

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.

If you encounter persisting difficulties in submitting your contribution, please submit it directly by email to 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

International organisation

* Organisation name

250 character(s) maximum

UN Human Rights, Regional Office for Europe

* Main Areas of Work

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

If "Other", please specify

Human rights

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

500 character(s) maximum

UN Human Rights global website: <https://www.ohchr.org/EN/pages/home.aspx>
Regional Office for Europe website: <https://europe.ohchr.org/EN/pages/home.aspx>

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

Belgium

* First Name

UN Human Rights

* Surname

Regional Office for Europe

* Email Address of the organisation (this information will not be published)

brussels@ohchr.org

* 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

In this section the UN Human Rights Office would like to draw attention to documents of the UN Human Rights Office (OHCHR), international human rights mechanisms and the UN system which focus on the rule of law in relation to the COVID-19 pandemic.

OHCHR

COVID-19 Guidance

https://www.ohchr.org/Documents/Events/COVID-19_Guidance.pdf

Guidance Emergency measures and COVID-19: Guidance - 27 April 2020

https://www.ohchr.org/Documents/Events/EmergencyMeasures_COVID19.pdf

Civic space and COVID-19: Guidance - 4 May 2020

<https://www.ohchr.org/Documents/Issues/CivicSpace/CivicSpaceandCovid.pdf>

Aide memoire: NHRIs, Human Rights and COVID-19 - 21 April 2020

<https://www.ohchr.org/Documents/Press/HCCOVID19lettertoNHRIs.pdf>

Opening remarks by High Commissioner for Human Rights at Press Conference with ACANU Geneva, 14 May 2020

<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25886&LangID=E>

Speech by UN High Commissioner for Human Rights related to the rule of law in the context of emergency measures adopted in the pandemic on International Day of Democracy conference on Democracy in times of crisis, 15 September 2020

<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26235&LangID=E>

UN Subcommittee on the Prevention of Torture (SPT)

Advice of the Subcommittee to States parties and national preventive mechanisms relating to the coronavirus disease (COVID-19) pandemic (CAT/OP/1) - 07 April 2021

<https://undocs.org/CAT/OP/10>

UN Human Rights Committee

Statement on derogations from the Covenant on Civic and Political Rights in connection with the COVID-19 pandemic (CCPR/C/128/2) – 30 April 2020

<https://www.ohchr.org/Documents/HRBodies/CCPR/COVIDstatementEN.pdf>

UN Special Rapporteur for the Protection and Promotion of Human Rights while Countering Terrorism

Published an online-based tracker that monitors COVID-19 State responses affecting civic freedoms and human rights and specifically monitors emergency powers across the globe. The tracker was developed in partnership with ICNL, ECNL and other global partners - 30 March 2020

Special Rapporteur on Independence of Justice and Lawyers

Coronavirus emergency: challenges for the justice system - 7 key aspects to prevent blockages of the justice systems and to guarantee a functioning and independence justice – 22 April 2020

<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25810&LangID=E>

<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25816&LangID=E>

Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence

INFORMATION NOTE: COVID-19, prison overcrowding, and serving sentences for serious human rights violations – 29 April 2020

<https://www.ohchr.org/EN/Issues/TruthJusticeReparation/Pages/infonotecovid.aspx>

<https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=25840&LangID=E>

UN Special Rapporteur on the right to peaceful assembly and association

Ten principles on COVID-19 and freedom of Assembly and Association – 14 April 2020

<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25788&LangID=E>

UN Inter-Agency Standing Committee (IASC)

Interim Guidance on COVID-19: Focus on Persons Deprived of Their Liberty (developed by OHCHR and WHO) - 27 March 2020

<https://interagencystandingcommittee.org/other/iasc-interim-guidance-covid-19-focus-persons-deprived-their-liberty>

United Nations

Secretary-General's Call to Action for Human Rights

<https://www.un.org/en/content/action-for-human-rights/index.shtml>

UN Policy Brief_ Covid-19 and Human Rights - April 2020

https://www.un.org/sites/un2.un.org/files/un_policy_brief_on_human_rights_and_covid_23_april_2020.pdf

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 - Austria

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

In its 2020 concluding observations, the UN Committee on the Rights of the Child urged Austria to provide systematic training on how to investigate and prosecute complaints of cyberbullying and grooming in a child- and gender-sensitive manner that respects the privacy of the victim (CRC/C/AUT/CO/5-6, para 25b). In its 2019 concluding observations, the UN Committee on the Elimination of Discrimination against Women recommended Austria to further strengthen legal training and capacity-building programmes on the Convention, the Optional Protocol, the Committee's jurisprudence, the Committee's general recommendations and on the strict application of criminal law provisions on gender-based violence against women and on gender-sensitive investigation procedures (CEDAW/C/AUT/CO/9, para 11, 22, 23). In its 2018 Concluding observations, the UN Committee on Enforced Disappearances noted that no specific training to judges, members of the security forces and prison staff on the relevant provisions of the Convention in terms of its article 23 was currently provided. The Committee recommended Austria to ensure that all law enforcement personnel, whether civil or military, medical personnel, public officials and other persons who may be involved in the custody or treatment of any person deprived of liberty, including judges, prosecutors and other court officials of all ranks, receive appropriate and regular training on the provisions of the Convention (CED/C/AUT/CO/1, para 22, 23).

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

Administration of child justice - In its 2020 concluding observations, the UN Committee on the Rights of the Child welcomed the reform of the Juvenile Courts Act in 2015, while expressing concern over the increased number of children in detention. The Committee recommended Austria to start working towards a time limit of 30 days for children in pretrial detention and ensure that the circumstances under which such a time limit can exceptionally be extended is clearly defined in law. Secondly, the Committee recommended to continue to promote non-judicial measures, such as diversion, mediation and counselling, for children accused of criminal offences and, wherever possible, non-custodial sentences for children, such as probation or community service (CRC/C/AUT/CO/5-6, para 42).

Anti-Corruption Framework - Austria

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 - Austria

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 - Austria

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

In its 2020 concluding observations, the UN Committee on the Rights of the Child noted the 2013 amendment to section 138 of the Austrian Civil Code, in particular the inclusion of a twelve-point checklist with statutory criteria for safeguarding the best interests of the child, and the establishment of a monitoring board. The Committee urged Austria to carry out impact assessments of proposed laws in a consistent manner in all legislative processes, and to establish compulsory processes for ex ante and ex post impact assessments of all laws and policies relevant to children on the realization of the right of the child to have his or her best interests taken as a primary consideration (CRC/C/AUT/CO/5-6, para 18).

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

In its 2018 concluding observations, the UN Committee on Enforced Disappearances noted with appreciation that the Constitution provided layers of procedural guarantees regarding the invoking of emergency measures, and that the State party has never resorted to such emergency measures. However, the Committee was concerned that domestic law did not specifically provide for the non-derogability of the prohibition of enforced disappearance under any exceptional circumstances. Therefore, the Committee recommended that Austria considers taking legislative measures to specifically incorporate into domestic law the non-derogability of the prohibition of enforced disappearance, in line with article 1 (2) of the Convention for the Protection of All Persons from Enforced Disappearance (CED/C/AUT/CO/1, para 10, 11). The Committee also expressed concern that the Federal Government was authorized to adopt an emergency decree in the case of an influx of asylum seekers and that, as a result, special procedures, such as a fast-track asylum procedure at the borders, may be introduced in order to maintain public order. It recommended Austria to ensure the principle of non-refoulement and to consider incorporating into its

national legislation a prohibition on carrying out an expulsion, return, surrender or extradition where there are substantial grounds for believing that the person would be in danger of being subjected to enforced disappearance (CED/C/AUT/CO/1, para 20, 21).

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

In its 2020 concluding observations, the UN Committee on the Rights of the Child welcomed measures introduced to strengthen the national human rights institution. It noted however that the Austrian Ombudsman Board does not have a specific mandate relating to children's rights. The Committee further recommended Austria to take measures to ensure full compliance with the Paris Principles (CRC/C/AUT/CO/5-6, para 12).

In its 2019 concluding observations, the UN Committee on the Elimination of Discrimination against Women expressed concern about the appointment of the members of the Austrian Ombudsman Board by the three main political parties in the parliament and that such an appointment process continued to raise issues regarding their independence, as reflected by its accreditation as a B status national human rights institution by the Global Alliance of National Human Rights Institutions. (See CEDAW/C/AUT/CO/9, para 16, 17). The Committee recommended Austria to ensure an independent appointment process for the members of the Austrian Ombudsman Board, provide it with sufficient human, technical and financial resources to implement its mandate to promote and protect women's rights and engage with the CEDAW Committee during its reviews of Austria. It also encouraged Austria to comply and seek accreditation for A status from the Global Alliance of National Human Rights Institutions (CEDAW/C/AUT/CO/9, para 16, 17).

In its 2018 concluding observations, the UN Committee on Enforced Disappearances noted that the Austrian Ombudsman Board is also the national preventive mechanism under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. In particular, the Committee expressed concern over the limited mandate of the Board with regard to allegations of abuse by

law enforcement officials. Moreover, the Committee noted with concern the reported lack of formal public consultation and of participation by civil society during the nomination and appointment process. The Committee encouraged Austria to expand the mandate of the Austrian Ombudsman Board accordingly (CED /C/AUT/CO/1, para 8, 9).

Accessibility and judicial review of administrative decisions

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

3000 character(s) maximum

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

3000 character(s) maximum

The enabling framework for civil society

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

3000 character(s) maximum

Initiatives to foster a rule of law culture

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

3000 character(s) maximum

Other – please specify

3000 character(s) maximum

Justice System - Belgium

Independence

Appointment and selection of judges, prosecutors and court presidents

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

3000 character(s) maximum

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

3000 character(s) maximum

Promotion of judges and prosecutors

3000 character(s) maximum

Allocation of cases in courts

3000 character(s) maximum

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

3000 character(s) maximum

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

3000 character(s) maximum

Remuneration/bonuses for judges and prosecutors

3000 character(s) maximum

Independence/autonomy of the prosecution service

3000 character(s) maximum

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

3000 character(s) maximum

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

3000 character(s) maximum

Quality of justice

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

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

3000 character(s) maximum

The UN Human Rights Committee, in its 2019 concluding observations, expressed concerns about the fact that Belgian nationals suspected of terrorism or war crimes may be tried in third countries, without respect for the legal guarantees of the right to a fair trial and of the other rights contained in the Covenant on Civil and Political Rights. The Committee stated Belgium should ensure that Belgian nationals suspected of acts of terrorism or war crimes are brought to justice in accordance with the rights contained in the Covenant. (CCPR/C/BEL/CO/6, para 13, 14.)

Similar concerns about Belgian nationals being at risk of being subjected to torture or other cruel, inhuman or degrading treatment, an unfair trial and the death penalty were raised by the UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism in her country visit report in 2019 (A/HRC/40/52/Add.5, para 15). Several Special Procedures mandate-holders, notably the UN Special Rapporteur on Extrajudicial, Summary or Arbitrary executions, initiated a dialogue with Belgium on the matter (BEL 1/2020, BEL 4/2019, BEL 1/2018, available at <https://spcommreports.ohchr.org/Tmsearch/TMDocuments>).

In February 2021, UN Human Rights experts called on 57 countries, including Belgium, to repatriate women and children from the camps in northeast Syrian camps. The experts expressed concern that people held in the camps were exposed to violence, exploitation, abuse and deprivation in conditions and treatment that may well amount to torture or other cruel, inhuman or degrading treatment or punishment under international law, with no effective remedy at their disposal. The experts recalled the urgent need for justice, truth and reparation for all of the victims of the very serious violations of human rights and humanitarian law that have occurred in the region. In that context, the continued detention, on unclear grounds, of women and children in the camps was a matter of grave concern and undermined the progression of accountability, truth and justice. (See at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26730>)

Resources of the judiciary (human/financial/material)

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

3000 character(s) maximum

In the report on its 2019 country visit to Belgium, the UN Working Group of Experts on People of African Descent expressed deep concern about the lack of representation of people of African descent in the judiciary, law enforcement, government service, the correctional services, the federal and regional parliaments and municipal councils, noting that these institutions do not reflect the diversity of the population (A/HRC/42/59/Add.1, para 43).

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

Administration of juvenile justice - The UN Committee on the Rights of the Child welcomed in its 2019 concluding observations the extension of the right to legal assistance to every suspect from the first interrogation and the establishment of the family and youth court back in 2014. It nevertheless remained seriously concerned that, under the 2013 amendment to the act on municipal administrative penalties, the age for imposing such penalties was lowered from 16 to 14 years old, and that new penalties were introduced. The Committee urged Belgium to eliminate all possibility that a child be tried in an adult court or detained with adults, and to review the act on municipal and administrative penalties with a view to ensuring that it is not applicable to children and that sanctions for antisocial behaviour can only be imposed within the juvenile justice system. (CRC/C/BEL/CO/5-6, para 46, 47).

Consistency of counter-terrorism legislation with international humanitarian law - The UN Special Rapporteur

on the promotion and protection of human rights and fundamental freedoms while countering terrorism, in her country visit report of 2019, strongly welcomed the exception set out in article 141bis of the Penal Code, which excludes from the scope of application of general criminal law relating to terrorist offences “acts by armed forces in a situation of armed conflict as defined in and subject to international humanitarian law” and “acts by the armed forces of a State in the context of their official tasks, insofar as those tasks are subject to other provisions of international law”. The Special Rapporteur urged relevant authorities to ensure that it is duly reflected in relevant criminal prosecutions (A/HRC/40/52/Add.5, para 24).

