access the institute of marriage. The two institutes differ from each other in several aspects, the most critical of which is "filiation". On the ground of this difference many discriminations have accrued which in some cases Courts have rebuffed. The Public Health Care Commission (ATS) of Milan has refused to concede parental leave to a same-sex couple on the ground that such a leave is explicitly provided only for married couples. The Milan Court of Labour in 20/11/2020 rejected the decision of the ATS of Milan asserting that the legislative vacuum on the subject matter does not enable the ATS to draw discriminatory consequences for same-sex couples.

Step child adoption

In Italy only married people can access full adoption. In some cases, the law allows the spouse of the parent to adopt their child in a form that does not create a full bond with the adopting family as well as it does not rescind the bond with the original family; the so-called step child adoption. Same-sex unions, according to Italian law, are not equal to marriage and therefore same-sex couples cannot access full adoption. At the same time, the law does not grant access to step child adoption. Luckily, in 2014 the court has set a precedent that allows same-sex spouses to access such a remedy, however, only after lengthy and expensive court proceedings.

Hate Crimes

In the parliament is still pending a law on hate crimes based on sexual orientation and gender identity. Notwithstanding the significant increase of homophobic acts, hate crime against LGBT people are evaluated by the court only on the ground of the severity of the crime without any aggravating factor. Therefore, some crimes that factually might turn out not severe but that have triggered a relevant social upheaval because of their homophobic or transphobic nature might be closed without any consequence.

Anti-Corruption Framework - Italy

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

Prevention

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

3000 character(s) maximum

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

Rules on preventing conflict of interests in the public sector.

3000 character(s) maximum

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

3000 character(s) maximum

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

3000 character(s) maximum

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 - Italy

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 - Italy

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

On June 2019, the constitutional affairs committee of the Italian Senate started an inquiry on the condition of sex work in Italy². Besides a single case on October 2nd 2019, in which the committee audited "Comitato per I diritti civili delle prostitute", this very important participatory occasion did not involve sex workers as the directly concerned party in the debate, and expressed a very strong pro-criminalisation point of view.

Right after the Coronavirus outbreak, which proved the failure of the abolitionist approach and condemned the sex workers' community to unparalleled suffering due to the total absence of public aid for them, the Senate's committee stopped any kind of initiative related to the above-mentioned inquiry and abruptly interrupted any form of dialogue with civil rights organisations asking for measures to protect undeclared workers.

On this specific topic, Associazione Radicale Certi Diritti and Comitato per I diritti civili delle prostitute officially deposited two parliamentary petitions addressed to Chamber of the Deputies and the Senate itself that were completely ignored.

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

² <http://www.senato.it/1122?indagine=15>

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

Restrictions on civil society space

In the wake of terroristic attacks that targeted people in public gatherings through the use of vehicles, the Italian government released a series of ministerial circulars (2017) that have significantly increased the security measures needed for any public gathering, the cost of which has become rampant.

For this reason, any political event that requires an occupation of public soil such as a stage, will require a very high levels of security at the expense of the organisers. In many cases events such as Prides did not have the resources to face that kind of commitment and this has de facto reduced the possibility of performing public events of that nature.

Citizens' initiatives

Citizens' initiatives and referendums are participatory instruments officially recognised by the Italian Constitution and regulated by law #352 of 1970³. People's initiatives require 50.000 signatures by Italian citizens to be deposited, referendum proposals 500.000.

The LGBTI movement has made enormous breakthroughs thanks to strategic litigation. The Parliament proved to be defaulting by ignoring most of the Constitutional Court's appeals to legislate towards

³ <https://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:legge:1970;352:vig=>

equality and respect of LGBTI people's rights. This makes it urgent for organisations to be able to count on participatory democracy instruments.

However, signatories' collection is entirely paper-based and requires specific authentication and certification procedures that make it almost inaccessible to civil society organisations to use these means of participation and control on the Parliament's outcomes.

The Budget Law 2021, eventually agreed on the possibility to implement a digital platform that could allow citizens to sign referenda and people's initiatives through digital IDs, by December 2021. Civil society believe it is of importance that the platform is implemented before this date, due to the Covid-19 context.

