

EU ANNUAL RULE OF LAW REPORT CONSULTATION – OECD CONTRIBUTION

This contribution is submitted by the OECD as part of the targeted stakeholder consultation launched by the European Commission to gather inputs for its 2021 Rule of Law Report.

Topic I. Justice systems. Horizontal developments

People-centred justice

- One year into the pandemic, evidence shows that varied legal needs have been rising in the wake of the COVID-19 crisis, due to global declines in GDP which fell by 4.2% globally in 2020 according to the *OECD Economic Outlook Interim Report December 2020*¹, growing unemployment, insolvencies and contractual disputes, as well as higher levels of domestic violence.
- Although prospects have improved and GDP is projected to rise by 5.5% with respect to 2020 globally in 2021², this improvement is expected to be uneven amongst countries and people, particularly socio-economically disadvantaged people that have been disproportionality burdened by the pandemic and are likely to have increased legal needs, but less capacity to seek and access the necessary remedies to meet them.³
- As underscored by the *OECD White Paper on Making the Business Case for Access to Justice*, legal problems are associated with severe economic and personal consequences, particularly when they remain unresolved. This is also the case in many EU Member States (many of which are also OECD Members), which - despite the strength of the rule of law and high levels of income and human development, face specific challenges in their justice systems. In particular, the level of complexity of these economies and societies seems to generate a range of new legal needs including those arising from growingly burdensome administrative, tax and civil procedures which, at present, are not satisfied⁴. This comes at a high economic cost: according to OECD estimates, this cost ranged from 0.5% to 3% of GDP in most participating countries already prior to the pandemic.⁵
- Moreover, COVID-19 related restrictions have resulted in significant changes to court and tribunal procedures, creating delays that may be compounded by additional cases flowing from those affected by the economic downturn. These delays will likely be experienced in the post-COVID-19 environment in the form of court backlogs.

¹ OECD (2020), *Economic Outlook Interim Report December 2020*, available [here](#)

² OECD (2021), *Economic Outlook Interim Report March 2021*, available [here](#)

³ OECD (2019), *White Paper on Building the Case for Access to Justice*, available [here](#)

⁴ World Justice Project (2019), *Measuring the Justice Gap*, available [here](#)

⁵ *Ibid* 3.

- In parallel structural and systemic biases deep-rooted in justice systems have prompted a renewed wave of social movements and protests in some countries, shining light on this crucial issue. When people feel that justice institutions are not responsive to their needs or are affected by such biases, they can become disillusioned and lose trust in the governance system as a whole. Against the backdrop of the pandemic, preserving trust is more important than ever, with average confidence levels in government decreasing in at least half of OECD countries surveyed between April and July 2020 despite initial increases during the first wave of COVID-19.⁶
- The forthcoming OECD Brief on The *Economic Case for High Quality Justice*⁷ underlines that the key components of the rule of law often mutually reinforce one another, and are often associated with high levels of economic development and lower levels of corruption. As such, it is critical that national and supranational recovery plans from the COVID-19 crisis continue to integrate responsive and people-centred justice as a core strategic pillar. Indeed, legal and justice services play a key role in restoring economies, strengthening democracy, protecting people's rights, including the most vulnerable groups and building confidence in public institutions.

Innovation and people-centred justice

- The COVID-19 crisis has also been an opportunity for countries to explore innovative and alternative means to provide access to justice and to facilitate the resolution of legal problems. These developments demonstrate the quickest evolution of justice systems in decades, which is an opportunity that can and should be leveraged.
- For example, as shown in the OECD policy brief on *Access to justice and the COVID-19 pandemic*,⁸ some countries (e.g. Portugal, Ireland) established cross-functional response teams comprising senior officials from across the relevant departments, in order to allow all agencies to work together to find solutions. Countries have also simplified many procedures: in Lithuania, participation of a notary has been eliminated in approving simpler mandates and enabling electronic registration of mandates for which a notarial form is not required; in Ireland, suspension of civil trials has been enabled through agreements by the parties through e-mail, which was unprecedented; in Portugal, the Council of Ministers approved an experimental regime for the realisation of authentic acts, terms of authentication of private documents and signature acknowledgments through the Internet to allow record-keepers and registry officers, notaries, lawyers and solicitors to carry out these acts via videoconference; and in Poland, the Ministry of Justice has facilitated a website called *Stop Uprowadzeniom Dzieci* (Stop Child Abduction), through which

⁶ OECD (2021, forthcoming), Government at a Glance 2021, based on the Gallup World Poll.

⁷ OECD (2021, forthcoming), The Economic Case for High Quality Justice Policy Brief

⁸ OECD (2020), Access to justice and the COVID-19 pandemic, available [here](#)

electronic applications can be logged when a child goes missing. Countries such as Italy have also created COVID-specific responses, offering online trainings for judges and court staff about risk management in the COVID-19 context.⁹

- To support countries in responding to legal needs and to bringing justice closer to the people, the OECD is currently developing a *Framework for People-centred Justice*, which outlines elements for a government-wide strategy for people-centred justice, inter-agency cooperation and communication, and mechanisms to ensure accountability and sustainability, interested countries in advancing people-centred justice.