Security of person and conditions of detention - In its 2019 concluding observations, the UN Human Rights Committee noted the measures taken by Belgium to improve conditions of detention but remained concerned about the high rate of overcrowding. The Committee encouraged Belgium to improve living conditions at detention facilities (including through the use of alternatives to detention) pursuant to the UN Standard Minimum Rules for the Treatment of Prisoners, and to ensure implementation of Act No. 2019011569 of 23 March 2019 on the organization of the prison service and the status of prison staff, so as to ensure the minimum staffing levels at prisons, including during strikes (CCPR/C/BEL/CO/6, para 33, 34).

Admissible evidence - In its 2019 concluding observations, the UN Human Rights Committee noted that article 417 bis of the Criminal Code had not been amended to include acts of torture committed by third parties at the instigation or with the consent or acquiescence of public officials or acts of torture motivated by discrimination of any kind. The Committee was also concerned about the absence of a provision explicitly stating that evidence obtained by torture is inadmissible (CCPR/C/BEL/CO/6, para 25, 26).

Anti-Corruption Framework - Belgium

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

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

3000 character(s) maximum

Prevention

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

3000 character(s) maximum

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

3000 character(s) maximum

Rules on preventing conflict of interests in the public sector.

3000 character(s) maximum

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

3000 character(s) maximum

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

3000 character(s) maximum

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

3000 character(s) maximum

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

3000 character(s) maximum

Repressive measures

Criminalisation of corruption and related offences.

3000 character(s) maximum

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

3000 character(s) maximum

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

3000 character(s) maximum

Other – please specify

3000 character(s) maximum

Media Pluralism - Belgium

Media authorities and bodies

(Cf. Article 30 of Directive 2018/1808)

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

3000 character(s) maximum

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

3000 character(s) maximum

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

3000 character(s) maximum

Transparency of media ownership and government interference

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

3000 character(s) maximum

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

3000 character(s) maximum

Framework for journalists' protection

Rules and practices guaranteeing journalist's independence and safety

3000 character(s) maximum

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

3000 character(s) maximum

Access to information and public documents

3000 character(s) maximum

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

3000 character(s) maximum

Other - please specify

3000 character(s) maximum

Other institutional issues related to checks and balances - Belgium

The process for preparing and enacting laws

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

3000 character(s) maximum

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

In her country visit report in 2019, the UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism commended Belgium's deliberative and human rights-focused approach to the exercise of emergency powers in the aftermath of the events of 22 March 2016, as an example of national best practice. With serious deliberation on the exigencies of the situation, Belgium had determined that no declaration of a state of emergency was necessary to address extant security challenges. Rather, the scope of existing law was engaged to its full potential and, where necessary, legislative augmentations followed through the mediated consideration of Parliament. These included extending the maximum duration of police detention of persons of interest from 24 to 48 hours and allowing home searches during night hours, changes that were within the scope of the State's human rights

obligations. In this regard, Belgium provided a model of deliberate and composed response to terrorism, which is often directed at provoking an extreme response in order to undermine democracy (A/HRC/40/52/Add.5, para 14).

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

In its 2019 concluding observations, the UN Human Rights Committee welcomed the law of 12 May 2019 establishing a Federal Institute for the Protection and Promotion of Human Rights. It noted however the institution was not yet operational. The Committee also noted there were several sectoral human rights institutions within the State party with various mandates, including the Interfederal Centre for Equal Opportunities (Unia), which has been granted B status by the Accreditation Subcommittee of the Global Alliance of National Human Rights Institutions. However, the Committee was unclear how these institutions will coordinate with the new federal institute, which is essential for the effective implementation of its mandate in all areas of human rights within the State party, including its ability to receive complaints (CCPR/C/BEL/CO/6, para 9).

The same concerns were reiterated by the UN Committee on Economic, Social and Cultural Rights in its concluding observations in 2020. The Committee expressed concerns that the institution currently has a mandate only at the federal level, that it lacks competence to receive individual complaints and that it has not entered into a cooperation agreement with the existing national human rights institutions, such as Unia (E/C.12/BEL/CO/5, para 7).

In its concluding observations in 2019, the UN Human Rights Committee noted the disparity between, on the one hand, the number of complaints alleging ill-treatment by police officers filed with the Standing Committee for Police Monitoring and, on the other hand, the number of judicial inquiries conducted by the Police Investigation Service for such acts and of convictions and disciplinary penalties handed down. The

Committee was also concerned about persistent misgivings regarding the independence of the Standing Committee. The Committee recommended Belgium should ensure thorough and impartial investigations into all allegations of ill-treatment filed with the Standing Committee for Police Monitoring and take additional steps to guarantee the Committee's independence (CCPR/C/BEL/CO/6, paras 26, 27).

In her country visit report in 2019, the UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism noted that Belgium has signed but not ratified the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The Special Rapporteur recommended that Belgium ratify the Optional Protocol without delay, and set up an effective independent National Preventive Mechanism (NPM) (A/HRC/40/52/Add.5, para 45).

In the report on its 2019 country visit to Belgium, the UN Working Group of Experts on People of African Descent noted that the country has no A status NHRI. It stated that the lack of an A-status NHRI must be addressed (A/HRC/42/59/Add.1, para 18, 73).

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

In her country visit report in 2019, the UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism encouraged Belgium to ensure independent, effective and comprehensive oversight of powers related to data gathering, processing, sharing and retention in the counter-terrorism context, and ensure that relevant entities are adequately resourced. The Special Rapporteur particularly recommended independent judicial representation in the composition of the various bodies tasked with such oversight. She emphasized the importance of independent oversight covering all stages of data management and sustained transparency through the publication of annual reports. The Special Rapporteur further affirmed that, while progress had been made, further improvements were required to ensure that adequate procedural safeguards and oversight of interception of communications and surveillance be in place. In particular, prior authorization – best ensured with a judicial element – and ongoing independent oversight should be the norm, and the right to an effective remedy must be meaningfully incorporated in the context of secret surveillance measures (A/HRC/40/52/Add.5, para 59, 60).

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

3000 character(s) maximum

The enabling framework for civil society

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

3000 character(s) maximum

In the report on its 2019 country visit to Belgium, the UN Working Group of Experts on People of African Descent recommended the Government to ensure funding for anti-racism associations run by people of

African descent to enable them to be partners in combatting racism, and to provide adequate funding with and involve civil society organizations representing people of African descent when framing important legislation concerning them (A/HRC/42/59/Add.1, para 75(h), (gg)).

Initiatives to foster a rule of law culture

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

3000 character(s) maximum

Other - please specify

3000 character(s) maximum

Justice System - Bulgaria

Independence

Appointment and selection of judges, prosecutors and court presidents

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

3000 character(s) maximum

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

3000 character(s) maximum

Promotion of judges and prosecutors

3000 character(s) maximum

Allocation of cases in courts

3000 character(s) maximum

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

In its 2018 concluding observations, the UN Human Rights Committee noted the constitutional amendments of 2015 reinforcing the independence of the Supreme Judicial Council, but remained concerned at the low proportion of judges elected by their peers and the high proportion of members elected by the National Assembly in the Council, which may lead to potential politicization of its decisions. The Committee was concerned that the election by the National Assembly of the members of the Inspectorate of the Council, which has disciplinary functions, created a risk of political influence over this body. While noting the amendments of 2017 to the Judicial System Act, the Committee remained concerned by the weak accountability of the Prosecutor General, who (a) is essentially immune from criminal prosecution and irremovable by means of impeachment for other misconduct; (b) can request that the Council automatically suspend judges when they are suspected of committing an intentional indictable offence without an obligation to review the substance of the accusations or hearing the person affected; and (c) has coercive administrative powers outside of the criminal law. The Committee was also concerned about the uneven workload among the courts and the public's lack of trust in the judiciary.

The Committee recommended that Bulgaria continue to review the legislative framework and take measures to further guarantee and protect the full independence and impartiality of the judiciary by, inter alia, ensuring that judges operate without pressure and interference from the executive branch and raising awareness about the importance of the independence of the judiciary. In this regard, Bulgaria should (a) increase the proportion of judges elected by their peers within the Supreme Judicial Council; (b) reinforce the political detachment of the Inspectorate and enhance the role of the Council in disciplinary proceedings; (c) strengthen the accountability structure of the Prosecutor General in cases of misconduct and circumscribe the powers of the prosecution service in the non-criminal sphere; and (d) place sufficient resources at the disposal of the judicial system, particularly for overburdened courts. (See CCPR/C/BGR/CO/4, para 43, 44)

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

In its 2020 concluding observations, the UN Committee on the Elimination of Discrimination against Women was concerned that women and girls in Bulgaria, in particular those facing intersecting forms of discrimination, had limited access to justice, owing to pervasive corruption, social stigma, the inaccessibility of the judicial system, gender bias among law enforcement officers, including the police, the priority given to mediation and reconciliation procedures in cases involving gender-based violence against women, women's limited awareness of their rights and limited knowledge among judges and law enforcement officials of the Convention, the Optional Protocol thereto and the Committee's general recommendations. The Committee recommended that Bulgaria conduct a study to identify barriers faced by women and girls, in particular those who experience intersecting forms of discrimination, in terms of access to justice, and take effective measures to remove those barriers, including by raising the awareness of women of their rights and improving the accessibility of the judicial system. (See CEDAW/C/BGR/CO/8, para 11-12)

The UN Committee on the Rights of Persons with Disabilities in its 2018 concluding observations noted the shortage of trained sign language interpreters for deaf persons in judicial proceedings, and the lack of documents in accessible formats for blind persons and for persons with intellectual or psychosocial disabilities in different proceedings. The Committee recommended that Bulgaria ensure the availability of sign language interpreters and documents in accessible formats, such as Braille, electronic format and Easy Read, to all persons with disabilities in all judicial and administrative proceedings. (See: CRPD/C/BGR/CO/1, para 31-32)

In the 2020 report following her visit to Bulgaria, the UN Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material recommended to ensure easy access to child-sensitive justice mechanisms for complaints, reporting and referral, allowing victims to report abuse without fear of intimidation, stigma or revictimization. She also recommended that Bulgaria expedite efforts to reform the juvenile justice legislation and practice; and promote better regulation of child-friendly judicial proceedings, including scaling up child-friendly "blue rooms". (See A/HRC/43/40/Add.1, para 74c, 76l)

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

The UN Committee on the Elimination of Discrimination against Women in its 2020 concluding observations recommended to combat corruption and build the capacity of judges, prosecutors, lawyers and police officers, including by making training on the Convention, the Optional Protocol thereto and the Committee's

jurisprudence and general recommendations a mandatory part of their professional training. (This recommendation was reiterated by the Special Rapporteur on violence against women, its causes and consequences in the 2020 report following her visit to Bulgaria - see A/HRC/44/52/Add.1, para 68a). The UN Committee also recommended to introduce systematic capacity-building for judges, prosecutors, the police and other law enforcement officers on the strict application of criminal law provisions on gender-based violence against women and on gender-sensitive investigative procedures. The Committee recommended that Bulgaria ensure the effective enforcement of legislation to combat trafficking in persons, including by providing judges, prosecutors, border police, immigration authorities and other law enforcement officials with systematic training on the early identification and referral of trafficking victims to appropriate services and gender-sensitive interrogation methods. (See CEDAW/C/BGR/CO/8, para 12, 24g and 26b)

The UN Committee on Economic, Social and Cultural Rights in its 2019 concluding observations recommended that gender-sensitive training be provided to law enforcement and judiciary personnel on the nature of violence against women, its causes and consequences and on how to handle cases of violence against women. (See E/C.12/BGR/CO/6, para 32)

The UN Human Rights Committee in its 2018 concluding observations was concerned that Bulgaria remained one of the primary source countries of human trafficking in the European Union. The Committee recommended that Bulgaria continue to strengthen training of law enforcement officials, judges and prosecutors on trafficking, victim identification, witness protection, accountability and reparation. (See CCPR/C/BGR/CO/4, para 23 and 24)

The UN Committee on the Rights of Persons with Disabilities in its 2018 concluding observations recommended that Bulgaria establish, in consultation with organizations of persons with disabilities, support decision-making procedures and provide continuous training on article 12 of the Convention on the Rights of Persons with Disabilities to the stakeholders concerned, including members of the judiciary. (See CRPD/C/BGR/CO/1, para 29-30)

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

Equal recognition before the law – The UN Committee on the Rights of Persons with Disabilities in its 2018 concluding observations was concerned that Bulgaria's legislation still restricted the legal capacity of persons with disabilities and provided for guardianship for persons with psychosocial or intellectual disabilities. The Committee recommended that Bulgaria amend its legislation and adopt the Natural Persons and Support Measures Act, and uphold and recognize the full legal capacity of all persons, regardless of their impairment, in accordance with the guidelines in general comment No. 1 (2014) on equal recognition before the law. (See: CRPD/C/BGR/CO/1, para 29-30)

Anti-Corruption Framework - Bulgaria

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

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

3000 character(s) maximum

Prevention

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

3000 character(s) maximum

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

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

The UN Committee on Economic, Social and Cultural Rights in its 2019 concluding observations welcomed steps taken by Bulgaria to combat corruption, in particular the adoption of the Action Plan to Prevent and Fight Corruption and of the Anti-Corruption and Forfeiture of Assets Act. It was concerned about remaining challenges in the fight against corruption and in the conduct of investigations into corruption cases, including cases against high-level officials, such as the lack of qualified experts and of adequate resources. The Committee recommended to allocate adequate human, material and financial resources for the implementation of the Action Plan to Prevent and Fight Corruption and the enforcement of anti-corruption legislation; strengthen the capacity of the judiciary to combat corruption effectively; raise the awareness of the public and State officials about the anti-corruption legislation and the Action Plan to Prevent and Fight Corruption and ensure the protection of whistle-blowers and civil society activists working on anti-corruption, from persecution and violence. (E/C.12/BGR/CO/6, para 10-11)

The UN Human Rights Committee in its 2018 concluding observations welcomed the adoption in 2018 of the Anti-Corruption and Forfeiture of Assets Act, creating a single anti-corruption commission. It was concerned about the fact that until then very few convictions for high-level corruption were confirmed by final court decisions, reportedly due to the insufficient prosecutorial capacity to handle complex cases in an effective manner, limited access to external expertise and lack of effective cooperation between the prosecution and investigation services. The Committee was equally concerned about the low percentage of public institutions that complied with the requirement to publish the conflict of interest declarations of their employees. The Committee recommended to increase its efforts to combat corruption, mainly by addressing the shortcomings in the investigation and prosecution of high-level corruption, while ensuring that its legal procedures are consistent with protections under articles 9&14 of the Covenant on Civil and Political Rights, increasing compliance with the legislation related to conflicts of interest and ensuring that whistle-blowers are guaranteed sufficient protection against prosecution for reporting corruption and other wrongdoings.