The quick implementation of the platform is an urgent requirement for the respect of political rights especially in view of the current pandemic and considering that SPID – the Italian digital ID system – is successfully implemented in the European Commission's ECIs online procedures.

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

Justice System - Poland

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

On 20 February 2020 a Wroclaw court ruled⁴ that a campaign linking LGBT and paedophilia is “informative and educational”. The campaign, run by ultraconservative NGO Fundacja Pro, drove vans through city centres broadcasting slogans warning that the “LGBT lobby wants to teach children” and included calls to “stop paedophilia”, with a logo showing a crossed-out rainbow flag. In response to a civil lawsuit the judge ruled that the campaign “illustrates the issue of paedophilia to the public, as well as differences in the way sex education is implemented among minors...while [also] addressing the problem of extreme sexual education”.

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 (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

On 26 April 2019, in protest to priests of the Płock parish having created a mock grave with a homophobic message, activists hung posters in Płock depicting the Virgin Mary with a rainbow halo, calling it “Our Lady of Equality”. On 6 May 2019, the Ministry of the Interior and Administration announced the detention of the activist Elżbieta Podleśna. Her apartment was searched before she was

⁴ <https://notesfrompoland.com/2020/02/20/polish-court-anti-lgbt-stop-paedophilia-campaign-is-informative-and-educational/>

released. The Head of the Ministry of Internal Affairs and Administration, Joachim Brudziński of PiS, called the posters "cultural barbarity". Eventually, over a year later on 29 June 2020, activists Elżbieta Podleśna, Anna Prus and Joanna Gzyra-Iskandar were indicted under article 196 of the Criminal Code (offending religious feelings), for the events of 26 April 2019. Hearings were held on **13 January 2021** and **17 February 2021**. The activists faced up to 2 years in prison for their exercising their right to freedom of expression. There are currently four other similar cases awaiting trial in which LGBTI activists are indicted for "offending religious feelings". These are:

1. Priest of The United Ecumenical Catholic Church and LGBT activist Szymon Niemiec – conducted a mass during Pride events in Warsaw in 2019. In July 2020 the District Prosecutor's Office in Warsaw sent to District Court in Warsaw an indictment charging Niemiec and two other persons, who conducted the mass, with offending religious belief. The first trial has not been scheduled yet.

2. During an Equality March in Gdańsk in 2019 – a group of people have conducted an activist happening resembling a religious procession with rainbow elements and drawing of a vagina as a goddess. District Prosecutor in Gdańsk have charged 8 people with offending religious belief. The first trial has not been scheduled yet.

3. Prof. Magdalena Pecul, civil rights activists from Obywatele RP movement is charged by the District Prosecutor in Warsaw with art. 196 for putting rainbow flag on a monument of Jesus, as a gesture of solidarity with LGBT activists arrested on 7th September 2020. The first trial has not been scheduled yet.

4. Michał Gworowski, a human rights activist was charged by District Prosecutor for violating art. 196, for carrying an image of holy mary with a rainbow halo, during Equality March in Częstochowa in 2019. The first trial has not been scheduled yet.

On 2 March 2021, Anna, Joanna and Elżbieta, were acquitted of all charges. The judge said that the women's actions were within the remit of freedom of expression, and that "there is no provision in the catechism of the Catholic Church that excludes non-heteronormative persons. There is love, mutual respect and understanding". This ruling is a positive example of judicial independence and justice being delivered, as, due to the increasing control and influence of PiS on the judiciary, as well as far-right forces, activists did not expect such a positive outcome.

Anti-Corruption Framework - Poland

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

Prevention

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

3000 character(s) maximum

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

Rules on preventing conflict of interests in the public sector.