Measurement of people-centred justice

- The newly approved **SDG global indicator 16.3.3**, of which the OECD is a co-custodian alongside UNDP and UNODC, provides an opportunity for all countries to report on achieving access to justice for all to deliver on their commitments to the 2030 Agenda for Sustainable Development, and in particular SDG target 16.3 “*promote the rule of law at the national and international levels, and ensure equal access to justice for all*”.

The indicator reads “*Proportion of the population who have experienced a dispute in the past two years and who accessed a formal or informal dispute resolution mechanism, by type of mechanism*”. It focuses on the first step of the process to obtain justice and in particular on the accessibility of justice institutions and mechanisms (both formal and informal). It aims to provide information about the overall accessibility of civil justice institutions and processes, barriers, and main reasons for exclusion. The disaggregation by type of dispute resolution mechanism provides additional information about the channels used by citizens in need of enforcing or defending their rights.

- All EU Member States (along with other countries), in close collaboration with their national statistical agencies, will be invited to report on progress made under this indicator to the United Nations (via co-custodians OECD, UNDP, UNODC) on an annual basis starting in **February, 2022**. This information will be included in the annual [UN SDG progress report](#).
- Data for this indicator can be collected through a small set of surveys questions (four) which can be included in general or dedicated surveys or via conducting legal needs surveys. Countries can decide to monitor their progress in the following different ways:
 - a **Carry out a full national legal needs survey**. The legal needs survey methodology and proposed questions used to construct this indicator draw on the [Legal Needs Surveys and Access to Justice methodological Guide](#) developed by the OECD and Open Society Justice Initiative (OSJI). This guide documents findings and methodological best practices gained through more than 60 national surveys in more than 30 jurisdictions over the course of the last 25 years. The

⁹ OECD (2020), Access to Justice and the COVID-19 pandemic, available [here](#)

Guide includes a template legal needs survey to be adapted to the specific country needs.

- b Integrate short legal needs survey modules in other national level surveys** (e.g., victimisation or other surveys) that are broader in scope. The OECD-OSJI *Guide* includes a short module template that could be adapted to country needs.
 - c Integrate the full survey module to support reporting on broader SDG 16 indicator into other national-scale surveys.** This module has been developed by the co-custodian organisations ensuring to cover the minimum data required to report under the SDG 16, including indicator 16.3.3. Countries can request access to this module.
- Other tools and approaches to measuring quality and access to justice at the national level can be found in the Praia City Group's new *Handbook on Governance Statistics (Chapter on Access to and Quality of Justice)*¹⁰, which provides a foundation and standards for governance statistics, contributing to the development of international standards in all areas of governance statistics. The chapter on access to and quality justice focuses on the ability of people to defend and enforce their rights and obtain just resolution of justiciable problems through impartial formal as well as informal institutions of justice.
- Moreover, as underscored in the forthcoming working paper on *Grasping the Justice Gap: Opportunities and Challenges for People-Centered Justice Data*¹¹, in order to make progress under this global SDG indicator. Specifically, further efforts would be needed at the country level, in order to design and deliver people-centred justice strategies, ensure they are connected to the needs and abilities of those facing justice problems; and to measure what works, learn and adapt. Effective and appropriate evaluation of access to justice efforts is key for adapting strategies, allocating resources, and advancing justice for all.

Access to justice for businesses

- The COVID-19 pandemic has underlined the importance of accessible justice for businesses, and particularly for SMEs, in view of growing contractual, consumer and employment disputes, coupled with possible insolvency proceedings, which are exacerbating their legal needs¹². In addition, many companies are entitled to economic

¹⁰ Praia City Group (2020), Handbook on Governance Statistics, available [here](#)

¹¹ World Justice Project & Pathfinders for Just, Peaceful and Inclusive Societies, with support from the OECD (2021), Working Paper: Grasping the Justice Gap, available [here](#)

¹² OECD Policy Responses to Coronavirus (2020) Insolvency and debt overhang following the COVID-19 outbreak: Assessment of risks and policy responses, available [here](#)

support and benefits approved by their governments in response to the crisis, which in turn require an understanding of complex regulation and procedures to access such benefits. In this context, an appropriate response from the justice sector is required, particularly to ensure meeting the needs of businesses in the sectors that have been the most affected by the movement restrictions.