(CCPR/C/BGR/CO/4, para 41-42)

At its Universal Periodic Review in 11/2020 Bulgaria received several recommendations pertaining to corruption, including to enact reforms to promote the independence of the judiciary and to eliminate corruption in the judicial system; introduce the legal framework necessary to effectively investigate and prosecute persons engaged in high-level corruption; or pursue reform of the judiciary, including by strengthening efforts to combat corruption. (A/HRC/46/13 note: Add. to the UPR outcome document will be tabled at the Human Rights Council later in March 2021.)

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 - Bulgaria

Media authorities and bodies

(Cf. Article 30 of Directive 2018/1808)

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

3000 character(s) maximum

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

3000 character(s) maximum

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

3000 character(s) maximum

Transparency of media ownership and government interference

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

3000 character(s) maximum

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

3000 character(s) maximum

Framework for journalists' protection

Rules and practices guaranteeing journalist's independence and safety

3000 character(s) maximum

At its Universal Periodic Review in November 2020, Bulgaria received numerous recommendations pertaining to the media, including to ensure full and effective freedom of the media and protection of journalists and media operators; investigate all forms of attacks, threats and violence against journalists and ensure full accountability; implement measures to ensure a safe and independent working environment for journalists and media workers, and intensify efforts to diversify ownership of the media and promote public media independence. (See A/HRC/46/13 – note: the Addendum to the UPR outcome document reflecting Bulgaria's positions on the recommendations received will be tabled at the Human Rights Council later in March 2021.)

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

3000 character(s) maximum

The UN Human Rights Committee in its 2018 concluding observations was concerned about numerous reports of attacks, threats and harassment of journalists, which go unpunished, and of political pressure on journalists and the media through, inter alia, advertising funding and threats of slander to secure favourable media coverage and suppress criticism, including of corruption. The Committee was concerned at reports of excessive fines against the media reporting on the banking and financial sectors, and of insufficient transparency of media ownership and financing, resulting in strong media concentration. It also noted with concern that defamation remains a criminal offence sanctioned by criminal fines and public censorship. The Committee recommended that Bulgaria continue training police officers, judges and prosecutors in human rights standards relating to freedom of expression and assembly and the lawful use of force; protect

journalists against any form of harassment, attack or excessive use of force; promptly investigate such acts and bring those responsible to justice, including the murder of journalist Victoria Marinova; increase media pluralism and the diversity of views and information accessible to the public, taking into account the Committee's general comment No. 34 on the freedoms of opinion and expression; ensure that any form of public funding for the media and journalists is allocated in a transparent and non-discriminatory manner using objective criteria, and that no fines or other regulatory measures are imposed on the media other than in strict compliance with the Covenant, so that independent journalists and media can function without undue interference and consider repealing all criminal provisions against defamation and ensure that they do not serve to stifle freedom of expression. (See CCPR/C/BGR/CO/4, para 37-38)

Access to information and public documents

3000 character(s) maximum

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

3000 character(s) maximum

Other - please specify

3000 character(s) maximum

Other institutional issues related to checks and balances - Bulgaria

The process for preparing and enacting laws

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

3000 character(s) maximum

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

3000 character(s) maximum

Regime for constitutional review of laws.

3000 character(s) maximum

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

- 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

At its March 2019 meeting, GANHRI Subcommittee on Accreditation (SCA) re-accredited the Ombudsman of the Republic of Bulgaria (ORB) with A status. The SCA commended the ORB for advocating for the amendment of its enabling law to address the previous SCA recommendations. In particular, the ORB had advocated for a broader mandate including the ability to address human rights violations resulting from the acts and omissions of private individuals and entities. The SCA advised that the selection process of the Ombudsperson could be further strengthened by explicitly requiring the advertisement of vacancies, and by specifying the means to achieve broad consultation and/or participation of civil society in the process and encouraged the ORB to advocate for the formalization and application of a broad and transparent process including specific requirements. It also encouraged the ORB to continue advocate for funding commensurate with its full mandate. (See GANHRI SCA Report of March 2019 at <https://nhri.ohchr.org/EN/AboutUs/GANHRIAccreditation/Documents/SCA%20Report%20March%202019%20-%20EN%20.pdf>)

In its 2020 concluding observations, the UN Committee on the Elimination of Discrimination against Women recommended that Bulgaria ensure the Ombudsman has sufficient technical and financial resources and strengthen its mandate regarding the promotion and protection of women's rights and gender equality. (See CEDAW/C/BGR/CO/8, para 18)

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

The UN Human Rights Committee in its 2018 concluding observations recommended that Bulgaria ensure that surveillance activities conform with its international obligations, including the principles of legality, necessity and proportionality, that they are subject to periodic judicial review, and that persons affected by these measures have access to effective remedies. The Committee also recommended to avoid imposing

preventive control measures on terrorist suspects and ensure that the right to a fair trial and the existing legal safeguards in the criminal justice system, including those related to children in conflict with the law, are respected at all times. (See CCPR/C/BGR/CO/4, para 34)

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

3000 character(s) maximum

The enabling framework for civil society

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

3000 character(s) maximum

In 2020, several Special Procedures mandate-holders initiated a dialogue with Bulgaria regarding draft amendments to the Law on Non-Profit Legal Persons/Entities, citing concern that if adopted, the bill may hamper the work of independent non-profit organizations, including those that promote and protect human rights, and stigmatize those that receive funding from abroad. (BGR 3/2020, available at <https://spcommreports.ohchr.org/Tmsearch/TMDocuments>).

The UN Committee on the Elimination of Discrimination against Women in its 2020 concluding observations recommended to strengthen collaboration with civil society organizations working for women's rights and gender equality and financially support civil society organizations that provide assistance to women facing discrimination, gender-based violence and the violation of their rights. The Committee also recommended to allocate adequate funding to civil society organizations that provide accessible shelters and support services to women who are victims of gender-based violence and enhance cooperation with such organizations. (See CEDAW/C/BGR/CO/8, para 16 and 24)

The UN Special Rapporteur on violence against women in her report from 2020 following the visit to Bulgaria recommended that Bulgaria strengthen collaboration between State institutions and civil society organizations, ensuring the legal and social conditions for the regular exercise of their activities in defence of women's rights and for the elimination of violence against women, and protecting them from undue restrictions and attacks on their work. (See A/HRC/44/52/Add.1, para 65s)

In the 2020 report following her country visit, the UN Special Rapporteur on the sale and sexual exploitation of children, recommended that Bulgaria coordinate efforts with NGOs that work to detect, receive and refer cases of sexual abuse and exploitation of children; ensure sufficient State funding for civil society and other service providers to maintain sustainable and high-quality services. (See A/HRC/43/40/Add.1, para 78c)

The UN Committee on the Rights of Persons with Disabilities in its 2018 concluding observations recommended that Bulgaria provide continuous funding for organizations of persons with disabilities and transparent criteria and mechanisms for consultation. (See: CRPD/C/BGR/CO/1, para 14)

At its Universal Periodic Review in November 2020, Bulgaria received several recommendations pertaining to civil society, including about measures to ensure vibrant, diverse and engaged civil society, consult with organisations and address intimidation and threats. (See A/HRC/46/13 – note: the Addendum to the UPR outcome document reflecting Bulgaria's positions on the recommendations received will be tabled at the Human Rights Council later in March 2021.)

Initiatives to foster a rule of law culture

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

3000 character(s) maximum

Other - please specify

3000 character(s) maximum

Justice System - Croatia

Independence

Appointment and selection of judges, prosecutors and court presidents

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

3000 character(s) maximum

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

3000 character(s) maximum

Promotion of judges and prosecutors

3000 character(s) maximum

Allocation of cases in courts

3000 character(s) maximum

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

3000 character(s) maximum

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

3000 character(s) maximum

Remuneration/bonuses for judges and prosecutors

3000 character(s) maximum

Independence/autonomy of the prosecution service

3000 character(s) maximum

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

3000 character(s) maximum

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

3000 character(s) maximum

Quality of justice

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

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

3000 character(s) maximum

Resources of the judiciary (human/financial/material)

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

3000 character(s) maximum

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

3000 character(s) maximum

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

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

3000 character(s) maximum

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

3000 character(s) maximum

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

3000 character(s) maximum

Efficiency of the justice system

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

Length of proceedings

3000 character(s) maximum

Other - please specify

3000 character(s) maximum

Anti-Corruption Framework - Croatia

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

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

3000 character(s) maximum

Regime for constitutional review of laws.

3000 character(s) maximum

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

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

3000 character(s) maximum

Independent authorities

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

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

3000 character(s) maximum

Accessibility and judicial review of administrative decisions

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

3000 character(s) maximum

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

3000 character(s) maximum

The enabling framework for civil society

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

3000 character(s) maximum

In her February 2021 global update to the UN Human Rights Council, the UN High Commissioner for Human Rights expressed concern about measures in several EU countries restricting the work of organizations that protect migrants' rights and deliver life-saving assistance. She noted that in Croatia, the authorities had sought to hinder public scrutiny of migration practices by denying access to the ombudswoman and human rights organisations, and discrediting their reports. At the end of January 2021, the Croatian authorities had blocked Members of the European Parliament from visiting border areas with Bosnia and Herzegovina, amid credible allegations of human rights violations. She emphasized that civil society and independent monitoring were fundamental to the health of all societies and encouraged the European Union and Member States to ensure that this trend of shrinking civic space be reversed, and to establish adequate protections, including through the EU Pact on Asylum and Migration. (www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26806&LangID=E).

In June 2020, several Special Procedures mandate-holders initiated a dialogue with Croatia expressing concern about new information they had received regarding alleged violent pushback of migrants by the Croatian police to Bosnia and Herzegovina outside official procedures, and reports of a significant increase in the number of recorded cases of pushbacks by Croatian police in recent months. Such information came in addition to earlier information received on the same matter by the UN Special Rapporteur on the human rights of migrants during his official visit to Bosnia and Herzegovina in 2019. (CRO 1/2020, available at <https://spcommreports.ohchr.org/TmSearch/Results>).

Initiatives to foster a rule of law culture

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

3000 character(s) maximum

Other - please specify

3000 character(s) maximum

Justice System - Cyprus

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

In its 2018 concluding observations, the UN Committee on the Elimination of Discrimination Against Women (CEDAW) expressed concern about persisting barriers to accessing justice by women, in particular: women's limited knowledge of their rights and available complaint mechanisms; language barriers for migrant, asylum-seeking, refugee, internally displaced, Turkish Cypriot and Roma women claiming their rights; women's limited access to free legal aid, in particular by disadvantaged groups such as migrants, asylum seekers and refugees; and the lack of expertise regarding women's rights on the part of the judiciary, law enforcement officials and legal practitioners. The Committee was also concerned about the obstacles impeding access to justice for women migrant domestic workers, including the fear of detention and deportation while legal proceedings are pending. (CEDAW/C/CYP/CO/8, para 16, 38)

In its 2019 concluding observations, the UN Committee against Torture was concerned that prospective recipients for legal aid must argue before a court to convince it about the prospects of success of their claim before being granted legal aid. It also raised concern about detainees' awareness of and access to the guarantees of their rights, including complaint procedures. While noting with satisfaction that a detainee's right to access to an ex officio lawyer had been codified in law, the Committee remained concerned that this right was not always observed in practice. In that regard, the Committee was particularly concerned about asylum seekers and irregular migrants, although it welcomed information that the Refugee Law and the Law on Provision of Legal Aid had been amended in order to eliminate the restrictive criteria for applying for legal aid when challenging deportation and detention orders. The Committee was also concerned at reports that persons deprived of their liberty were not assigned legal aid prior to their initial interrogations. In relation to domestic violence, the Committee expressed concern about reports of actions or omissions by State agencies or other entities, and that the number of investigations, prosecutions and convictions regarding domestic violence remained low. It recommended that Cyprus enforce the existing legal infrastructure to ensure that reports of violence against women, including domestic violence, are duly investigated, that perpetrators are prosecuted and adequately punished, and that victims have access to appropriate redress (CAT/C/CYP/CO/5, para 14, 24-25)

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

In its 2018 concluding observations, the CEDAW Committee expressed concern about the lack of expertise regarding women's rights on the part of the judiciary, law enforcement officials and legal practitioners. It recommended that Cyprus take immediate steps, including capacity-building and training programmes for the judiciary on the Convention on the Elimination of All Forms of Discrimination against Women and on

women's rights, to eliminate gender bias (CEDAW/C/CYP/CO/8, para 16-17).

In its 2019 concluding observations, the UN Committee against Torture recommended Cyprus to raise awareness among, and train, law enforcement personnel, social welfare officials, prosecutors and judges on the investigation, prosecution and sanctioning of cases of domestic violence and on creating appropriate conditions for victims to report such cases to the authorities. It also urged Cyprus to develop modules based on the provisions of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Istanbul Protocol and on non-coercive investigation techniques, and to integrate those modules in the periodic and compulsory training programmes for all law enforcement officials, judges, prosecutors and prison and immigration officers and others (CAT/C/CYP/CO/5, para 25, 36).