3000 character(s) maximum

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

3000 character(s) maximum

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

3000 character(s) maximum

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 - Poland

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

Activists who have been calling out the LGBTI-phobic nature of the anti-LGBT resolutions and Charters of Family Rights adopted by various Polish municipalities and regions, are being targeted with Strategic Lawsuits Against Public Participation (SLAPPs). Ordo Iuris and municipal councillors are trying to intimidate Polish activists using these tactics. Specifically, three LGBTI activists who authored the "[Atlas of Hate](#)", have received four court summons from Ordo Iuris and local councils, and have been informed of two more:

1. On 25 April 2020, the activists received a first court summons from Ordo Iuris, in the name of Przysucha powiat. The trial will be in Radom regional court.
2. On 5 November 2020, the activists received a second court summons from Ordo Iuris, in name of Tatra powiat. The trial will be in Nowy Sącz regional court.
3. In February 2021, the activists received a third court summons from Ordo Iuris, in the name of Przasnysz powiat. The procedure for this case has already started in court in Ostrołęka.
4. On 25 February 2021 the activists received a fourth court summons from Ordo Iuris, in the name of Tarnów powiat. The case will be heard in Tarnów regional court. On the same day Ordo Iuris announced they would sue Sylwia Spurek MEP for her criticism of "LGBT-free zones".
5. On 27 February 2021 the President of Ordo Iuris, Jerzy Kwaśniewski announced in his newsletter⁵ that the next two summons are being prepared.

All four poviats have the same demands, blaming the activists for defamation;

- 4x4400 EUR of compensation paid for a local social organization;
- Statement on the Atlas of Hate website, covering the map;
- Apologies in the front of the building of European Parliament in Brussels at the activists' expense (4x1900 EUR for tickets, hotels etc)
- Apologies in the building of the Polish Press Agency (PAP) at the activists' expense (4x1300 EUR for renting a press room).

If they win all that they demand –the whistleblowing about "LGBT-free zones" (Family Charters and anti-LGBT resolutions) can cost the activists at least 42 200 EUR.

⁵ http://dakowski.pl/index.php?option=com_content&task=view&id=30597&Itemid=53

Other - please specify

3000 character(s) maximum

Media has concertedly been targeting LGBTI people since at least 2019. Most notably, in July 2019 [Gazeta Polska](#) (a far-right weekly newspaper), distributed stickers bearing the text "LGBT-free Zone". When the US Ambassador to Poland, Georgette Mossbacher, criticised these stickers, the Polish government said that this was an unnecessary statement. The distribution of the stickers were [halted by a court in Poland](#), pending the outcome of a case against them filed by a human rights activist. In response, Gazeta Polska began distributing instead a reworded sticker "LGBT Ideology Free Zone".ⁱ Other attacks on LGBTI people by the media include in October 2019 the airing of a documentary entitled "LGBT Invasion" on national TV (TVP1) ahead of an election.

Other institutional issues related to checks and balances - Poland

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

Civil society space for LGBTI activism and activities more broadly has been significantly threatened over the past years. Since 2019, regions and municipalities have been adopting anti-LGBT resolutions and Family Charters (made known internationally by the activist term “LGBT-free zones”), which discriminate against LGBTI people and non-traditional family forms, leading to a direct impact on the use of municipal spaces, funds etc by LGBTI people or groups. For example, the Regional Charter of Family Rights adopted by Podkarpackie Province (and co-created with Ordo Iuris), including a clause against supporting organisations which “are undermining the identity of marriage”. They then stopped funding NGOs that they thought fell under this category.

Moreover, there have been smear campaigns conducted by politicians against LGBTI people, discrediting them and therefore encouraging discrimination against LGBTI people and groups. For example, on 10 June 2020, as part of his anti LGBT Presidential election campaign, the Polish President Andrzej Duda publicly signed the Family Charter where, among others, he commits to: defending the institution of marriage which means no acceptance for same-sex marriages, not giving his acceptance for adoption of children by same-sex couples, protecting children from so called „LGBT ideology”. After signing the declaration, President stated: „There are many debates and narratives that are trying to influence our reality. Sometimes they are forced on us and that’s why it’s necessary to protect the family. This ideology (LGBT ideology) is not ours! I do not agree to introduce it to our country... so there will be legal ban on promoting LGBT ideology in public institutions.” Later in the week, he publicly compared „LGBT ideology” to being worse than communism. Duda was re-elected on 12 July.