- The forthcoming *OECD Brief on Business-friendly Justice* identifies essential elements of business-friendly justice and puts forward a series of principles and recommendations. These include orientating the approach to people- and user-centric design, especially with an empirical evidence foundation. Further, this requires reframing the role of justice services for businesses as part of business success. Justice for businesses would also have to meet societal values and expectations, since societies are increasingly demanding for businesses to reflect societal values and priorities besides commercial ones. Some of these expectations are reflected in the 2011 *OECD Guidelines for Multinational Enterprises*, which call on businesses to act responsibly.¹³ On the other hand, it is important to individuals' well-being that effective and efficient business-friendly justice is promoted. The COVID-19 pandemic has significantly impacted businesses and their employees. Reducing stress in dispute resolution processes is thus an important dimension for improving business-friendly justice and supporting business viability during the recovery.
- Further, SMEs cannot be regulated in the same way as larger enterprises and a focus on inclusion and well-being will help support these businesses.
- The Brief highlights some country level developments, including but not limited to:
 - Latvia's "Consult First" initiative for business simplification, drawn from OECD guidance instils a "client-based approach in regulatory practice" to provide advice before sanctioning businesses, where appropriate.
 - Austria's one-stop online business service portal serves as a single-entry point for businesses and entrepreneurs (*Unternehmensserviceportal-USP*), providing comprehensive information for entrepreneurs and offering direct access to a number of e-government services to create a favourable environment for setting up and running a business in Austria, including tax, social insurance, e-invoicing and other transparency databases.
 - At the European Union level, the Online Dispute Resolution mechanism allows consumers and traders in the EU as well as Norway, Iceland, and Liechtenstein to resolve disputes relating to online purchases of goods and services without going to court.
 - In Portugal, as a response to the COVID-19 pandemic, a new recovery process for firms affected by the pandemic has been introduced (PEVEE).

¹³ <http://mneguidelines.oecd.org/MNEguidelines/>

Access to justice for women

- Surveys around the world have shown a surge in domestic violence since the onset of the pandemic, with a marked increase compared to the same period in 2019. For example in the first weeks of confinement in March 2020, the Paris Police Prefecture announced violence had risen by 36% in one week¹⁴; and according to the American Journal of Emergency Medicine and UN Women, when the pandemic began, incidents of domestic violence increased 300% in Hubei, China; 25% in Argentina, 30% in Cyprus, 33% in Singapore and 50% in Brazil¹⁵. The surge in domestic violence cases caused by the pandemic and its associated measures have led several countries to adopt comprehensive action plans to effectively strengthen the protection of women and children victims/survivors effectively. Without being exhaustive, some examples include¹⁶:
 - In Ireland, the Department of Justice and Equality developed an inter-agency plan to address the heightened threat of domestic abuse at this time, which includes:
 - Additional funding of over €196,000 has been provided to community and voluntary groups in the sector.
 - An Garda Síochána (the Irish Police) has established a proactive targeted policing initiative for domestic abuse victims. This means the police is visiting the homes of citizens who had come to their attention the last two to three years and knocking on the door to remind the occupants that the guards are there and that they are available to help. This measure highly resonates with the proactivity and timeliness criteria in that it “puts assistance” in people’s paths.
 - The Courts Service and Legal Aid Board are giving priority to domestic abuse and childcare cases and a Helpline has also been established.
 - The Minister for Justice and Equality, Charlie Flanagan and Minister of State David Stanton have also launched a public awareness campaign (Department of Justice and Equality of Ireland, 2020).
 - In Portugal, the Law for Domestic Violence has been revised to give women with children a swifter solution in a situation of abuse, allowing protective measures to take

¹⁴ Le Monde (2020), Confinement: les violences conjugales en hausse, un dispositif d’alerte mis en place dans les pharmacies, https://www.lemonde.fr/societe/article/2020/03/27/confinement-un-dispositif-d-alerte-dans-les-pharmacies-pour-les-femmes-violentees_6034583_3224.html

¹⁵ Boserup B. et al., *Alarming trends in US domestic violence during the COVID-19 pandemic*, The American Journal of Emergency Medicine volume 38, issue 12, p2753-2755, December 01, 2020 DOI:<https://doi.org/10.1016/j.ajem.2020.04.077>. See also <https://www.unwomen.org/en/news/in-focus/in-focus-gender-equality-in-covid-19-response/violence-against-women-during-covid-19>

¹⁶ OECD (2020) Access to Justice and the COVID-19 pandemic, available [here](#)

place faster these women and their children. Suspension of the eviction of tenants and enforcement of mortgages that fall on private housing¹⁷.

