

# 2021 Rule of Law Report - targeted stakeholder consultation

Fields marked with \* are mandatory.

## Introduction

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

In the preparation of the first annual Rule of Law Report, the Commission relied on a diversity of relevant sources, including from Member States, country visits, and stakeholders' contributions collected through a targeted stakeholder consultation<sup>[1]</sup>. 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<sup>[2]</sup> falling under the 'type of information' outlined in next section. This would also include significant rule of law developments in relation to the COVID-19 pandemic falling under the scope of the four pillars covered by the report.

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

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

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

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

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

## Type of information

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

### **Legislative developments**

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

### **Policy developments**

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

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

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

### **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.

\* I am giving my contribution as

- ☐ Academic/research institution
- ☐ Business association
- ☐ Civil society organisation/NGO
- ☐ International organisation
- ☐ Judicial association or network
- ☐ Media organisation or association
- ☒ **Public authority or network of public authorities**
- ☐ Other

If "Other", please specify

\* Organisation name **CATALAN AUDIOVISUAL COUNCIL**

250 character(s) maximum

\* Main Areas of Work

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

If "Other", please specify

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

500 character(s) maximum [www.cac.cat](http://www.cac.cat)

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

**179849116923-48**

\* Country of origin

Please add the country of origin of your organisation

\* First Name: **Roger**

\* Surname: **Loppacher I Crehuet**

\* Email Address of the organisation (this information will not be published) : **president.cac@gencat.cat**

\* Publication of your contribution and privacy settings

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

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

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

## Questions on horizontal developments

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

Overview topics for contribution

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

Please provide any relevant information on horizontal developments here

*5000 character(s) maximum*

**The Law 2/2000, of 4 May, and the Law 22/2005, 22 December, states for the CAC a**

series of functions,

the most important of which could be categorised into the following four areas:

- Titles granting permission

To grant the titles that enable audiovisual communication to be provided and to guarantee that the conditions are fulfilled.

- Contents

To make sure that the regulations governing audiovisual content are complied with, in particular the

principles of political, social, religious, cultural and philosophical pluralism.

To make sure that linguistic pluralism and the regulations governing the use of the languages of Catalonia

and La Vall d'Aran are complied with.

To make sure that legislation on the protection of children and adolescents is complied with.

To make sure that legislation on advertising is complied with.

To guarantee that the missions of public service assigned to the public media are complied with.

- Reports

To issue preliminary reports concerning the projected laws concerning the audiovisual sector.

To issue reports, on its own initiative, to the Parliament or the Government of the Generalitat.

To issue an annual report on the action of the CAC and the situation of the audiovisual system in Catalonia.

- Co-regulation, self-regulation and arbitration

To promote the adopting of co-regulation and self-regulation measures in the audiovisual sector.

To exercise, at the request of parties in conflict, arbitrational and mediation functions.

One of the fundamental missions of the CAC is to guarantee the observance of political, social, religious, linguistic, cultural and territorial pluralism, in accordance with the law 2/2000, of 4 May, and the letter b of article 115 of the Law 22/2005, of 29 December, on the audiovisual communication of Catalonia. With regard to the informative treatment, the CAC analyses whether the broadcast content complies with the regulations, in aspects such as veracity, neutrality, objectivity and the presence of offensive content.

Here is the link to the several pluralism reports issued by the CAC (political pluralism, pluralism in opinion spaces, social, religious, linguistic, cultural and territorial, pluralism, and informative treatment: <https://www.cac.cat/en>

Since the outbreak of the covid-19 virus, the CAC has focused part on its resources on the tackling of the effects of fake news and disinformation re. the virus and the vaccines and vaccination processes. As an example, here is the last report issued on this topic re. the covid-19 anti-vaccination content-online.

<https://www.cac.cat/en/actualitat/cac-issues-warning-about-covid-19-anti-vaccination-content-online>

## Questions on developments in Member States

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The following four pillars are sub-divided into topics and sub-topics. You are invited to provide concrete information on significant developments, focusing primarily on developments since January 2020, for each of the sub-topics which are relevant for your work. Please feel free to provide a link to and reference relevant legislation/documents. Significant developments can include challenges, positive developments

and best practices, covering both legislative developments or implementation and practices (as outlined under “type of information”).

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

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

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

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

**Spain**

# Justice System - SPAIN

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## Independence

Appointment and selection of judges, prosecutors and court presidents

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

3000 character(s) maximum

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

3000 character(s) maximum

Promotion of judges and prosecutors

3000 character(s) maximum

Allocation of cases in courts

3000 character(s) maximum

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

3000 character(s) maximum

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

3000 character(s) maximum

Remuneration/bonuses for judges and prosecutors

3000 character(s) maximum

Independence/autonomy of the prosecution service

3000 character(s) maximum

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

3000 character(s) maximum

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

3000 character(s) maximum

## Quality of justice

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

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

3000 character(s) maximum

Resources of the judiciary (human/financial/material)