At its third Universal Periodic Review in 2019, Cyprus accepted the recommendations to invest more resources in the training of lawyers, prosecutors and judges in specific knowledge on violence against women, the needs and rights of victims and the legal framework on violence against women (A/HRC/41/15/Add.1, para 15; A/HRC/41/15, para 139.28).

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

Transitional justice - In its 2018 concluding observations, CEDAW commended Cyprus on its commitment to Security Council resolution 1325 (2000) and subsequent related resolutions, but noted with concern that

women had generally been underrepresented and were not actively or meaningfully participating in peace negotiation efforts. CEDAW recommended that Cyprus give the highest priority to the meaningful and inclusive participation of women at all stages of the peace process and transitional justice processes (CEDAW/C/CYP/CO/8, para 10-11). OHCHR's annual reports on the question of human rights in Cyprus continued to note the importance of ensuring meaningful women's participation and a gender perspective in the peace process (A/HRC/37/22; A/HRC/40/22; A/HRC/43/22).

Redress, including compensation and rehabilitation - In its 2019 concluding observations, the UN Committee against Torture expressed concern about the lack of data on redress and compensation provided to victims of domestic violence, and the lack of statistical data on violence against women, including reparations provided to victims. It recommended that Cyprus enforce the existing legal infrastructure to ensure that victims have access to appropriate redress, including compensation and other reparations. While welcoming the work of the bicomunal Committee on Missing Persons in Cyprus, the Committee also remained concerned about lack of information on redress afforded to relatives of victims and measures taken to investigate cases of missing persons and prosecute those responsible. It expressed concern that the Committee on Missing Persons in Cyprus was not empowered to grant redress, and that the overall approach was humanitarian rather than rights-based. The Committee moreover was concerned that current laws and practices do not make available effective reparative measures for victims of torture and ill-treatment. It expressed concern about the lack of compensatory or rehabilitation measures provided through civil action initiated by victims, and the lack of specific rehabilitation programmes for victims. The Committee was also concerned about the lack of provisions on redress for victims of torture and ill-treatment in Law 9 (I) /2006, the lack of specifically designed rehabilitation programmes for victims of torture and ill-treatment, the lack of long-term rehabilitation for victims, and the lack of protective measures and diverse forms of redress (restitution, satisfaction, restoration of dignity and reputation, guarantees of non-repetition) available to victims and their families under Law 9 (I)/2006 and other laws (CAT/C/CYP/CO/5, para 24-25, 40, 44).

Anti-Corruption Framework - Cyprus

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

At its third Universal Periodic Review in 2019, Cyprus accepted the recommendation to strengthen anti-corruption laws and enact regulations and codes of conduct to govern lobbying and decision-making process (A/HRC/41/15/Add.1, para 30; A/HRC/41/15, para 139.95).

Other - please specify

3000 character(s) maximum

Media Pluralism - Cyprus

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

In its 2019 report on the question of human rights in Cyprus, OHCHR noted that the Representative on Freedom of the Media of the Organization for Security and Cooperation in Europe had expressed concern regarding a series of threats against the journalist Maria Siakelli, one of the co-authors of a trilingual glossary or sensitive words and phrases entitled "Words That Matter" (A/HRC/40/22, para 48).

Other - please specify

3000 character(s) maximum

Other institutional issues related to checks and balances - Cyprus

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

In its 2018 concluding observations, CEDAW expressed concern that the Office of the Commissioner for Administration and Protection of Human Rights was accredited with "B" status by the Global Alliance of National Human Rights Institutions in 2015. It recommended that Cyprus take necessary steps to bring the Office fully into compliance with the Paris Principles and ensure that the Office has a specific mandate on women's rights and gender equality (CEDAW/C/CYP/CO/8, para 20-21).

In its 2019 concluding observations, the UN Committee against Torture remained concerned about the restricted budget and operating capacities of the Office of the Commissioner for Administration and Protection of Human Rights to act as national preventive mechanism (CAT/C/CYP/CO/5, para 30).

At its Universal Periodic Review in 2019, Cyprus accepted recommendations to make the Office of the Commissioner for Administration and Human Rights fully compliant with the Paris Principles. (A/HRC/41/15/Add.1, para 16; A/HRC/41/15, para 139.25)

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

In its 2019 concluding observations, the UN Committee against Torture noted with appreciation the creation, in January 2016, of the Administrative Court, which has first-instance jurisdiction over administrative proceedings, and the creation, in July 2019, of the International Protection Administrative Court, another first-

instance court examining both procedure and merits with strict deadlines for greater efficiency. The Committee nonetheless remained concerned about the effectiveness of the two courts to adjudicate challenges to the deportation of asylum applicants and irregular migrants, about the relation of these courts with the Supreme Court with regard to the accessibility of appeals, and about the backlog of asylum claims. It recommended Cyprus to continue to abide by its commitment to provide for an effective judicial remedy with automatic suspensive effect in the context of the deportation of asylum seekers and irregular migrants, by: ensuring the independence of the Administrative Court and the International Protection Administrative Court from the Executive, incl. procedural independence from law enforcement and immigration and asylum officers; ensuring legal recourse is available to asylum seekers and irregular migrants who have lost the protection of suspensive effect; and tracking the number of cases relating to non-refoulement of possible victims of torture that the two administrative courts and the Supreme Court have considered since establishment, including cases submitted and decided and case outcomes (both those resulting in deportation and those that led to the reversal of a deportation order), the number of appeals and their outcomes.

The Committee also expressed concern about the effectiveness of the appeal process relating to re-examination of decisions of cessation of subsidiary protection status. It was further concerned that subsidiary protection was granted approximately five times more frequently than the recognition of refugee status. Finally, it was concerned that in several cases, the act of appealing rejected refugee status applications had led to the suspension of subsidiary protection, and that there was a high number of returns during the reviewed period, including to countries where torture and ill-treatment frequently occurred. (See CAT/C/CYP/CO/5, para 18, 19, 22)

In its 2021 report on the question of human rights in Cyprus, OHCHR noted continued concerns about the situation of asylum seekers and migrants in an irregular situation were exacerbated during the reporting period owing to measures taken purportedly in response to COVID-19. OHCHR reported that the Republic of Cyprus suspended access to asylum procedures and to the territory, and that asylum procedures resumed in July, but restrictions on access to territory persisted as at 30 November 2020, resulting in denials of the right to seek asylum. (A/HRC/46/23 (Advanced Edited Version), para 39-40)

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

3000 character(s) maximum

The enabling framework for civil society

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

3000 character(s) maximum

In 2019, several Special Procedures mandate-holders initiated a dialogue with Cyprus, citing concern at the arrest and investigation of human rights defender Doros Polykarpou, which appeared to be directly linked to his peaceful activities in defense of the human rights of migrants. The Special Rapporteurs expressed further concern at threats allegedly made against staff members of the non-governmental organization KISA in relation to the arrest. (CYP 2/2019, available at <https://spcommreports.ohchr.org/TmSearch/Results>) His case had previously been raised twice in the reprisals report of the UN Secretary General in 2015 and 2016 (A/HRC/30/29 and A/HRC/33/19). In his 2020 addendum report to the Human Rights Council on communications, the UN Special Rapporteur on human rights defenders thanked the Government of Cyprus for its response to its 2019 communication, but remained concerned about the threatening behaviour of police officers towards members of the organisation KISA, and the frequency with which communications

had been sent in recent years regarding the treatment of Mr. Polykarpou. Taken together, these acts showed a pattern of intimidation which may create an environment not conducive to the defence of human rights. The Special Rapporteur reiterated that it is the obligation of the Cyprian State to maintain an environment in which human rights defenders, including migrant rights defenders, can carry out their legitimate work. (A/HRC/43/51/Add.3, para 512-514).

Initiatives to foster a rule of law culture

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

3000 character(s) maximum

Other – please specify

3000 character(s) maximum

Justice System - Czechia

Independence

Appointment and selection of judges, prosecutors and court presidents

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

3000 character(s) maximum

The UN Human Rights Committee in its 2019 concluding observations expressed concern about reports that the judiciary is susceptible to political interference, especially in high-profile cases, and that the independence of judges and prosecutors from the executive and legislative branches is not sufficiently secured under the law, owing in particular to: the current procedures for the selection, appointment, promotion and transfer of judges; the status of the Supreme Public Prosecutor's Office, formally part of the executive branch; and the procedure for the selection, appointment and removal of the Supreme Public Prosecutor and other public prosecutors. Noting the plans for judicial reform, including the development of a new Code of Civil Procedure and the proposed amendments to the courts and judges act and to the Public Prosecutor Act, the Committee recommended that Czechia eradicate all forms of undue interference with the judiciary by the legislative and executive branches and safeguard, in law and in practice, the full independence and impartiality of judges and the independence and effective autonomy of the Supreme Public Prosecutor's Office, by, inter alia, ensuring that the procedures for the selection, appointment, promotion, transfer and removal of judges and prosecutors are in compliance with the Covenant and relevant international standards, including the Basic Principles on the Independence of the Judiciary and the Guidelines on the Role of Prosecutors. The Committee also recommended that Czechia give due consideration to establishing a supreme judicial council, or other similar bodies, that would be mandated to govern the judicial selection process, be fully independent, comprise mostly judges and prosecutors elected by professional self-governing bodies and operate with full transparency (CCPR/C/CZE/CO/4, para 32, 33). In its 2019 concluding observations, the UN Committee on the Elimination of Racial Discrimination expressed concern that many victims of racially motivated crimes are reluctant to report the crimes. With the

aim of increasing trust in these bodies, the Committee recommended that Czechia promote the recruitment of persons belonging to minority groups in the police and the judicial system (CERD/C/CZE/CO/12-13, para 13, 14).

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

The UN Committee against Torture in its 2018 concluding observations expressed concerns that free legal aid is not available from the very outset of deprivation of liberty as the Police Act (No. 273/2008) provides for the right of access to a lawyer only at the concerned person's own expense. The Committee recommended that Czechia take effective measures to guarantee, and monitor, that all detained persons are afforded, in law and in practice, all the fundamental legal safeguards from the outset of their deprivation of liberty, in accordance with international standards, including to have prompt and confidential access to a qualified and independent lawyer, or to free legal aid, when needed. In relation to some aspects of treatment in psychiatric institutions, the Committee also recommended to investigate all complaints of ill-treatment, bring those responsible to justice and provide redress to victims (CAT/C/CZE/CO/6, para, 10, 11, 32, 33).

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

In its 2019 concluding observations, the UN Committee on the Elimination of Racial Discrimination expressed concern about the prevalence of racially motivated crimes as well as underreporting to the justice system, and recommended that Czechia proceed with the training of police officers, prosecutors, judges and other law enforcement officials on how to address such crimes (CERD/C/CZE/CO/12-13, para 13, 14). While welcoming measures taken to address violence against women, the UN Human Rights Committee in its 2019 concluding observations recommended that Czechia step up its efforts, including by ensuring that law enforcement officials, the judiciary, prosecutors and other relevant stakeholders receive appropriate training on gender-sensitive detection, handling, investigation and prosecution of cases of violence against women (CCPR/C/CZE/CO/4, para 20, 21c). In its 2019 concluding observations on Czechia's implementation of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, the UN Committee on the Rights of the Child expressed concern that training programmes on the Optional Protocol for all personnel working for or with children were insufficient and not mandatory. It recommended Czechia to establish systematic, multidisciplinary and mandatory training programmes on the Optional Protocol for all personnel working for or with children, including judicial and law enforcement officers (CRC/C/OPSC/CZE/CO/1, para 15, 16).

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

Justice system response to online child sexual exploitation and abuse – Expressing concern about the reported increase in cases of online child sexual exploitation and abuse, the UN Committee on the Rights of the Child recommended in its 2019 concluding observations, appropriate support services be provided for children, including integrated services during investigation, prosecution and aftercare; trained professionals working with and for children; and accessible procedures for complaints, compensation and remedies. The Committee also recommended a victim-focused criminal justice system with a trained police force, prosecution and judiciary, and a national database linked to the international child sexual exploitation image database of Interpol (CRC/C/OPSC/CZE/CO/1, para 22, 23).

Anti-Corruption Framework - Czechia

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

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

3000 character(s) maximum

Prevention

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

3000 character(s) maximum

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

3000 character(s) maximum

Rules on preventing conflict of interests in the public sector.

3000 character(s) maximum

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

3000 character(s) maximum

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

3000 character(s) maximum

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

3000 character(s) maximum

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

3000 character(s) maximum

Repressive measures

Criminalisation of corruption and related offences.

3000 character(s) maximum

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

3000 character(s) maximum

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

3000 character(s) maximum

Other – please specify

3000 character(s) maximum

Media Pluralism - Czechia

Media authorities and bodies

(Cf. Article 30 of Directive 2018/1808)

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

3000 character(s) maximum

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

3000 character(s) maximum

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

3000 character(s) maximum

Transparency of media ownership and government interference

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

3000 character(s) maximum

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

3000 character(s) maximum

The UN Human Rights Committee in its 2019 concluding observations was concerned about the reported growing concentration of ownership of private media in the hands of a few actors, and about allegations of increasing political influence over the media that, inter alia, affects the manner of coverage of all political actors during elections. The Committee recommended that Czechia avoid any form of political influence over media outlets, ensure the transparency of private media ownership and prevent undue media dominance or concentration that may adversely impact media freedom and pluralistic views (CCPR/C/CZE/CO/4, para 38, 39).

Framework for journalists' protection

Rules and practices guaranteeing journalist's independence and safety

3000 character(s) maximum

In its 2019 concluding observations, the UN Committee on the Elimination of Racial Discrimination was concerned about reports of intimidation of, and a growing hostility towards, journalists who attempt to cover issues related to migration independently and impartially. It recommended that Czechia protect journalists who cover issues related to migration and ensure they can perform their work without fear of reprisals or intimidation (CERD/C/CZE/CO/12-13, para 11, 12).