- In Spain, a comprehensive COVID-19 response programme for gender violence victims has been launched, where on top of the existing 24/7 attention number and e-mail address, several WhatsApp numbers have been introduced to ease making claims and to provide psychological support. An Application called ALERTCOPS has been developed through which victims can alert the police and send their address without having to make a call. In addition, all victims have the right to free legal advice in 52 languages through the helpline number.
- In Austria, the formalities to file a restraining order were simplified. In general, an injunction can be applied for in person at the respective district court of the victim's place of residence. The following measures are intended to extend the scope for submitting written applications and to avoid the necessity of personal filing:
 - Mutual agreements between violence protection centres and district courts in addition to measures taken by the government: Violence protection centres (fully state-funded) are specialised victim protection institutions for domestic violence and are located in every federal state. They offer inter alia support with the application of an injunction. Where the police have issued a protection order, they pass on the victims' data to the violence protection centres, which then proactively contact the victims and provide assistance as well with the application of an injunction.
 - These violence protection centres have established varying agreements with the courts to facilitate the filing of the injunction for victims, e.g.: Applications for injunctions can be submitted to the courts via e-mail or fax and are thus deemed to be filed. The application for an injunction can also be prepared by telephone and transmitted to the police. The victim can then collect and sign this application which can then be forwarded to the court.
 - Finally, it is equally possible for the violence protection centre to send the application to the victims by post, who then signs it and sends it to the court by post.
- In Finland, as a part of the general measures intended to enhance the police skills in relation to gender-based violence/domestic violence questions, the National Police Board has instructed on 13 March 2020 all the Police Departments and Units to organize training on effective police response to gender-based violence/domestic violence. The Police Departments and Units are required to report back to the Police Board on the number of trainings performed during 2020.

¹⁷ OECD (2020) Access to Justice and the COVID-19 pandemic, available [here](#)

- In Lithuania, the Inter-institutional Action Plan on the Prevention of Domestic Violence during the Quarantine regarding COVID-19 was adopted on April 2020. In each case, upon notification of domestic violence, the incident of violence was responded to immediately, and when the decision to initiate an incident investigation is taken, a specialised assistance centre, providing assistance to victims of domestic violence, is immediately notified by an e-mail.
- The OECD, building on the 2020 [Call to Action to End Violence Against Women](#), is in the process of finalising a report on *Strengthening governance and survivor/victim-centric approaches to eliminating gender-based violence* that emphasises the importance of survivor-centred justice pathways.
- The report acknowledges that women are particularly likely to experience obstacles in accessing justice, which are likely to be exacerbated one year into the COVID-19 pandemic, which in turn has resulted in a surge in against women. Victims of gender-based violence (GBV) in particular continue to face multiple barriers to access justice. The crisis may also potentially strain the provision of key government services for survivors.

Ensuring judicial and law enforcement systems support and protect survivors/victims is a fundamental element to address the needs of GBV victims. In this regard, both the importance of facilitating access to justice for survivors/victims and bringing to justice those individuals who perpetrate GBV must be emphasised.

Access to Justice for Children

- The pandemic has further entrenched barriers and legal needs children faced before the crisis, including rising levels of domestic violence, isolation and child poverty¹⁸. Access to justice and existence of a child-friendly justice system are especially important for **vulnerable children from disadvantaged families**.
- In addition to **general barriers** to access to justice, such as poverty and economic status, procedural costs, physical access and legal barriers such as statutory limitations, **children face particular barriers** when accessing justice: the complexity of justice system, making it difficult for children to get access, understand the procedures and to participate effectively; children may be unaware of their rights as they lack essential information, the procedures may not be adjusted to children, may be discriminatory or even unsafe.
- Certain groups of children face particular barriers in accessing justice, such as children deprived of liberty, children with disabilities, and refugee or migrant children.

¹⁸ OECD (2020). *Combating COVID-19's effect on children*, available [here](#); see also United Nations Children's Fund, *The Impact of COVID-19 on Children's Access to Justice*, UNICEF, New York, 2021.

- Removing these barriers calls for child-centred justice pathways, which would entail that children have access to adapted and effective justice systems, which also integrates the relevant human and social services.
- Three elements seem essential to ensure a child-focused justice pathway:
 - 1. Understanding legal needs of children** in order to adjust justice pathways to ensure they are responsive to those needs. One possible way to understand the needs of children is to adapt legal needs surveys content and methodology to account for the specificity of needs that children may experience.
 - 2. Legal empowerment of children to claim their rights**, which is related to legal status of the child under international law¹⁹ and includes issues around children's legal capacity to initiate legal action before the court or other relevant body, legal representation (parent or other representative who is not in conflict of interest) and legal and other assistance, including the right to legal aid. Legal assistance entails that children are informed of their rights and all important steps in the procedure in a child-friendly manner, and that professionals are capacitated to provide high quality legal aid free of charge (e.g. attorneys at law, community-based legal clinics, specialised NGOs).
 - 3. Availability of child-sensitive proceedings** meaning that the justice system is adapted to particular needs of children i.e. that a child is informed of his/her right in a manner adapted to the child's age, maturity and specific circumstances, that a child effectively and meaningfully participates in proceedings, adaptation of the premises (i.e. child friendly interviewing rooms) including accessibility to children (e.g. with disabilities or from rural areas) and ensuring safety (e.g. children deprived of liberty and their access to confidential and fair complaint mechanisms), specialised procedures in criminal, civil and administrative courts/other bodies.
- Promoting these three key elements towards ensuring a child-focused justice pathway would contribute to a more inclusive people-centred justice system and serve to reduce the risk to long-term inequality and disadvantages for children that come into contact with the judicial system.
- Countries have continued to make advancements on child-friendly justice, including a recent development in Slovenia where the National Assembly adopted the Law on Child

