

2021 Rule of Law Report - targeted stakeholder consultation

Fields marked with * are mandatory.

Introduction

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

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

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

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

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

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

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

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

Type of information

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

Legislative developments

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

Policy developments

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

Developments related to the judiciary / independent authorities

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

Any other relevant developments

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

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

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

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

About you

* I am giving my contribution as

Public authority or network of public authorities

* Organisation name

250 character(s) maximum

[REDACTED]

* Main Areas of Work

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

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

500 character(s) maximum

[REDACTED]

Transparency register number

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

* Country of origin

Please add the country of origin of your organisation

Croatia

* First Name

[REDACTED]

* Surname

[REDACTED]

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

[REDACTED]

* Publication of your contribution and privacy settings

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

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

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

Questions on horizontal developments

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

Overview topics for contribution

[overview_topics_for_contribution.pdf](#)

Please provide any relevant information on horizontal developments here

5000 character(s) maximum

Questions on developments in Member States

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

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

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

Member States covered in contribution [several choices possible]

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

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

Justice System - Croatia

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

Positive developments:

The new elected State Judicial Council (SJC) is significantly less exposed to the criticism from the press and the general public in regard to their decisions on appointment, promotion and discipline responsibility of judges.

Negative developments:

At the moment there is serious infringement from the President of the Republic in the process of appointment of president of Supreme Court. Constitution prescribes that president of SC is appointed by the majority in the Parliament upon proposal of President of Republic. Procedure is prescribed by the Courts Act. According to the procedure SJC announces vacancy and calls all who meet the formal requirements to apply. At the closure of the term for applications (30 days) three applications were made, one from the current president of SC and two lawyers.

President of the Republic made several public statements indicating that he is not bound by the Courts Act and the applications submitted but that he will propose another candidate outside of circle of applications made within the legal term for applications to SJC.

Before proposal will be lodged at the Parliament, President of the Republic has to seek non-binding opinion about candidate who made their application from General Assembly of the Supreme Court and Committee for Judiciary of the Parliament.

This procedure has been created after GRECO remarks that procedure is not enough transparent and that politics has too much influence.

At the moment rule of law principle is in jeopardy as is the principle of legitimate expectations of those candidates who followed the procedure and applied for the position.

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

Positive developments:

Cases in appellate phase are not distributed on the base of territorial principle but throughout the country, randomly, to all 15 appellate courts of general jurisdiction. Computer algorithms calculate backlog at every court and distribute cases to make load of cases equal to all courts and all judges at second instance jurisdiction. Result of this reform resulted in better efficiency of courts and decrease of backlog with high clearance rate.

Negative developments:

Only administrative courts do not have at the moment random allocation of cases done by computer algorithms but that is expected to change in July 2021.

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

Negative developments: Salaries of judges and prosecutors are regulated by the law but have not been increased for several years despite the fact that cost of living is significantly higher.

Independence/autonomy of the prosecution service

3000 character(s) maximum

Negative developments: The Prosecutorial Service is subject to serious attacks from different politicians.

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

Positive developments:
Unfortunately, no positive developments.

Negative developments:
Judges and judiciary in general are constant target of negative comments and are subject to serious, mostly unfounded, accusations for incompetence, lack of impartiality and corruption. The press has an attitude to put forward only example which can be negatively presented using in many cases only statements of those who are negatively affected with the court decision and those who have to fulfil some obligations according to the judgment.

The same is with criminal justice.

Any educational role from the press is not existing, press statements of the courts and/or associations are not published so there is no balanced approach to the work of courts.

More negative developments:
Politicians of all kinds and ranks are now more than ever taking the liberty to comment pending cases thus send messages about outcomes of the cases and which furthermore sends to the public the impression of their omnipotence. That results with the even more tainted picture of the judiciary in the eyes of general population.

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

Short period of time in the spring 2020. courts were closed for all cases except the urgent ones, and all communication with the courts was enabled only through electronic means of communication.

Resources of the judiciary (human/financial/material)

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

3000 character(s) maximum

Holes in the State Budget have their consequences to the investments in the judiciary which are on hold because of lack of resources caused by slowdown of economy caused by Covid-19 crisis.

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

3000 character(s) maximum

Paradox is that Covid -19 circumstances made programs for judges even more accessible because new technologies are used which increased number of educational programs and decreased the costs for organizing and providing them for the judges.

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

Positive developments:

Courts and judges discovered possibilities offered through new technologies.

Despite Covid-19 crisis and earthquakes in two regions in Croatia courts increased their Clearance Rate index (105%) and number of unsolved cases has been decreased for more than 20.000.

Negative developments:

Legislator is not following the practice in the courts to amend procedural rules and to adjust them to new realities offered by new technologies.

Number of cases at first instance level are increasing with numerous claims (in thousands) caused by breach of employees rights and cases caused by CHF loans (consumer protection).

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

Positive developments:

All processes in the courts are digitalised - filing, keeping registers, producing statistical data. That provides transparency of the process to court users.

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

Positive developments: Average length of proceedings has been decreased in general but problems remain in certain types of cases.

Negative developments:

Length of proceedings is still big challenge in certain types of cases such are war crimes cases, high level corruption cases and land property disputes.

Closure of courts and measures taken in courts to protect health of judges, staff and parties slowed down the frequency of hearings which was additional element for incising length of proceedings.

Other - please specify

3000 character(s) maximum

To reduce negative aspects of Covid - 19 crisis to companies and citizens, special law was enacted to freeze (suspend) most of enforcement and bankruptcy proceedings for period of 6 months.

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

Stakeholders are formally invited to give their contribution and advice, but their input is almost always 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

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

All administrative decisions are subject to two instances of judicial review with full jurisdiction. In some specific circumstances upon request of State Prosecutor decision of administrative courts can be reviewed by the Supreme Court.

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

Negative developments:

Rule of law issues are used as an excuse to diminish role of courts and their role in society without any desire to educate and give full and correct information to the general public. The same is with public survey where it is impossible to know what the questions were, who was asked and in which circumstance.

Other - please specify

3000 character(s) maximum

Negative developments:

Courts have no autonomy in financial and personal matters so they must rely completely on Ministry of Justice. After last elections Ministry of justice and Ministry of Administration merged in one Ministry of Justice and Administration which caused organisational issues that are still pending.

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

3000 character(s) maximum

Contact

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