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

3000 character(s) maximum

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

3000 character(s) maximum

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

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

3000 character(s) maximum

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

3000 character(s) maximum

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

*3000 character(s) maximum*

## Efficiency of the justice system

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

Length of proceedings

*3000 character(s) maximum*

Other - please specify

*3000 character(s) maximum*

## Anti-Corruption Framework - SPAIN

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

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

*3000 character(s) maximum*

### 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 - SPAIN

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### Media authorities and bodies

(Cf. Article 30 of Directive 2018/1808)

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

3000 character(s) maximum

**The appointment of the CAC members is regulated by the Law 2/2000, of 4 May and the Law 22/2005, of 22 December. All the members are appointed by the Parliament of Catalonia, after a hearing. The enforcement powers and adequacy of resources are stated in these two laws. Here is the link to the CAC governing regulations <https://www.cac.cat/en/cacs-governing-regulations>**

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 appointment and dismissal of the CAC Board members is stated in the Law 2/2000, of 4 May.**

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

3000 character(s) maximum

**The Catalan Audiovisual Council powers and functions are regulated by the Law 2/2000, of 4 May, and the Law 22/2005, of 29 December.**

**For instance, according to arts. 115 and 116 of Law 22/2005 lay down the following provisions re. the Catalan Audiovisual Council scope of action:**

**ARTICLE 115. FUNCTIONS** In addition to the functions assigned to it by Law 2/2000, of 4 May, the Catalan Audiovisual Council shall have the following functions: a) To strive to ensure respect for rights and freedoms in the sphere of broadcasting. b) To strive to ensure respect for political, religious, social, linguistic and cultural pluralism, and also

to ensure the appropriate regional balance throughout the broadcasting system in Catalonia. c) To strive to ensure compliance with the public service missions and especially those established by the programme contract and to report to Parliament in this respect. d) To call on the competent organ of the Administration of the Generalitat to exercise the inspection functions established by article 130.2. e) To grant licences to provide broadcasting services and ensure compliance with the conditions. f) To ensure compliance with the obligations on broadcasting providers deriving from the provisions of this law and other applicable provisions. g) To exercise the power to inspect, control and penalise attributed by this law. h) To inform the competent authorities of infringements it detects regarding the compliance of broadcasting service providers or other persons with the obligations established by legislation in the sphere of broadcasting and the information society, in the case of broadcasting activities which are not included in the scope of application of this law.

**ARTICLE 116. POWERS** 1. In complying with its functions, the Catalan Audiovisual Council may exercise the following powers: a) Adoption of preventive measures in cases of emergency to ensure that a failure to comply with obligations does not lead to grave and irreparable damage to pluralism, freedom of communication or citizen's rights. These measures may include provisional suspension of a licence to provide broadcasting services. b) Demanding information and a report from broadcasting service providers and distributors. c) Ordering cessation of activities which infringe the licence conditions. d) Establishing agreements with the providers with a view to bringing about cessation of activities which may be in breach of the law or the licence conditions, according to the Council's criteria. These agreements shall not be binding for the broadcasting authority if the situation with regard to an essential element of the decision changes, if the provider fails to fulfil commitments or if the agreement has been founded on incomplete, inexact or misleading information. e) To impose penalties designed to ensure compliance on the part of providers with obligations towards the broadcasting authority, especially with regard to duties deriving from exercise of the powers established by this article and the power to inspect and control. 2. The powers referred to in (a) and (c) shall be adopted in the framework of the system of penalties established by this law.

## 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

***The allocation of institutional advertising is laid down in art 109 of the Law 22/2005, of 29 December***

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

3000 character(s) maximum

**The rules governing transparency of media ownership and public availability of media ownership information are laid down in *the Law 22/2005, of 29 December, and the Law 7/2010, 31 March, of the general audiovisual communication.***

## Framework for journalists' protection Rules and practices guaranteeing journalist's independence and safety

3000 character(s) maximum

Please, go for this question to the Col·legi de Periodistes de Catalunya website <https://www.periodistes.cat/> and <https://www.periodistes.cat/codi-deontologic> for the Catalan public service media journalists here are the guidelines published <https://www.ccma.cat/lilibredestil/>

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

3000 character(s) maximum

Please, go for this question to the Col·legi de Periodistes de Catalunya website <https://www.periodistes.cat/> and <https://www.periodistes.cat/codi-deontologic> for the Catalan public service media journalists here are the guidelines published <https://www.ccma.cat/lilibredestil/>

Access to information and public documents

3000 character(s) maximum

**The access to information and public documents are stated by the administrative and the thematic laws.**

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 - SPAIN

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### The process for preparing and enacting laws

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

3000 character(s) maximum

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

*3000 character(s) maximum*

Regime for constitutional review of laws.

*3000 character(s) maximum*

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

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

*3000 character(s) maximum*

## Independent authorities

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

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

*3000 character(s) maximum*

**These institutions are regulated by their own specific laws.**

## 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*

**As for the Catalan Audiovisual Council, the decisions are published in the CAC website and are subject to court revision <https://www.cac.cat/en/acords-recerca/acords-del-cac>**

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

3000 character(s) maximum

## **As for the Catalan Audiovisual Council the court decisions are implemented**

### **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