¹⁹ UN General Assembly, *Convention on the Rights of the Child*, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3, available at: <https://www.refworld.org/docid/3ae6b38f0.html>

Digital technologies for access to justice

- In the wake of the pandemic, digital transformation in the justice sector has happened more quickly than ever before. Innovations using technology have ranged from creation of virtual courtrooms and civil registries, for instance in Portugal, Greece, Latvia, Slovenia, Italy, Israel, Switzerland, Romania, Spain and Poland among many others, to the development of completely dematerialised alternative dispute resolution mechanisms in Portugal, Chile and Canada, and to WhatsApp helplines for abuse victims in Spain and Chile. In Portugal, the Council of Ministers approved an experimental regime for authenticating documents and signature acknowledgments through the Internet²⁰.
- More generally, digitalisation, including through data analysis, the use of artificial intelligence and distributed ledgers, becomes increasingly visible in justice services and is bound to become more relevant in the foreseeable future. In parallel, private service providers are emerging, in many cases aiming to offer personalised justice services that are intuitive, accessible and inexpensive²¹. Many of these developments raise questions about privacy, ethical implications, protection of human rights (including procedural rights) and links between private and public providers. This puts increasing pressure on public institutions to adapt and develop principles, processes and safeguards on integrating technology and data in legal and justice processes, with some countries taking active steps in this regard.
- In addition, there remain challenges to ensure digital transformations in the justice sector remain people-centred and inclusive. People do not have equal access to technology, nor do countries and justice systems have equal capacity in access to cost-efficient information communication technology (ICT) infrastructure²². For instance, it is estimated that worldwide some 327 million fewer women than men have a smartphone and can access the mobile Internet²³. Those lacking legal capability are likely to also lack (or have unequal) digital capability, whether it be simply through lack of affordable access to the internet, or through the lack of familiarity and comfort in using such technology²⁴ (OECD forthcoming Framework). Thus, a 'digital-by-default-strategy' cannot be adopted if we intend to ensure 'no one is left behind.'

²⁰ OECD (2020), Access to justice and the COVID-19 pandemic, available [here](#)

²¹ OECD (2021, forthcoming) *Study on Digital and Data Transformation for Access to Justice*

²² OECD (2019), *Measuring the Digital Transformation: A Roadmap for the Future*, OECD Publishing, Paris, <https://doi.org/10.1787/9789264311992-en>.

²³ OECD (2019), *Bridging the digital gender divide: include, upskill, innovate*, available [here](#)

²⁴ OECD (2021, forthcoming), *OECD Framework on People-centred Justice*

- The forthcoming OECD *Study on Digital and Data Transformation for Access to Justice* highlights country practices and advancements in digital justice, including the following examples:
 - Poland is developing a project on the ‘Dissemination of alternative dispute resolution methods by increasing the competences of mediators, establishing the National Register of Mediators (KRM) and information activities’ that involves preparation and implementation of an IT system for the KRM, a series of mediation trainings, including e-mediation as well as information activities and webinars about ADR.
 - In Italy the criminal procedure moved to a digitised setting in 2020, with the filing of documents, recording, writing and retrieving acts related to criminal cases unfolds through a digital infrastructure. In addition, in February 2020, the Department of Judicial Organization and Human Resources released an atlas covering and mapping all datasets related to the resources issued by the Judicial National Plans and the monthly actions of recruitment, training, professional requalification, as well as by the National Plan of Digital Transformation as part of its data governance and managerial strategy launched in 2019.
 - In France, a simulator for the eligibility for legal aid (SIAJ: ‘*Simulateur d’éligibilité à l’aide juridictionnelle*’) is available on an internet portal to applicants, helping them calculate whether they qualify for legal aid based on their income. From 2021 onwards, the SIAJ will allow the analysis of the information transmitted by applicants (including information on their income) and ease the decision-making process by the offices for legal aid (BAJ: *Bureaux de l’aide juridictionnelle*) as to the granting or the refusal of legal aid.

Topic I. Justice systems. Country-level developments

Experiences in Latvia and Portugal have been chosen given the projects developed by the OECD with these countries throughout 2020.

Latvia

- The OECD Report Performance of the Prosecution Service in Latvia²⁵ shows that Latvia has the capacity to strengthen its justice system through improving the performance of its prosecution services.
 - Through benchmarking the current practices of public prosecutions in Latvia against a selection of OECD Member countries (Czech Republic, Denmark, Finland, France, Italy, Ireland, Netherlands, New Zealand, Portugal and Sweden),

²⁵ OECD (2021), Performance of the Prosecution Service in Latvia: A comparative study, available [here](#)

this report identified recommendations that could support Latvia's ongoing efforts to achieve more effective prosecution practices.