On 7 August 2020, protests against the arrest of Małgorzata Szutowicz were met with excessive police force, with arbitrary arrests of 48 people, including some passers-by. Detainees complained of police violence during detention⁶, such as being beaten in police cars and being deprived of food and water. Those arrested were taken to unknown locations and denied access to a lawyer, until opposition MPs intervened during the weekend of 8-9 August. A report published later in September by the Polish Commissioner for Human Rights⁷, identified degrading treatment, bordering on inhumane treatment in some cases.

On 8 March 2020 Kaja Godek’s Life and Family Foundation started the campaign, “Stop LGBTI” collecting signatures to demand a ban on all Prides in Poland. They then submitted this to Parliament as a citizen’s legislative initiative bill in November.

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

⁶ <https://www.rpo.gov.pl/pl/content/kmpt-wizytuje-policyjne-miejsca-detencji-po-nocnych-zatrzymaniach-w-warszawie>

⁷

<https://www.rpo.gov.pl/sites/default/files/Raport%20KMPT%20z%20wizytacji%20jednostek%20policyjnych%20po%20zatrzymaniach%20w%20Warszawie%207.08.2020%2C%207.09.2020.pdf>

information campaigns on rule of law issues, etc.)

3000 character(s) maximum

Other – please specify

3000 character(s) maximum

Justice System - Romania

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

Adrian Coman, Clai Hamilton and the ACCEPT Association are suing Romania at the European Court of Human Rights (ECHR) for violating their right to marriage, non-discrimination, family life and access to justice.

Adrian Coman and Clai Hamilton were recognized as spouses and, implicitly, as family, by the Court of Justice of the European Union (CJEU) and the Constitutional Court of Romania (CCR) in the summer of 2018. These two decisions represent the most important legal precedents set in the last decade for the equality of LGBTI people in the European Union and in Romania. The CJEU decision, which establishes the recognition of same-sex marriages in European law, at least in the field of free movement, is binding on Romanian courts and public authorities. The CCR decision recognizes, for the first time, the right to family life for same-sex couples in Romania and indicates, since 2018, that the Parliament must adopt a law to protect these families.

In almost three years, both decisions have been ignored by the executive, the legislature and the judiciary. The courts, which were supposed to resolve the discrimination case initiated by Adrian, Clai and ACCEPT against the General Inspectorate for Immigration (IGI) and the Ministry of Internal Affairs, failed. The Sector 5 Court and the Bucharest Tribunal invoked ex officio procedural exceptions, claiming an aberrant lack of interest of the parties in resolving the case, instead of applying the decisions of the superior courts. Thus, the judges of the two courts denied access to justice and a solution to the main issue: the impossibility of the Coman-Hamilton couple to live as a family in Romania, because of the IGI's refusal to issue a residence permit for Clai (an American citizen) in 2013, by saying and discriminating that Romania does not recognize same-sex marriages officiated outside the country.

During all this time, the practice of the authorities has not changed; the Parliament did not regulate the civil partnership and the Government did not coordinate an administrative reform that would harmonize national and European legislation on free movement for European citizens. The latter issue is also being analyzed by the European Commission, which launched a pre-infringement procedure against Romania in August 2020, the last step before the start of the judicial procedure by the European Court of Justice which draws attention to the violation of EU law and non-compliance by a Member State and starts a dialogue with it before Member State sending to court by the Commission of the European Union.

Anti-Corruption Framework - Romania

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

Prevention

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

3000 character(s) maximum

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

Rules on preventing conflict of interests in the public sector.

3000 character(s) maximum

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

3000 character(s) maximum

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

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

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 - Romania

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 - Romania

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

Justice System - Slovenia

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 - Slovenia

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

Prevention

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

3000 character(s) maximum

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

Rules on preventing conflict of interests in the public sector.

3000 character(s) maximum

Slovenian Ministry of labour, family, social affairs and equal opportunities held an open call for funding of projects supporting vulnerable groups in the epidemic⁸. The call was funded through ESF.

Of 135 project applications, 17 received funding. Minister Janez Cigler Kralj is accused of corruption, including allegations that he influenced the selection criteria so that an anti-human rights Institute Iskreni, which he co-founded, received the grant. No LGBTI organisations or LGBTI projects were awarded the grant.