The UN Human Rights Committee also expressed concern in its 2019 concluding observations about increasing allegations of threats against journalists, especially by high-ranking politicians, including violence. It was also concerned about instances of hostile rhetoric against media outlets and accusations of media manipulation of public opinion emanating from public officials. The Committee recommended that Czechia ensure that officials refrain from any interference with the legitimate exercise of the right to freedom of expression of journalists and media workers, that their effective protection against any kind of threat, pressure, intimidation or attack is guaranteed, and that illegal acts against journalists are thoroughly investigated and those responsible brought to justice (CCPR/C/CZE/CO/4, para 36, 37).

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

The UN Human Rights Committee in its 2019 concluding observations was concerned about reported difficulties in gaining access pursuant to the Free Access to Information Act to information held by public bodies, including unclear conditions under which information can be withheld, the tendency to provide general information that lacks detail, inconsistent practice in releasing information among public authorities, and insufficient efforts to publish information proactively. The Committee noted that an amendment to the Free Access to Information Act foresaw, inter alia, simplified processing of information requests and that a draft amendment approved on 14 October 2019 would explicitly stipulate that abuse of the right to information constitutes grounds for refusal of an information request. The Committee recommended that Czechia ensure that the right of access to information held by public bodies can be effectively exercised in practice, including by addressing any practical or administrative obstacles to processing information requests, and by ensuring timely and comprehensive responses to such requests. Czechia should also proactively put in the public domain government information of public interest to give effect to the right of access to information (CCPR/C/CZE/CO/4, para 40, 41).

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 - Czechia

The process for preparing and enacting laws

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

3000 character(s) maximum

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

The UN Committee on the Elimination of Racial Discrimination in its 2019 concluding observations regretted the lack of progress in bringing the Office of the Public Defender of Rights (Ombudsperson) into full conformity with the Paris principles, and recommended that Czechia expedite the adoption of necessary amendments to the Ombudsperson Act to bring the Office of the Public Defender of Rights into full conformity (CERD/C/CZE/CO/12-13, para 9 and 10).

The UN Human Rights Committee in its 2019 Concluding observations similarly recommended that Czechia complete the process of consolidating the mandate of the Office of the Public Defender of Rights, to enable it to act as the national human rights institution with a mandate to protect the full range of human rights and in full compliance with the Paris Principles. (CCPR/C/CZE/CO/4, para 8).

Accessibility and judicial review of administrative decisions

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

3000 character(s) maximum

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

3000 character(s) maximum

The enabling framework for civil society

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

3000 character(s) maximum

Initiatives to foster a rule of law culture

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

3000 character(s) maximum

Other - please specify

3000 character(s) maximum

Justice System - Denmark

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

The Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes in his 2018 report mission to Denmark and Greenland stated that victims of transnational rights abuses perpetrated by businesses, in particular with respect to occupational exposure to toxic substances, face various obstacles in seeking effective remedy. The challenges include proving damages, establishing causality, high costs and, potentially, a lack of independence of judicial systems. He pointed out that States have a duty to address these and other extraterritorial impacts of businesses domiciled in the State's territory or subject to its jurisdiction in order to prevent the denial of justice and ensure the right to effective remedy of victims abroad (A/HRC/39/48/Add.2, para 33).

In 2019, the UN Special Rapporteur on extrajudicial, summary or arbitrary executions initiated a dialogue with Denmark about the possible adoption of measures to exclude Danish nationals allegedly associated with the Islamic State of Iraq and the Levant (ISIL) and/or other similar groups, from accessing their right to consular assistance. The Special Rapporteur found that this was tantamount to potentially exposing them to torture and/or the unlawful imposition of the death penalty, potentially making Denmark complicit in an arbitrary killing. She recommended Denmark to repatriate the nationals concerned as soon as possible so that they can be tried in a manner consistent with international law, which includes adequate legal assistance at all stages of the proceedings (AL DNK 3/2019, available at <https://spcommreports.ohchr.org/Tmsearch/TMDocuments>).

In February 2021, UN Human Rights experts called on 57 countries, including Denmark to repatriate women and children from camps in northeast Syrian camps. The experts recalled the urgent need for justice, truth and reparation for all of the victims of the very serious violations of human rights and humanitarian law that have occurred in the region. In that context, the continued detention, on unclear grounds, of women and children in the camps is a matter of grave concern and undermines the progression of accountability, truth and justice. The experts said they were gravely concerned that the exercise, reportedly to evaluate security threats, lacked regard for basic principles of due process and solely targeted families with alleged links to foreign ISIL fighters, including women and children, who already suffer from heightened discrimination, marginalisation and abuse on the basis of their alleged affiliation with the group, available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26730>

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

The UN Committee on Economic, Social and Cultural Rights in its 2019 concluding observations recommended that in the planned legal reform of criminal law, Denmark address barriers to reporting, investigation and prosecution of sexual violence, including by strengthening the capacity of the police, prosecutors and judges on the relevant criminal provisions and gender-sensitive investigations of sexual violence (E/C.12/DNK/CO/6, para 44)

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

Impact of the "Ghetto Package" on equal treatment before the courts
In October 2020, a number of UN Special Procedures initiated a dialogue with Denmark on the so-called 'ghetto package', a series of laws and amendments adopted in 2018 providing for differential treatment on grounds such as national origin, social status and residence, whereby the Government can designate certain neighborhoods as "ghettos" or "tough ghettos" on the basis of the percentage of "non-Western" immigrants and descendants. Deep concerns of discrimination based on protected grounds had previously been expressed by the UN Committee on Economic, Social and Cultural Rights in its 2019 concluding observations (E/C.12/DNK/CO/6, para 23). In their 2020 communication, the UN Special Procedures notably raised amendments to the Danish Penal Code that entered into force in January 2019 enabling police to designate areas with high crime rates as "enhanced punishment zones", disproportionately applying to "ghetto" neighborhoods. People convicted of crimes there generally face sentences twice as long as individuals committing the same crimes elsewhere, while for crimes already punished by a long sentence of imprisonment, the enhanced punishment zone increases the sentence by one-third. The UN Special Procedures mandates found that the application of these laws targeting racial, ethnic, and religious minorities was a clear violation of the right of equality before the law and equal treatment before tribunals (UA DNK 3/2020 available at <https://spcommreports.ohchr.org/Tmsearch/TMDocuments>, see also <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26414&LangID=E>).

Anti-Corruption Framework - Denmark

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 - Denmark

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 - Denmark

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

Denmark's NHRI was re-accredited with A status on October 2018, available at <https://nhri.ohchr.org/EN/AboutUs/GANHRIAccreditation/Documents/SCA%20Report%20October%202018-Eng%20FINAL%20.pdf>

Accessibility and judicial review of administrative decisions

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

3000 character(s) maximum

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

3000 character(s) maximum

The enabling framework for civil society

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

3000 character(s) maximum

Initiatives to foster a rule of law culture

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

3000 character(s) maximum

Other - please specify

3000 character(s) maximum

Justice System - Estonia

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

The UN Human Rights Committee, in its 2019 concluding observations, expressed concern about the significantly low number of convictions for torture and ill-treatment, and regretted the paucity of information on the procedure for investigating such allegations and on the independence of existing investigative bodies. It found Estonia should ensure that all allegations of torture and ill-treatment are promptly and thoroughly investigated by an effective and fully independent and impartial body, that perpetrators are prosecuted and, if convicted, punished with sanctions commensurate with the nature and gravity of the crime, and that victims and, where appropriate, their families are provided with full reparation, including rehabilitation and adequate compensation (CCPR/C/EST/CO/4, para 19, 20).

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

In its 2019 concluding observations, the UN Human Rights Committee noted that notification of custody may be denied with the permission of the relevant prosecutor's office if such notification would prejudice a criminal proceeding, and that the duration of the delay of notification is based on the principle of proportionality. Nonetheless, the Committee was concerned that exception and the safeguards against its misuse were not clearly defined, and noted the absence of a statutory limit for the deferral of notification. The Committee was also concerned about reports that persons deprived of their liberty met their State-appointed lawyer for the first time at the court hearing, even in cases where counsel was requested shortly after their detention. It found that Estonia should ensure that any exceptions to the right of notification of custody be clearly defined and time-bound. That sufficient safeguards be in place against the misuse of such exceptions; and that detainees in criminal cases have prompt access to counsel from the outset of detention (CCPR/C/EST/CO/4, para 25, 26).

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

In its 2019 concluding observations, the UN Human Rights Committee recommended Estonia to intensify its efforts to raise awareness about the Covenant on Civil and Political Rights and its Optional Protocol, including by providing specific training on the Covenant to government officials, judges, prosecutors and lawyers. Besides, it welcomed the measures taken to combat hate speech and hate crimes but remained concerned about reports of hate speech, including by opinion makers and politicians, and hate crimes. In order to ensure effective protection against hate speech and hate crimes, both in law and in practice, it recommended inter alia to ensure continuous training on hate crimes for law enforcement officials, border guards, prosecutors and judges (CCPR/C/EST/CO/4, para 5, 6, 12,13,14).

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

In its 2019 concluding observations, the UN Human Rights Committee noted that both the Chancellor of Justice and the Supreme Court analysed data retention legislation and found it compatible with the UN Covenant on Civil and Political Rights. The Committee expressed concern that such regulations, including article 111 of the Electronic Communications Act, provide for blanket retention of communications data (metadata), and that access to such data is reportedly not limited to the investigation and prosecution of serious crimes, but is also used for investigating and prosecuting minor crimes and misdemeanours. The Committee noted that possible amendments to the relevant regulations on data retention were being analysed and discussed with a view to further clarifying the relevant domestic norms. The Committee recommended that Estonia bring its regulations governing data retention and access thereto, into full conformity with the Covenant, including with the principles of legality, proportionality and necessity (CCPR/C/EST/CO/4, para 29, 30).

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

Low prosecution of violence against women – In its 2019 concluding observations, the UN Human Rights Committee welcomed measures taken to address violence against women, including domestic and sexual violence, but expressed concerns about low prosecution rate and allegedly high underreporting, partly due to safety concerns. It found that Estonia should inter alia, ensure the timely issuance of restraining orders against perpetrators and the introduction of emergency restraining orders and ensure that cases of violence against women are thoroughly investigated, perpetrators prosecuted and, if convicted, punished with appropriate sanctions, and that victims have access to effective remedies (CCPR/C/EST/CO/4, para 17,18).

Legal Protection for stateless persons/persons with undetermined citizenship – In its 2019 concluding observations, the UN Committee on Economic, Social and Cultural Rights welcomed Estonia’s overall achievement in reducing the number of persons with undetermined citizenship, but remained concerned at the large number of such persons, comprising 5.5 per cent of the population as of January 2019. It recommended that Estonia accelerate the acquisition of Estonian citizenship by persons with undetermined citizenship, by removing the remaining obstacles (E/C.12/EST/CO/3, para 14,15). While welcoming the measures taken by Estonia, the UN Human Rights Committee, in its 2019 concluding observations, remained concerned at the remaining gaps. In particular, the Committee recommended Estonia to ensure that stateless individuals are systematically identified and afforded protection, to facilitate the naturalization of persons with “undetermined citizenship” and remove excessive barriers that hinder the process, and to ensure that every child be granted citizenship, regardless of their age or the legal status of their parents if also stateless (CCPR/C/EST/CO/4 para, 35,36).

Justiciability of the rights under the UN Covenant on Economic, Social and Cultural Rights – In its 2019 concluding observations, the UN Committee on on Economic, Social and Cultural Rights noted that some Covenant rights are protected in the Constitution, and that article 123 of the Constitution establishes the primacy of international treaties over domestic law. However, the Committee was concerned at the lack of information on judicial remedies and of examples of cases where Covenant rights are protected by domestic courts. The Committee recommended that Estonia incorporate all the rights enshrined in the Covenant in the domestic legal order; strengthen judicial remedies for the protection of Covenant rights in its domestic legal order; enhance training for judges and lawyers on the Covenant; and raise the awareness of the public on

the Covenant and the justiciability of economic, social and cultural rights. In this context, the Committee drew Estonia's attention to its general comment No.9(1998) on the domestic application of the Covenant(CCPR/C/EST/CO/4, para 4,5).

Other - please specify

3000 character(s) maximum

Anti-Corruption Framework - Estonia

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 - Estonia

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 - Estonia

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

In December 2020, GANHRI Sub-Committee on Accreditation recommended that the Chancellor of Justice be accredited as an A-status national human rights institution. With the view to further strengthening the institution, the SCA recommended the NHRI to advocate for a broader and more transparent selection and appointment process; and for amendments to its enabling law to prevent the possibility of unlimited tenure of office and to make encouraging ratification of and accession to regional and international human rights instruments an explicit part of its mandate (see GANHRI Sub-Committee on Accreditation Report – December 2020).