- Latvia has taken steps to further strengthen accountability mechanisms by introducing an obligation of the Prosecutor General to report annually to Parliament on its office's performance. In addition, Latvia's efforts to enforce its Code of Ethics -- in particular, giving the Attestation Commission an accountability function and establishing a whistleblowing channel -- are positive steps toward controlling corruption.
- While Latvia has also made progress in relation to the prosecution of economic and financial crimes, challenges remain. These include the excessive length of pre-trial investigations and significant backlogs of cases not reaching the prosecution stage. For example, in 2019, 12% of the total of criminal proceedings in the records of the Economic Crime Combating Board of the State Police were sent for prosecution. These number have seen little change over the years, at 13% in 2018 and 10% in 2017.
- Latvia has made a number of efforts in the direction of strategic planning for criminal prosecution through Strategy plans, the latest being the Strategy of the Prosecution Office for 2017-2021 which outlines the following overarching objectives:
 - effective and qualitative fulfillment of the Prosecution Office functions in fighting financial and economic crimes
 - ensuring the development of the Prosecution Office Information System (further referred as "ProIS")
 - improving of the internal legal acts system of the Prosecution Office
 - improving the work environment of Prosecutors and employees of the Prosecution Office
- Latvia should also seek to strengthen co-ordination between prosecutors and investigators and harmonise the understanding of the evidentiary threshold to be reached among prosecutors, investigators and judges and target the expertise gaps Latvian prosecutors face when prosecuting complex crimes through mandatory training and specialization.
- Lastly developing a comprehensive integrity and anticorruption strategy could support early identification of risks and mitigating measures. Building on positive developments to date, Latvia's future strategies should be underpinned by a clear and evidence-based understanding of the existing bottlenecks, challenges posed by modern types of crimes, and the impediments faced by the Prosecution's personnel.

- In addition to its efforts on improving prosecution practices, the first Economic Court of Latvia was inaugurated on March 31st, 2021 in line with the OECD recommendations presented in the *2019 OECD Economic Survey of Latvia* and the *2018 OECD Review: Access to Justice for Business and Inclusive Growth in Latvia*. The establishment of this court will promote the effective prosecution of financial and economic crimes and strengthen responsiveness to the legal needs of businesses, creating a more secure business and investment climate that have become particularly critical in light of the devastating economic effects of the pandemic.

Portugal

- The forthcoming 2021 *OECD Economic Survey for Portugal* highlights advancements in Portugal's justice sector and shows that Portugal has the capacity to increase the efficiency of its insolvency proceedings to strengthen its justice system and improve access to justice.
- Although the estimated duration of insolvency proceedings remains well above the OECD average, the average time for civil and commercial cases resolution has declined during the pandemic and is now closer to the EU average. Portugal has put into place measures, in line with past OECD recommendations, to shorten legal procedures, including the Tribunal+ project, but the benefits from these procedures will take time to materialize.

To fully analyse and utilize data, the set of functionalities available in the information system on court proceedings (CITIUS) has expanded to allow courts to identify problem cases for prioritization. The Activity Management module, that allows the monitoring of court activity and facilitates the allocation of cases, has been available in all first instance courts and in the Supreme Court since 2019 and will be extended to other courts in 2021.

- To strengthen legal assistance to judges, a revision of statute of judicial clerks is ongoing. The Prosecutor-General's Office and the Superior Council for the Judiciary are developing tendering procedures for hiring advisors to the judges and prosecutors of the lower courts.

Topic II. Anti-Corruption and Public Integrity

OECD Public Integrity Handbook²⁶

²⁶ OECD (2020), OECD Public Integrity Handbook, available [here](#) .

- In 2020, the OECD published the *Public Integrity Handbook*, which provides guidance to government, business and civil society on implementing the *OECD Recommendation on Public Integrity*.²⁷ The Handbook clarifies what the Recommendation's thirteen principles mean in practice and identifies challenges in implementing them.
- The Handbook provides guidance on improving co-operation within government, as well between the national and subnational levels. To build cultures of integrity across government and society, the Handbook details the core elements of a merit-based human resource management system and the key ingredients of open organisational cultures.
- It also clarifies government's role in providing guidance to companies, civil society and citizens on upholding public integrity values. Moreover, the Handbook unpacks how to use the risk management process to assess and manage integrity risks, and highlights how to use the enforcement system to ensure real accountability for integrity violations.
- To illustrate key elements and challenges of each component of the OECD Recommendation on Public Integrity, the Public Integrity Handbook refers to recent practices from EU member states, such as:
 - Asset and interest disclosures of high-ranking public officials in France.
 - Assigning local integrity responsibilities in the Netherlands and France.
 - Integrity networks in Austria, Germany, and Sweden.
 - Risk identification and assessment for the integrity strategy in Estonia.
 - Cross-governmental approach to strategy design in Finland.
 - Integrity Monitor in the Dutch public administration.
 - Setting meaningful and memorable standards for integrity in Denmark.
 - Preventing, detecting and managing conflicts of interest in France.
 - Encouraging company compliance with post-public employment in Spain.
 - Education for public integrity delivered by the anti-corruption authority in Portugal.
 - Monitoring public procurement in Italy.
 - Building public leadership in the Netherlands.
 - Integrity advisors in France.
 - Whistleblowing reporting procedures in the Netherlands.
 - Development and management of risk registers in Ireland.
 - Risk assessment process for Slovak Republic authorities implementing the European Structural and Investment Funds.
 - The Estonian Court Information System.
 - Communication offices in the judiciary in Spain.
 - Raising awareness about the right to report wrongdoings in Portugal.
 - Regulation of Lobbying and Code of Conduct for persons carrying out lobbying activities in Ireland.
 - Implementing and monitoring revolving door provisions in France.