Views expressed by Institution Iskreni include:

- They claim that homosexuality is a disease and are organising events with speakers who claim that homosexuality⁹ can be cured through reparative therapy.
- They want to criminalise abortion¹⁰ and are against any kind of contraception.¹¹
- They want to end obligatory vaccination of children for diseases such as diphtheria, tetanus, whooping cough, polio, hepatitis B etc.¹²

Two employees of the Minister's Cabinet were part of the selection committee, one of them even being the presiding person. This was revealed during a political debate on Tarča TV show produced by Slovenian public TV, aired live on 28 January 2021.

- 19 June 2020 – The call was published
- 20 July 2020 – Application deadline
- 21 July 2020 – Opening and review of the applications
- 11 September 2020 – Notice by the ministry of the prolongation of the selection procedure due to high number of applications and demanding content
- 10 November 2020 – The ministry wrote that assessment of applications was complete (email revealed on Tarča)
- 8 December 2020 – A month later, a member of the selection committee asked other members to assess additional applications, reassess those already assessed and also evaluate the call (revealed on Tarča). When asked by a journalist about the procedure, they withheld information about the evaluation of the call and re-assessment – saying only that the evaluation of applications was carried out until the second half of December 2020
- In addition, it was revealed that Zveza prijateljev mladine Slovenije (Slovenian Association of Friends of Youth) had the same number of points as Institute Iskreni, but lost 4 in the second assessment procedure and therefore did not get funded¹³

⁸<https://www.gov.si/zbirke/javne-objave/javni-razpis-za-sofinanciranje-projektov-za-pomoc-najbolj-ranljivim-skupinam-prebivalcev-zaradi-epidemije-covid-19-in-zmanjsevanju-njenih-posledic/>

⁹ <https://www.iskreni.net/ozdravljeni-gej-vznemirja/>

¹⁰ <https://www.iskreni.net/pred-splavom-resenih-ze-vec-kot-4000-otrok/>

¹¹ <https://www.iskreni.net/imam-se-toliko-rada-da-nikoli-nisem-jemala-kontracepcijskih-tabletk/>

¹² <https://www.iskreni.net/obvezno-cepljenje-otrok-prisluhnimo-drug-drugemu/>

¹³ <https://www.24ur.com/novice/slovenija/razpis.html>

- 6 January 2021 – Data on grantees and members of the committee was published

This all raises major concerns that the assessments of the applications have been influenced by the people closest to the Minister.

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

3000 character(s) maximum

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

3000 character(s) maximum

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.

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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 - Slovenia

Media authorities and bodies

(Cf. Article 30 of Directive 2018/1808)

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

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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

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

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Framework for journalists' protection

Rules and practices guaranteeing journalist's independence and safety

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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 - Slovenia

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

On 19 October 2020, organisations based at Metelkova 6 (also an LGBTI organisation) received notice about termination of the lease from the Ministry of Culture who is managing the building, with a claim that it has to be renovated, although there are no funds allocated for such operations at least by 2023. Metelkova houses NGOs in field of human rights, culture, development etc. and are occasionally critical of the government, so eviction is seen as a political move to close on civic space. Prominent members of government and ruling political party also claim that progressive NGOs in the field of human rights, many of whom are operating from Metelkova 6 are useless and are only wasting taxpayers' money.¹⁴

In February 2021, people identified as Neo-Nazis and strongly connected with current ruling party¹⁵, supported the demolition of Metelkova, intimidating the residents with their presence¹⁶. Police also used intimidation tactics on 8 February (day of Culture), when cultural workers marked the day with a public manifestation "A funeral of culture". Police responded excessively, sending 30 members of their special forces to Metelkova in full riot gear. This was seen as a gross misuse of police force. Later, fake news spread on social media claiming that the "real reason" the police had gone there was in response to two LGBTI women under the influence of drugs and alcohol, who had mistaken utility workers cutting trees in yellow vests for Neo Nazis, and were therefore afraid to leave Metelkova. However, later this was established as fake news and therefore scapegoating of the LGBTI community when the police denied receiving mentioned call and the public company Snaga denied utility workers cutting trees there.¹⁷ It is notable that this fake news had been shared and retweeted by the Prime Minister.