In its 2019 concluding observations, the UN CESCR Committee expressed concern at the insufficient level of financial and human resources allocated to the Gender Equality and Equal Treatment Commissioner to fully carry out its mandate. It was also concerned that the Equal Treatment Act only prohibits discrimination on the grounds of religion or views, age, disability and sexual orientation in areas relating to working life and the acquisition of professional qualifications, and regretted the delay in amending the Act to broaden its scope and application to other social sectors. The Committee recommended that Estonia amend the Act without delay to ensure that it prohibits all direct, indirect and intersectional forms of discrimination and with the view to providing effective remedies for victims of discrimination, incl. through judicial and administrative proceedings. Drawing attention to its general comment No.20 on non-discrimination in economic, social and cultural rights, the Committee recommended Estonia to allocate a sufficient level of financial and human resources to the Commissioner for the effective functioning of its mandate (E/C.12/EST/CO/3, para 10,11). In its 2019 concluding observations, the UN Human Rights Committee noted the general prohibition of discrimination and the open-ended list of prohibited grounds in article 12 of the Constitution, but similarly expressed concern that the Equal Treatment Act does not afford equal protection against discrimination on all the grounds prohibited under the Covenant on Civil and Political Rights in all spheres of life. The Committee welcomed the increase in the budget of the Office of the Gender Equality and Equal Treatment Commissioner but regretted that the Commissioner did not have standing in domestic court proceedings, neither as a legal representative of victims of discrimination nor as an expert party, and that no tangible progress had been achieved in that regard despite the Government's consideration of the matter. The Committee was also concerned that awareness among the population at large about equal treatment legislation and the available remedies remained insufficient. Among several recommendations, it stated Estonia should consider granting standing to the Commissioner in domestic court proceedings relating to discrimination. (CCPR/C/EST/CO/4, para 11)

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

In its 2019 concluding observations, the UN Human Rights Committee was concerned about the lack of sufficient safeguards against arbitrary interference with the right to privacy with regard to surveillance and

interception activities by State security and intelligence agencies and with regard to intelligence sharing with foreign entities. It found that Estonia should ensure that (a) any such interference with privacy requires prior authorization from a court or other suitable independent body and is subject to effective and independent oversight mechanisms; (b) access to communications data is limited to the extent strictly necessary for investigations into and prosecution of serious crimes; and (c) persons affected are notified of surveillance and interception activities, where possible, and have access to effective remedies in cases of abuse (CCPR/C/EST/CO/4, para 29, 30).

In its 2019 concluding observations, the UN Human Rights Committee expressed concern that legal and procedural safeguards for involuntary treatment of persons with psychosocial or intellectual disabilities may not be sufficient to guarantee their rights and interests. As part of the recommended comprehensive safeguard procedures, the Committee recommended that decisions relating to non-consensual psychiatric treatment be under regular independent review and that there should guarantee effective access to judicial review of such decisions, including by ensuring that relatives and any other legal representatives of patients are sufficiently informed about the procedure for requesting the termination of coercive treatment, pursuant to article 403 of the Code of Criminal Procedure (CCPR/C/EST/CO/4, para 23, 24)

In the case of asylum procedure, the UN Human Rights Committee was also concerned about the limited access to effective remedies against asylum decisions taken at the border, due to the lack of access to free legal counselling or assistance in suitable cases. The Committee was further concerned at reports that asylum seekers have been accused of irregular entry or stay under the second item of article 258 (1) of the Criminal Code, and that application for international protection does not preclude the initiation of criminal proceedings under the said provision. It recommended inter alia that Estonia should provide free legal aid, in suitable cases, to applicants for asylum at the border to ensure the exercise of their right to appeal in practice; consider including adequate safeguards in the Criminal Code to ensure that individuals exercising their right to seek asylum are released from any criminal liability for illegal entry or stay; and ensure that any legislation adopted following the further consideration clarifies the term “danger to the community of Estonia” (CCPR/C/EST/CO/4, para 27, 28).

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

3000 character(s) maximum

In its 2019 concluding observations, the UN Human Rights Committee expressed concern about the absence of effective mechanisms and legal procedures for authors of individual complaints submitted to the Committee, to seek, in law and in practice, the full implementation of Views adopted under the Optional Protocol to the Covenant. It found Estonia should ensure the full implementation of the concluding observations and Views adopted by the Committee, and guarantee the right of victims to an effective remedy when there has been a violation of the Covenant on Civil and Political Rights. The Committee also recommend Estonia to intensify its efforts to raise awareness about the Covenant and its Optional Protocol, including by providing specific training on the Covenant to government officials, judges, prosecutors and lawyers. (CCPR/C/EST/CO/4, para 5,6).

The enabling framework for civil society

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

3000 character(s) maximum

Initiatives to foster a rule of law culture

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

3000 character(s) maximum

Other – please specify

3000 character(s) maximum

Justice System - Finland

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

In its 2021 concluding observations, the UN Committee on Economic, Social and Cultural Rights noted that the provisions of the Covenant on Economic, Social and Cultural Rights are rarely invoked in courts,

especially in view of its status as a constitutional act in Finland's domestic legal order. It found awareness of the Covenant among the legal profession should be promoted, given that domestic law should be interpreted as far as possible in a way which conforms to the rights and obligations under the Covenant. The Committee thus recommended that Finland enhance training for judges, lawyers and public officials on the Covenant and the justiciability of the rights therein (E/C.12/FIN/CO/7, para 4-5).

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 - Finland

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 - Finland

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 - Finland

The process for preparing and enacting laws

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

3000 character(s) maximum

In its 2021 concluding observations, the UN Committee on Economic, Social and Cultural Rights recommended that, in view of the status of the Covenant on Economic, Social and Cultural Rights as a constitutional act in Finland's domestic legal order, Finland conduct impact assessments on the Covenant rights, including on equal rights of men and women, for proposed legislation as well as policy-making processes. In particular, the Committee expressed concern that legislative changes and other developments have eroded the rights of the Sámi to maintain their way of life and traditional livelihoods; and at the lack of a legal obligation to conduct consultations with a view to obtaining the Sámi's free, prior and informed consent on matters that affect their lands and resources. The Committee urged Finland to act upon instances of infringements on the rights of the Sámi to maintain their culture, way of life and traditional livelihoods, and recommended that Finland assess the impact of existing laws on these rights and bring the necessary amendments. Moreover, the Committee urged Finland to strengthen the legal recognition of the Sámi as indigenous peoples and the legal and procedural guarantees for obtaining the Sámi's free, prior and informed consent in line with international standards. (E/C.12/FIN/CO/7, para 4-5, 50-51).

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

3000 character(s) maximum

Regime for constitutional review of laws.

3000 character(s) maximum

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

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

3000 character(s) maximum

Independent authorities

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

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

3000 character(s) maximum

Accessibility and judicial review of administrative decisions

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

3000 character(s) maximum

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

3000 character(s) maximum

The enabling framework for civil society

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

3000 character(s) maximum

Initiatives to foster a rule of law culture

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

3000 character(s) maximum

Other - please specify

3000 character(s) maximum

Justice System - France

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

In the report of his 2017 country visit to France – published in 2021 after having cross-checked preliminary results against follow-up research and developments to date –, the UN Special Rapporteur on the right to privacy noted with respect to surveillance, that special status has been granted to journalists, lawyers and members of parliament. When an intelligence request is made that applies to them, the National

Commission for the Control of Intelligence Techniques must be informed just before data starts being collected so that it can assess whether the collection is necessary and proportionate, and it must also receive transcripts of the intercepted communications afterwards (A/HRC/46/37/Add.2, para 40).

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

3000 character(s) maximum

In the report of her 2019 country visit to France, the UN Special Rapporteur on the right to adequate housing noted that a survey by the Defender of Rights identified that of those who considered themselves victims of discrimination in accessing housing, only 11 per cent had filed complaints. Among the reasons cited for not filing a complaint were that it would not serve any purpose, that it was not worth the effort, that there was a lack of proof and that they lacked trust in the justice system (A/HRC/43/43/Add.2, para 16).

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

In the report of her 2018 country visit to France, the UN Special Rapporteur for the promotion and protection of human rights and fundamental freedoms while countering terrorism expressed concern about a diminution of the meaningful exercise of attorney-client privilege resulting from the use of exceptional powers and the administration of justice in terrorism cases. She noted that the shift to administrative measures, the constrained scope for lawyers to meaningfully review the intelligence basis for administrative measures, the shift in the burden of proof and the intensity of resources required to successfully challenge criminal charges and administrative measures amounted in practice to a diminution of legal access and representation (A/HRC/40/52/Add.4, para 31).

In her country visit report, the Special Rapporteur also raised concerns about the situation of French foreign terrorist fighters, their spouses and children being held in detention camps or pending trial in territories overseas, with concerns in particular about the fairness of trial, the access to meaningful legal representation and the risk of torture or inhuman and degrading treatment, including sexual violence, while in custody or detention overseas. She strongly encouraged France to activate positive legal and diplomatic protection for French citizens in conflict zones overseas, including interventions where they face serious human rights violations in detention (A/HRC/40/52/Add.4, para 45-48, 61). Similar concerns were raised in several communication exchanges with France, initiated by the UN Special Rapporteur on Extrajudicial, Summary or Arbitrary executions and/or other Special Procedures in 2018 and 2019 (FRA 7/2018, FRA 10/2018, FRA 5/2019, FRA 8/2019, available at <https://spcommreports.ohchr.org/Tmsearch/TMDocuments>; see also <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24887&LangID=E>).

In February 2021, UN Human Rights experts urged 57 countries, including France, to repatriate women and children from camps in northeast Syrian camps. The experts recalled the urgent need for justice, truth and reparation for all of the victims of the very serious violations of human rights and humanitarian law that have occurred in the region. In that context, the continued detention, on unclear grounds, of women and children in the camps was a matter of grave concern and undermines the progression of accountability, truth and justice. They were gravely concerned that the exercise, reportedly to evaluate security threats, lacked regard for basic principles of due process and solely targeted families with alleged links to foreign ISIL fighters, including women and children, who already suffer from heightened discrimination, marginalisation and abuse

on the basis of their alleged affiliation with the group, available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26730>

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

In the report of his 2017 country visit to France (published in 2021 taking account of latest developments), the UN Special Rapporteur on the right to privacy stated that the independent data protection authority of France (CNIL) raised the issue of training of judges and whether judges should have technical expertise. He also noted that the Council of State has consultative powers regarding the adoption of a law, its opinion being mandatory in what concerns the legality and conformity of the new law. The Council of State members, who enjoy judicial status and who analyze new proposed laws, do not have technical knowledge. Those members indicated that it would not be appropriate to have independent experts as part of the team. Instead, they preferred that the administration take the decision with the help of experts, thereby assuring accountability. Should an external organ conduct controls and take decisions, there would be the risk of the Council of State being bypassed. The Special Rapporteur also strongly recommended that all persons with legal training involved in the oversight of surveillance should also be given adequate training in information and communications technologies and operational best practices. (A/HRC/46/37/Add.2, para 51, 56, 83).

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

In the report of his 2017 country visit to France, the UN Special Rapporteur on the right to privacy drew the Government's attention to his recommendations on the protection of health data contained in his August 2019 report to the General Assembly (A/74/277). He urged France to reflect on the successes – and the failures – in attempts to use applied technologies and especially smartphone applications in its attempts to fight the COVID-19 pandemic (A/HRC/46/37/Add.2, para 85).

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

Access to remedies - While seeking to initiate a dialogue with France on the lasting consequences of France nuclear program in French Polynesia in 2019, the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes raised concerns with regard to access to court and remedies, noting in particular language barriers facing the complainants in court, as well as considerable administrative challenges to compile some evidence required in court or to access remedies. (FRA 1/2019, available at <https://spcommreports.ohchr.org/Tmsearch/TMDocuments>).

Right to adequate justice and access to justice - In the 2020 report of country visit to France, the UN Special Rapporteur on the right to adequate housing referred to several barriers to accessing justice, with respect to the ability to claim the right to housing through an accessible mechanism. She noted that applicants who are not granted a social housing unit within six months are entitled go to court, where local governments are frequently ordered to provide social housing and pay a fine. In many cases, local authorities pay the fine but do not assign a housing unit to the applicant, whose only recourse is to return to court for a one-time compensation, thereby resulting in a denial of justice whereby local governments pay to opt out of respecting the right to housing. She also expressed concern that some decisions of the administrative tribunals and the Council of State have limited the unconditional right to emergency accommodation and the right to housing. She cited examples where courts have required claimants to show proof of additional medical, psychological or social distress, or where it was argued that the State was incapable of ensuring emergency housing or adequate housing because of a lack of financial means. She reminded the authorities that human rights are generally not subject to derogation based on the availability of funds or means, and that homelessness threatens the right to life, health and physical integrity and must be accorded the utmost priority, even in times of fiscal pressures (A/HRC/46/37/Add.2, para 28, 82-85).

Anti-Corruption Framework - France

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

In the report of his 2017 country visit to France (published in 2021), the UN Special Rapporteur on the right to privacy noted that the French legal system includes politicians in the process required for prior authorization of surveillance. He recommended that it would be preferable if the next round of reforms would alter the mechanism in such a way as to ensure that the ex ante authorization of surveillance is carried out by a completely independent entity, with no politician involved in the process (A/HRC/46/37/Add.2, para 75). In addition, the Special Rapporteur recommended that the National Commission for the Control of Intelligence should, at a minimum, have the power to overrule and revoke any authorization for surveillance signed off by the Prime Minister, who, very preferably, should never be involved in such decisions. He recommended that France seriously consider furthering the doctrine of separation of powers through the creation or consolidation of a separate, independent hybrid identity, which would combine adequate

resources mastering several areas of domain expertise (legal, operational and technical), possibly with the continued contribution of senior judges, and that it should be empowered to authorize and/or monitor surveillance through decisions made completely independently and often even without the knowledge of the politicians forming part of the Executive. He furthermore strongly recommended that the system of safeguards and remedies applicable to foreign intelligence should be brought in line with those required for domestic intelligence (A/HRC/46/37/Add.2, para 75, 77, 78).

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 - France

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

As noted in the reply on question #9, in the report of his 2017 country visit to France (published in 2021), the UN Special Rapporteur on the right to privacy noted that with respect to surveillance, special status has been granted to journalists, lawyers and members of parliament. When an intelligence request is made that applies to them, the National Commission for the Control of Intelligence Techniques must be informed just before data starts being collected, so that it can assess whether the collection is necessary and proportionate, and it must also receive transcripts of the intercepted communications afterwards (A/HRC/46/37/Add.2, para 40).

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

3000 character(s) maximum

In 2019, several UN Special Procedures initiated a dialogue with France regarding grave concerns related to the safety of demonstrators and journalists during protests in France late 2018. The communication brought up reported cases of journalists victims of police violence and of attacks from demonstrators. The communication referred to around 15 photographs and reporters injured by flashballs, grenades or stray bullets despite being visually identified as media; to the confiscation by law enforcement of some journalists' protective equipment; and to journalists taken to police custody while carrying out their work (FRA 2/2019, available at <https://spcommreports.ohchr.org/TmSearch/Results>).