²⁷ OECD (2017), Recommendation on Public Integrity, available [here](#).

Report on the Implementation of the OECD Recommendation on Principles
for Transparency and Integrity in Lobbying:

“Lobbying in the 21st Century: Transparency, Integrity and Access”²⁸

- The forthcoming report on the Implementation of the OECD Recommendation on Principles for Transparency and Integrity in Lobbying takes stock of progress made on the implementation, dissemination and continued relevance of the 2010 Recommendation on Principles for Transparency and Integrity in Lobbying²⁹. It finds substantial progress in strengthening frameworks for stakeholders’ participation in policymaking, but in many Adherents, implementing measures for transparency and integrity remains a challenge.
- The report also reflects on the new context in which lobbying takes place and the numerous practices that contribute to and influence how policies are made. It finds that a more comprehensive consideration of lobbying activities may be necessary if the policy-making process is to lead to better policies.
- The report benefitted, among other sources, from a Survey answered by public officials in the executive branch of 31 Adherents countries to the Recommendation who are responsible for integrity policies and/or lobbying-related rules and their implementation in central governments. As a result of this extensive data-collection exercise, the report also highlights trends in the implementation of the Recommendation in EU member states which adhered to it. Furthermore, it points out to specific recent practices in EU member states, which include:
 - Lobbying transparency frameworks at the municipal level in Spain.
 - Ex-post disclosures of how decisions were made in Poland and Latvia.
 - Investigations and prosecutions by the Standards in Public Ethics Commission in Ireland.
 - Estonia’s integration of technology in electoral management.
 - Review of the Lobbying Act in Ireland.
 - France’s Parliamentary review of lobbying legislative framework.
 - Parliament Working Group on Lobbying Transparency Regulation in Latvia.

²⁸ Forthcoming, to be launched during a virtual conference on 20 May 2021, 12:00 – 15:30 (Paris time). For registration and more information, please visit <https://www.oecd.org/governance/ethics/lobbying-21-century.htm>. The latest draft of the report was shared with the OECD Working Party of Senior Public Integrity Officials, which includes delegates from DG HOME, on 3 March 2021 [GOV/PGC/INT(2020)9/REV1].

²⁹ OECD (2010), Recommendation on Principles for Transparency and Integrity in Lobbying, available [here](#) .

- Parliamentary review to improve equity and transparency in Netherland's policy-making process.
- Netherlands' Central Government Code of Conduct reference to indirect influence and guidance on accepting gifts and benefits.
- Lobbying ban on Ministers in the Netherlands.
- Tailored guidance for public officials in Ireland.
- The Slovenian Commission for the Prevention of Corruption offers tailored training opportunities for public officials.

Topic IV. Other institutional issues related to checks and balances

OECD Observatory of Civic Space³⁰

- In support of its long-standing work on Open Government, the OECD launched an Observatory of Civic Space in 2019 with the following aims:
 - Monitor the legal, institutional, and policy framework in which civil society organisations operate in OECD member and partner countries;
 - Promote and protect civic space and citizen engagement and support countries in this endeavour;
 - Act as a platform for dialogue between the OECD's Working Party on Open Government (WPOG) and key civil society actors and networks.
- The Observatory receives strategic guidance from an Advisory Group composed of representatives of the OECD, its funders and strategic partners from civil society. The Observatory is fully integrated into the monitoring mechanism of the OECD Recommendation on Open Government.
- The forthcoming OECD *Global Civic Space Report*³¹ aims to do the following:
 - Place the protection and promotion of civic space firmly on the agendas of OECD Member and partner countries, as part of their open government strategies and initiatives.
 - Provide comparative data on legal frameworks, policies/strategies, institutional set ups and practices on the promotion and protection of civic space across the membership of the OECD and beyond. The Report will provide the first baseline of OECD data on country practices that will be updated every 3 years, thereby monitoring changes over time.
 - Identify trends (global, regional) and patterns in relation to the protection and promotion of civic space, in addition to highlighting the benefits of protecting civic space and good practices.
 - Provide a series of concrete and actionable recommendations to governments on the promotion and protection of civic space in light of recognised challenges, including the democratic backslide in some countries and the onset of the COVID-19 pandemic.