Area at ex-industry complex ROG, that served as squatted social and cultural centre since 2006 was forcibly evicted on 19 January 2021. Eviction happened without court order and people who gathered there to protest were stopped by excessive force and teargas by police and security forces.¹⁸ Centre ROG was also one of the spaces where LGBTI events were held.

On the positive side Legebitra, an LGBTI CSO, is currently implementing a project titled TRUST COOP – Building trust and cooperation between law enforcement and LGBTI community to improve response to LGBTI hate crime with the Slovene Police. The project is co-financed under the Rights, Equality and Citizenship Programme of the European Union (2014–2020).

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

Justice System - Sweden

¹⁴ <https://balkaninsight.com/2020/10/28/slovenian-ngos-facing-eviction-claim-jansa-wants-them-silenced/>

¹⁵ <https://necenzurirano.si/clanek/aktualno/neonacisti-med-rumenimi-jopici-790471>

¹⁶ <https://www.theguardian.com/cities/2015/jul/24/metelkova-ljubljana-abandoned-barracks-europe-squat>

¹⁷ <https://www.facebook.com/klubmonokel/posts/10158753171659933>

¹⁸ <https://balkaninsight.com/2021/01/19/slovenia-evicts-alternative-culture-activists-from-squatted-factory/>

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

In 2020 RFSL wrote a report about the disturbing flaws of the Swedish asylum system, where the Migration Board and the Migration Courts do not follow Swedish and international laws. The report covers 2000 verdicts and is a dreadful read.

The research shows that a number of explicit requirements are put upon the asylum seeker by the migration authorities within the credibility assessments in LGBTIQ cases. Apart from the explicit requirements to make the SOGIE asylum grounds credible, the migration authorities have a number of preconceptions about and expectations of LGBTIQ people, that have a great impact on whether or not the asylum seeker is assessed to have made their SOGIE credible. The explicit requirements and preconceptions about LGBTIQ people become crucial in the credibility assessment. The research shows that the migration authorities' requirements lack support in the Swedish Aliens Act and contravene the Migration Agency's own judicial guidelines, UNHCR's guidelines, EU Directives and the European Court of Justice's case law.

The full report is found here: <https://www.rfsl.se/wp-content/uploads/2020/12/Rapport-AVSLAGSMOTIVERINGAR-I-H-BTQI-ASYL%C3%84RENDEN-2020.11.09.pdf>

The report is in Swedish but contains a summary in English.

Anti-Corruption Framework - Sweden

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

Prevention

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

3000 character(s) maximum

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

Rules on preventing conflict of interests in the public sector.

3000 character(s) maximum

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

3000 character(s) maximum

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

3000 character(s) maximum

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 - Sweden

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 - Sweden

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

Different neo-Nazi groups have during a number of years had RFSL events and offices and Pride events as specific targets, resulting in crimes such as vandalism, unlawful threats, hate speech and abuse directed at the LGBTQI target group. During 2018 and 2019 the activities of Nordiska Motståndsrörelsen, NMR (Nordic Resistance Front) escalated and also affected other target groups such as the Jewish community. A particularly stark example was during the major event Politikerveckan i Visby (the Politics Week in Visby) in the summers of 2018 and 2019, when NMR activists attacked and harassed LGBTQI-activists and representatives from other minority groups during the event. The presence of the neo-Nazi activists were to a certain extent protected by their freedom of assembly, which the Swedish police assessed took precedence in practice over protecting other participants' freedom of assembly. The

many incidents during the events both 2018 and 2019 has sparked a debate in Sweden over when the police have the right to deny a potentially violent group from gathering and whether racist organisations and participation in racist organisations should be prohibited. A public investigation about this by the Swedish government has been launched and they will soon deliver their conclusions to the government. Information in Swedish: <https://www.regeringen.se/pressmeddelanden/2019/07/forbud-mot-rasistiska-organisationer/>

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