In November 2020, several UN Special Procedures initiated a dialogue with France on some provisions of Bill No 3452 on Global Security dated 20 October 2020. The mandate-holders expressed concerns that one of the envisaged provisions, governing the use of images of law enforcement officials, would unduly restrict

the right to freedom of expression, notably the right of journalists and of the general public to seek and impart information, and further may risk undermining law enforcement accountability (FRA 4/2020, available at <https://spcommreports.ohchr.org/TmSearch/Results>).

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 - France

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

In the 2019 report of her country visit to France, the UN Special Rapporteur for the promotion and protection of human rights and fundamental freedoms while countering terrorism expressed concern that the review of the Law on Strengthening Internal Security and the Fight against Terrorism (SILT) has eschewed transparent engagement with civil society and with affected communities and individuals. The statutorily mandated assessment of the effectiveness and operation of the law had not been made publicly available by December 2018. The Special Rapporteur noted serious concerns about the adequacy of existing review and the marginality of human rights to its process to date, and encouraged substantive civil society engagement and human rights mainstreaming in the reviews to be completed. She emphasized that the total effect of France's counter-terrorism legislation from 1955 onwards on the overall protection of rights (complex and cumulative emergency powers) must be continually reviewed, as a piecemeal review of certain aspects of counter-terrorism laws is insufficient to address the overall effects that they may have on rights protection (A/HRC/40/52/Add.4, para 23, 32).

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

In the 2019 report of her country visit to France, the UN Special Rapporteur for the promotion and protection of human rights and fundamental freedoms while countering terrorism extensively dealt with questions

relating to emergency measures and procedures. She noted that France has a reservoir of experience in managing terrorism through a rule of law-based approach. She commended in particular robust judicial control as an example of good national practice, and practice in respect of victims of terrorism as an outstanding positive model (A/HRC/40/52/Add.4, 13-17, 20).

The UN Special Rapporteur nonetheless expressed a number of concerns. France had been in a formal state of emergency from November 2015 to October 2017 and there were outstanding consequences from the use of these powers, including unresolved legal consequences and necessary remedies for persons whose rights were disproportionately impinged upon during the period of exigency. Situated within the broad array of counter-terrorism powers already available to the State, the 2017 Law on Strengthening Internal Security and the Fight against Terrorism (SILT), adopted to avoid the spectre of an unending emergency, also constituted a de facto state of qualified emergency in ordinary French law. The Special Rapporteur expressed concern at the transposition of exceptional emergency-form powers into the ordinary law, and detailed throughout her report the risks presented to the protection of rights in a wide array of situations and procedures. She urged a root and branch review of the necessity, proportionality and discriminatory effects of such laws and encouraged France to rebalance its use of exceptional legal norms, deepen its use of ordinary law, whose strength and fortitude have been proven, and harness remedies for human rights breaches occasioned by the use of counter-terrorism powers (A/HRC/40/52/Add.4, see especially para 23-28.).

In 2020, a number of UN Special Procedures followed up on some of the concerns summarized above, in particular the fact that the SILT Law engaged a perceptible shift towards the anticipatory prevention of terrorism. In their dialogue with France, they expressed concerns that a draft law amending the Code of Criminal Procedures with regard to Security Measures that can be imposed on authors of terrorist offenses, would enshrine in ordinary law exceptional measures of administrative control and surveillance measures of individuals. They expressed concern that the import into criminal law of exceptional measures previously included in an emergency law led to the normalization and perpetuation of emergency that could result in a 'permanent state of emergency' (FRA 2/2020, available at <https://spcommreports.ohchr.org/Tmsearch/TMDocuments>).

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

In the 2019 report of her visit to France, the Special Rapporteur on counterterrorism concluded that the composite effect of administrative counter-terrorism measures in France is to significantly shift the regulation of persons' liberties to the pre-criminal or precautionary space – a potentially serious challenge to the overall balance of security and rights. She urged that the judicial branch play a full a priori role, and that oversight to determine the necessity, proportionality and legality of measures be constantly reviewed and entrenched. While administrative review of measures taken during the 2015-2017 state of emergency (some of which were extended by the SILT law) is available, in practice appeal processes are slow and affected persons generally not well placed to seek review. The small number of remedies sought in the context of the high number of measures taken during the state of emergency underscored the remedial lacunae (e.g. number of house searches vs subsequent number of proceedings, judicial decisions and incarcerations). She urged France to address the gap (A/HRC/40/52/Add.4, para 21, 24, 37, 61).

In the report of his 2017 visit to France (published in 2021) the UN Special Rapporteur on privacy noted that Laws No. 2015-912 and No. 2015-1556 led to the creation of administrative and jurisdictional controls on the use of intelligence techniques and files of interest for State security. The judicial control that is now exercised is the first time a judge is given access to classified documents without details being communicated to the applicant. These laws constitute both a great step forward because of the unprecedented scope of administrative control they grant, and a tangible evolution because of the creation of a mechanism for providing judicial remedies. He noted with satisfaction the developments regarding remedies for citizens in administrative litigation, noting that the creation of a special team of five judges of the State Council, each powered to have full access to intelligence files, is an important remedy established since 2015 for citizens seeking redress for the illegal collection of information about them (A/HRC/46/37/Add.2 para 10, 82).

The expert also noted that Decree No 2015-1639 granted authority to over 20 police/gendarmerie services, some of which are not officially intelligence services, to intercept communications and request data, mostly for counter-terrorism purpose. He observed the law on intelligence presented to the Council of Ministers in March 2015 further weakened judicial control, formally allowing intelligence services to carry out several previously illegal practices and technologies – eg geolocalization of cars, wiretapping of private places, placement of black boxes on ISP networks... None require judicial authorization: given the scope of the intrusion, the Special Rapporteur found the existing possibility of a posteriori control too weak a guarantee (A/HRC/46/37/Add.2 para 20, 23).

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

Freedom of expression and freedom of peaceful assembly are essential elements of an enabling framework for civil society. In October 2020, several UN Special Procedures initiated a dialogue with the French government on some provisions of Bill No 3452 on Global Security dated 20 October 2020. They pointed to overall concerns that the bill, developed within the broader context of counter-terrorism initiatives, appeared to reflect a lack of precision which would be likely to undermine the rule of law. They also expressed concerns that the bill as drafted was likely to disproportionately infringe many rights, fundamental freedoms and general principles of law, including freedom of peaceful assembly and freedom of expression (FRA 4/2020 available at <https://spcommreports.ohchr.org/Tmsearch/TMDocuments>). This followed a previous dialogue initiated in 2019 on the protection of the right to peaceful assembly, following violence that occurred during protests in France late 2018 (FRA 2/2019, available at <https://spcommreports.ohchr.org/TmSearch/Results>)

In the context of migration management, several Special Procedures initiated in 2018 a dialogue with France, expressing deep concern about reports of practices and measures by law enforcement and local authorities, as well as judicial sanctions, effectively hindering, and in some cases criminalising, the work and assistance of civil society organisations and volunteers seeking to assist migrants and asylum-seekers (FRA 9/2018, available at <https://spcommreports.ohchr.org/Tmsearch/TMDocuments>).

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

Judicial and other oversight over intelligence services - In the report of his 2017 country visit to France (published in 2021), the UN Special Rapporteur on the right to privacy observed that during the 23-month-long state of emergency prior to October 2017, the practice of judicial courts was to accept “white notes”, which were frequently used by the Ministry of the Interior to justify police actions (house arrest, prohibition to demonstrate) against people suspected of challenging the State apparatus. Such “white notes” were attributed to the intelligence services, but lacked any heading, date, reference or signature. The aim was to protect the secrecy of source, but their anonymity also prevented anyone from having to take responsibility for the statements made in them. The Special Rapporteur noted the notes sometimes contained errors, such as references to convictions that had not been pronounced or to acts that did not actually exist. As long as they were regarded as “evidence”, it was very difficult to distinguish the value of these anonymous documents drawn up without any guarantee, from that of the records that the law strongly oversees. He stated that since the new 2017 terrorism law did not mention them, it would be interesting to follow how the judicial courts will see these white notes going forward (A/HRC/46/37/Add.2, para 10). The Special Rapporteur furthermore noted that Law No. 2017-1510 (which ended the state of emergency) strengthened the powers of the Executive (e.g. prefects) to assign someone to carry out house searches,

close places of worship, or carry out identity checks near borders and at railway stations, seaports and airports, all without first getting the judicial green light (with the exception of searches). Prefects' decisions to have houses searched and people confined were still based on very shaky legal grounds, e.g. on informal, anonymous and often vague notes by the secret services. Civil rights campaigners claimed that the law places citizens under a general blanket of suspicion, as security parameters invert an important principle of French law, and the police no longer need a reason to search (A/HRC/46/37/Add.2, para 15).

For purposes of oversight, the Special Rapporteur noted that the National Commission for the Control of Intelligence Techniques is kept informed of all requests and supervises the implementation of intelligence techniques. The Commission plays an advisory role and cannot overrule any decision by the Prime Minister, but it can notify the State Council if the Prime Minister does not respect its advice or about any irregularities found. The Special Rapporteur recommended that the Commission's power to revoke a decision about surveillance should be entrenched in law, and at a minimum the Commission should have the power to overrule and revoke any authorization for surveillance signed off by the Prime Minister, who should never be involved in such decisions (A/HRC/46/37/Add.2, para 34-38,76).

Justice System - Greece

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

In the 2020 report on its visit to Greece, the UN Working Group on Arbitrary Detention ascertained that individuals are normally presented before the Public Prosecutor within 24 hours of arrest, but considered that presentation before the prosecutorial authorities, whose role is to prosecute rather than adjudicate each case, cannot be equated with presentation before a judge as required under the International Covenant on Civil and Political Rights. The Working Group considered that, given their role and interest in prosecuting cases, prosecutorial authorities do not possess the requisite degree of independence to assess the necessity and proportionality of detention. It recommended that Greece comply with its obligations under the Covenant. (A/HRC/45/16/Add.1, para. 35.)

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

In its 2019 concluding observations, the UN Committee on the Rights of Persons with Disabilities expressed concern that Court buildings were insufficiently accessible, as were legal services and legal information, including in Braille, Easy Read formats and sign language. Procedural accommodations were also not fully ensured at all stages of civil, criminal and administrative proceedings, particularly for persons with hearing and speech disabilities. The Committee recommended Greece to ensure effective access to justice without any discrimination, including effective access to legal services and legal aid, cost-free assistive technologies,

and quality translation and interpretation in relevant languages and formats free of charge at all stages of the proceedings (CRPD/C/GRC/CO/1, para 19-20).

In the 2020 report on its visit to Greece, the UN Working Group on Arbitrary Detention (WGAD) noted numerous concerns regarding access to justice in the criminal justice system. It was informed of cases where detainees accused of misdemeanours were not informed of their right to legal aid and assistance. In most instances, the detainees were brought before the Public Prosecutor without a lawyer when pretrial detention was ordered, and thus were not given a fair opportunity to contest their detention. The WGAD recommended to extend the right to legal assistance to all persons accused of any type of crime and to promptly inform of such right upon apprehension. In view of numerous reports about lack of interpreters, it urged Greece to provide interpretation services to all persons deprived of their liberty. Noting several credible reports about short criminal trials, often with no opportunity for the accused to address the court, while law enforcement agents were extensively heard, it called on Greece to ensure that the accused be given adequate time to present a defence and address the court. (A/HRC/45/16/Add.1, para 41-43, 46-47).

In its 2019 concluding observations, the UN Committee against Torture also noted reports that detainees had often had difficulty gaining access to counsel, a doctor, an interpreter or family members, and that police detention registers were not properly maintained. It recommended that Greece ensure all arrested or detained persons are afforded in practice all fundamental legal safeguards from the very outset of their deprivation of liberty, including the rights to be assisted by a lawyer without delay, to be informed of their rights, the reason for their arrest and the charges against them in a language that they understand, to have the assistance of an interpreter if necessary and to be brought before a judge without delay. (CAT/C/GRC/CO/7, para 14,15)

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

In its 2019 concluding observations, the UN Committee against Torture expressed concern at the lack of information on the evaluation of the impact of training programmes for judges, prosecutors, members of the police and coast guard and prison staff. The Committee recommended inter alia that Greece provide instruction and further develop mandatory in-service training programmes to ensure that all public officials are well acquainted with the provisions of the Convention against Torture as well as specialized training on the identification of cases of torture and ill-treatment. (CAT/C/GRC/CO/7, para 44-45)

In its 2019 concluding observations, the UN Committee on the Rights of Persons with Disabilities recommended that Greece continue to provide adequate training on the rights of persons with disabilities to judges, lawyers and law enforcement officials, progressively strengthening its efforts in this area. (CRPD/C/GRC/CO/1, para 20)

In the 2020 report on its visit to Greece, the UN Working Group on discrimination against women and girls welcomed the specific training provided for judges, prosecutors and others to increase awareness of all forms of violence against women and girls and to ensure that those actors are able to provide adequate gender-sensitive support to victims. Noting the National Commission for Human Rights had deplored the contrast between the significant number of reported cases of domestic violence and the very few

perpetrators prosecuted and punished, the Working Group noted that raising awareness about domestic violence was still essential. (A/HRC/44/51/Add.1, paras. 63, 58)

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

Presumption of innocence - In the 2020 report on its visit to Greece, the UN Working Group on Arbitrary Detention noted that it received credible information concerning non-nationals in pretrial detention who had been detained exclusively on the basis of police testimony, including when there was other evidence that did not support their guilt, and that similar instances were reported in cases of drug-related crime and organized crime. The Working Group urged the judicial authorities to ensure that they afford accused persons the presumption of innocence and fair consideration of all available evidence when making decisions to detain, regardless of the nationality of the accused. (A/HRC/45/16/Add.1, para 39)

Definition and criminalization of torture - In its 2019 concluding observations, the UN Committee against Torture considered that the definition of the crime of torture set forth in article 137A remained incomplete, to the extent that it did not mention acts based on discrimination of any kind, as outlined in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. In addition, there was no specific mention of acts of torture committed by a third person at the instigation of or with the consent or

acquiescence of a public official or other person acting in an official capacity. The Committee observed with concern that the maximum penalty for the basic offence of torture – without aggravating circumstances – has been reduced from 20 years to 10 years of imprisonment. (CAT/C/GRC/CO/7, para 10).