³⁰ See <https://www.oecd.org/gov/open-government/civic-space.htm>

³¹ The latest draft of the report was shared with the OECD Working Party of Senior Public Integrity Officials, which includes delegates from DG HOME, on 12 April 2021 [GOV/PGC/INT(2020)9/REV2]

- Other forthcoming publications include *Civic Space Scans* of Finland and Tunisia. These will assess the enabling environment for civic participation in public governance and public life, focusing on four key areas:
 - Civic rights and freedoms (e.g. access to information; freedoms of expression, assembly, and association; the right to privacy; the state's duty to protect its citizens);
 - Media and digital rights and freedoms;
 - The enabling operational environment for Civil Society Organisations (CSO);
 - Citizen/CSO participation (e.g. mechanisms used, innovations).
- The scans link the protection of civic space to public sector reforms and cover key cross-cutting issues, such as inclusion, non-discrimination, civic literacy, and the impact of emergency laws, including those introduced to counter COVID-19.

OECD Analysis of Innovative Citizen Participation³²

OECD 2020 Report “Innovative Citizen Participation and New Democratic Institutions: Catching the Deliberative Wave”³³

- Public authorities from all levels of government increasingly turn to Citizens' Assemblies, Juries, Panels and other representative deliberative processes to tackle complex policy problems ranging from climate change to infrastructure investment decisions. They convene groups of people representing a wide cross-section of society for at least one full day – and often much longer – to learn, deliberate, and develop collective recommendations that consider the complexities and compromises required for solving multifaceted public issues. This “deliberative wave” has been building since the 1980s, gaining momentum since around 2010.
- This report gathered close to 300 representative deliberative practices to explore trends in such processes, identify different models, and analyse the trade-offs among different design choices as well as the benefits and limits of public deliberation. It includes *Good Practice Principles for Deliberative Processes for Public Decision Making*, based on comparative empirical evidence gathered by the OECD and in collaboration with leading practitioners from government, civil society, and academics. Finally, the report explores the reasons and routes for embedding deliberative activities into public institutions to give citizens a more permanent and meaningful role in shaping the policies affecting their lives.

³² See <https://www.oecd.org/gov/open-government/civic-space.htm>

³³ OECD (2020), *Innovative Citizen Participation and New Democratic Institutions: Catching the Deliberative Wave*, available [here](#)

- Two forthcoming publications – *Evaluation Guidelines for Representative Deliberative Processes* and *Public Deliberation: From Projects to Permanence* – will build on the landmark report, aiming to establish a minimal standard for evaluation of representative deliberative processes and exploring new ways of making such processes a permanent way in which public decisions are taken.

OECD Area of work on Transparency and Accountability³⁴

- This area of work supports countries in implementing legal frameworks to strengthen the open government principles of transparency and accountability. Transparency involves the disclosure and accessibility of accurate and relevant government information and is key to fostering trust in public sector institutions, which is necessary for the effective functioning of democracies. Accountability refers to the relationship between the government and stakeholders whereby public officials must report on their usage of public resources, their performance objectives and outcomes, and their responses to the needs of the community, while stakeholders are responsible for being informed and holding government bodies and officials to account.
- This work is underpinned by the *OECD Network on Transparency and Accountability*, an informal platform of the OECD Working Party on Open Government. It has been formed to provide international experts and practitioners from OECD Member and Partner countries a space to exchange good practices and lessons learned toward strengthening the open government principles of transparency and accountability. Alongside delegates of the Working Party, participants may include representatives from independent access to information commissions, Ombudsman institutions and central government authorities, as well as any other public bodies with a mandate for enhancing transparency and accountability in government.
- In addition to the Network, the OECD is also conducting a data-collection exercise with a dedicated section on transparency and access to information laws in the *2020 Open Government Survey*, which will allow for further analysis of their implementation and move toward delineating their impact on the achievement of broader policy objectives. This analysis will pave the way for developing a policy framework on promoting and embedding the two principles and related initiatives into public decision-making. The framework will define the principles in the broader open government context and provide substantial and actionable recommendations to governments on how to safeguard and enhance transparency and accountability.

³⁴ See <https://www.oecd.org/gov/open-government/civic-space.htm>

Open government indicators and dashboards

- The OECD's work on open government indicators responds to the ongoing efforts to support countries in demonstrating the impact of open government strategies and initiatives. An integral element of this process is the *Governance of Open Government (GOOG) Survey*. The survey has been sent to more than 60 countries and more than 40 countries have sent responses so far. The data collected through this exercise will contribute to monitoring the implementation of *OECD Open Government Recommendation*, as well as to the creation and design of sets of indicators on open government, including:
 1. A *Governance of Open Government Dashboard*, which will show the inputs and processes surrounding open government reforms;
 2. The first-ever *OECD Openness Index*, which will analyse the level of openness governments have achieved; and
 3. *Results Indicators*, showing the broader effects of openness on the relationship between governments and citizens and on the functioning of the state.

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