Anti-Corruption Framework - Greece

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 - Greece

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

In March 2020, the Special Rapporteur on the human rights of migrants entered in a dialogue with Greece about serious concerns regarding the rise of hostilities at the border area and in the Greek Aegean Sea against migrants, humanitarian workers providing assistance to them, and journalists carrying out their legitimate work reporting on the situation. He called on Greece to ensure their safety and the accountability of those responsible for such hostilities. This was followed by another communication sent by several Special Procedure mandate-holders in May 2020 reiterating similar concern, including about reports of attacks by unidentified individuals on journalists reporting on the arrival of migrants to Lesbos on 1 March 2020 and the arbitrary detention between 9 and 11 March 2020 of five foreign journalists reporting on migrant issues (UA GRC 1/2020 and AL GRC 2/2020, available at <https://spcommreports.ohchr.org/Tmsearch/TMDocuments>; also www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=25736&LangID=E).

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 - Greece

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 decisions).

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)

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

In its 2019 concluding observations, the UN Committee against Torture welcomed the designation of the Greek Ombudsman as the national preventive mechanism (NPM) under the Optional Protocol to the Convention. Nevertheless, it expressed concern about the lack of stable, regular and sufficient budgetary allocations and the absence of full-time staff assigned to the Office so that it could effectively carry out its mandate as NPM. It recommended that Greece ensure the operational autonomy of the NPM and provide it with the necessary financial and personnel resources for the performance of its work (See CAT/C/GRC/CO/7, para 42,43).

In the 2020 report on its visit to Greece, the UN Working Group on Arbitrary Detention identified a lack of a visible mechanism in places of deprivation of liberty to present claims to the Greek Ombudsman on violations of human rights and a general lack of awareness among detainees as to how to submit a complaint in relation to their detention and its conditions. It urged Greece to consider establishing a hotline for reporting in the prisons, taking into account the need for confidentiality of complaints; to display information about the hotline throughout the prisons; and to provide sufficient funding for regular and independent monitoring and oversight of places of detention (A/HRC/45/16/Add.1, para 55).

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

In the 2020 report on its visit to Greece, the UN Working Group on Arbitrary Detention identified gaps resulting in lack of access to judicial remedies against immigration detention decisions. It noted with particular concern the policy of geographical restriction on the movement of asylum seekers from the islands and the lack of awareness among asylum seekers of the consequences of breaching this restriction, namely placement in detention. It observed that many detainees did not understand their right to apply for asylum and the corresponding procedure, with some individuals incorrectly believing that the process was initiated when they were fingerprinted, and that there was no established legal aid scheme during the first-instance asylum application, and interpretation was not consistently provided. Moreover, the Working Group noted that legal aid was provided on appeal only and, if a person did not have his or her own lawyer during the initial first-instance hearing and given that the Asylum Service lawyers were unable to meet all demands, it was practically impossible to find a lawyer within the prescribed time in order to prepare for the appeal. The Working Group also noted that inadequate legal aid was provided for challenging a second-instance negative decision on an asylum application, and furthermore the application for annulment would not automatically suspend deportation, and there was no guarantee that the applicant would not be removed during lengthy delays in the court hearing the matter (A/HRC/45/16/Add.1, para 61, 83-85).

In its 2019 concluding observations, the UN Committee against Torture also raised concern that, in practice, detained migrants and asylum seekers were often denied fundamental legal safeguards, such as access to a lawyer and the right to challenge the lawfulness of their detention. It recommended that Greece guarantee judicial review or other meaningful and effective avenues to challenge the legality of administrative immigration detention. (CAT/C/GRC/CO/7, para 20, 21).

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

3000 character(s) maximum

The enabling framework for civil society

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

3000 character(s) maximum

In its 2019 concluding observations, the UN Committee against Torture was seriously concerned about consistent reports of intimidation and harassment of human rights defenders and humanitarian workers and volunteers. It regretted that only scant information had been provided by Greece regarding several cases raised by the Committee, including the prosecution and later acquittal of three Spanish firefighters, two Danish volunteers accused of trying to help migrants enter Greece via Lesbos island, and the arrest and pending trial of two foreign NGO volunteers on people-smuggling, espionage and money-laundering charges. It urged Greece to ensure that human rights defenders and humanitarian workers and volunteers are protected against threats and intimidation, and to allow them the necessary latitude to carry out their activities; ensure that persons are not prosecuted for engaging in aid work, including maritime search-and-rescue activities; and refrain from detaining and persecuting humanitarian workers and volunteers as a means of intimidating them or discouraging them from delivering vital emergency assistance to refugees and migrants. (CAT/C/GRC/CO/7, paras. 48-49)

In 2019 and 2020 (see reply to question 35), several Special Procedure mandate-holders, individually or jointly, also entered in dialogues with Greece about several individual cases and the general environment for individuals and organisations working on migrant issues, notably the intimidation and criminalisation and the increase in hostility and violence. They pointed to the fact that on 4 February 2020, the Greek Parliament passed a new law requiring all NGOs working on migration issues to submit a record of their members, employees and partners to a new registry. They expressed deep concern that the new regulations under Joint Ministerial Decision 3063/2020 on the “Determination of the operation of the Registry of Greek and Foreign Non-Governmental Organizations (NGOs) and of the Registry of Members of the Non-Governmental Organizations (NGOs)” put undue reporting requirements on NGOs working in migrant rights, and that the wide margin of discretion given to the authorities to reject the registration of NGOs or its members may not be consistent with Greece’s international human rights obligations. (GRC 2/2019, GRC 1/2020 and GRC 2 /2020, available at <https://spcommreports.ohchr.org/Tmsearch/TMDocuments>; also www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=25736&LangID=E).

In her February 2021 global update to the Human Rights Council, the UN High Commissioner for Human Rights also expressed concern about measures in several EU countries restricting the work of organizations

that protect migrants' rights and deliver life-saving assistance. She noted that criminal or administrative proceedings had been initiated in Greece against humanitarian actors involved in search and rescue in the Mediterranean. (www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=268)

Initiatives to foster a rule of law culture

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

3000 character(s) maximum

Other – please specify

3000 character(s) maximum

Justice System - Hungary

Independence

Appointment and selection of judges, prosecutors and court presidents

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

3000 character(s) maximum

In its 2018 concluding observations, the UN Human Rights Committee expressed concern about the provisions of the new Constitutional Court Act, which weakens judges' security of tenure and increases the influence of the Government over the composition and operation of the Constitutional Court by changing the judicial appointment procedure, the number of judges in the Court and their retirement age, and by transferring administrative authority over the judicial system from the National Judicial Council to the National Judicial Office. In addition, the Committee noted with concern the premature termination of the mandate of the former President of the Supreme Court, Judge Baka, allegedly for having criticized reforms of the judiciary. It was also concerned about the limitation of the Constitutional Court's competence and powers to review legislation impinging on budgetary matters (CCPR/C/HUN/CO/6, para 11).

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

In its 2018 concluding observations, the UN Human Rights Committee raised concern about information suggesting that indigent defendants receive a lower quality of legal representation. It noted the information provided by Hungary according to which the new 2018 Code of Criminal Procedure provides for higher standards of notification to lawyers representing arrested persons. But it remained concern about some provisions of the law, including a very short notification time to lawyers before court hearings (CCPR/C/HUN/CO/6, para 31).

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

In May 2020, the UN Special Rapporteur on the human rights of migrants welcomed the closure of the transit zones in Hungary, where migrants and asylum seekers used to be automatically and immediately detained during their asylum procedure. After his visit to Hungary in 2019, the Special Rapporteur had expressed deep concern about the limited access to legal aid and the lack of substantive judicial review on the lawfulness of the detention and the asylum decision. Similar concerns had been shared previously by other human rights mechanisms (e.g. the UN Committee on Elimination of Racial discrimination, (CERD/C/HUN/CO/18-25 para 22); the UN Working Group on Arbitrary Detention, (available at <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23879&LangID=E>) as well as the UN Human Rights Office, available at <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24551&LangID=E>).

In its 2020 concluding observations, the UN Committee on the Rights of the Child urged Hungary to ensure access to judicial remedies and redress for children with disabilities and access to independent lawyers and human rights defenders for the provision of legal aid and counselling. It also urged the country to strengthen the independent monitoring of institutions and to ensure that reporting of cases of violence, abuse and neglect of children with disabilities be mandatory for all persons working with them. The Committee further recommended that all offences under the Optional Protocol on the sale of children, child prostitution and child pornography be promptly investigated and that perpetrators are prosecuted and duly sanctioned (CRC/C/HUN/CO/6, para 29 and 42(f)).

Following an inquiry procedure, the UN Committee on the Rights of Persons with Disabilities in 2020 concluded that Hungary violates the right to equal recognition before the law. The Civil Code allows the restriction of the capacity to act on the basis of impairment, judicial procedures rarely lead to restoring the capacity to act restored and the Constitution permits the disenfranchisement of persons with disabilities. (CRPD/C/HUN/IR/1 para 99).

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

In its 2019 concluding observations, the UN Committee on Elimination of Racial discrimination expressed concern at the lack of detailed information on training programmes for judges, prosecutors, lawyers and State and public officials on the prevention of racial discrimination and on the rights enshrined in the International Convention on the Elimination of Racial Discrimination (CERD/C/HUN/CO/18-25, para 26). In its 2018 concluding observations, the UN Human Rights Committee raised concern about reports that domestic violence continues to be a persistent and underreported problem, that the police response to cases of domestic violence and the mechanisms to protect and support victims are inadequate and that access to shelters remains insufficient. The Committee recommended that Hungary ensure that police officers, prosecutors and judges receive appropriate training to deal effectively with cases of domestic violence. Hungary should also strengthen its legal framework and ensure that cases of domestic violence are reported, recorded and thoroughly investigated, that perpetrators are prosecuted and punished with appropriate sanctions and that victims have access to effective remedies and means of protection (CCPR/C/HUN/CO/6, para 25 and 26).

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

In its 2018 concluding observations, the UN Human Rights Committee expressed concern about the reported absence of a defined legal limit on the length of pretrial detention and about the excessive use of pretrial detention during the investigation phase, including for juveniles (CCPR/C/HUN/CO/6 para 37).

Other - please specify

3000 character(s) maximum

Administration of child justice - In its 2020 concluding observations, the UN Committee on the Rights of the Child welcomed the entry into force of the 2018 Code of Criminal Procedure with enhanced safeguards for children's rights. It recalled its recommendations to Hungary to bring its child justice system fully into line with the Convention on the Rights of the Child and to ensure, among other things, that child victims and witnesses of crime have access to adequate procedures to seek compensation for damages and adequate support, irrespective of whether they assist with police investigations, prosecutions or trials; that the practice of sentencing children to prison terms for petty crimes is abolished; non-judicial measures and non-custodial sentences are promoted; and that pretrial detention is regularly and judicially reviewed (CRC/C/HUN/CO/6, para 40 and 41).

Hate speech, hate crimes, racism and discriminatory behaviour by the police - Various UN Human Rights Mechanisms have raised serious concerns at reports of hate speech, hate crimes and discriminatory behaviour by the police in Hungary, targeting in particular migrants, refugees, asylum seekers, Roma and other minorities. In 2018, the UN Human Rights Committee was concerned over allegations of low numbers

of registered hate crimes due to the police failing to investigate and prosecute credible claims (CRC/C/HUN/CO/6, para 17). In 2019, the UN Committee on Elimination of Racial Discrimination urged Hungary to effectively identify, register, investigate and prosecute cases of racist hate speech or incitement to racial hatred, sanction those responsible, including politicians and media officials. In addition, the Committee raised concerns about the lack of clarity on the criteria for the imposition of penalties for perpetrators of hate crimes and other measures for the protection of vulnerable groups; about the improper classification and recording of cases of hate crime and the lack of proper investigations leading to a lack of accountability for the perpetrators and by reports that the hate crime provisions are applied more frequently to protect the majority rather than ethnic minority groups, and more severe punishments are applied in cases where the offenders belong to ethnic minority groups (CERD/C/HUN/CO/18-25, para 14, 16, 17). Moreover, the Human Rights Committee in its 2018 concluding observations urged Hungary to ensure the effective identification, recording, investigation, prosecution and punishment of acts of violence motivated by the sexual orientation or gender identity of the victims (CRC/C/HUN/CO/6, para 20).

Anti-Corruption Framework - Hungary

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

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

3000 character(s) maximum

Prevention

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

3000 character(s) maximum

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

3000 character(s) maximum

In 2018, the UN Special Rapporteur on the independence of judges and lawyers initiated a dialogue on the legislative package on administrative courts. In his communication, the Special Rapporteur referred to the Administrative Procedural Act and the Administrative Court Procedural Act. Allegedly, the two bills were submitted to the Parliament without any meaningful consultation with the judiciary and civil society organisations. The Government posted the two bills in a Government website only on 25 October 2018, and the general public was given only three working days to provide comments. As a result, only one civil society organisation provided comments on the bills which were not published and disseminated by the Government, despite a legal obligation to do so. As to the involvement of the opposition parties in discussions concerning the development of a new administrative justice system, the SR referred to a report that on 5 November 2018, the Ministry of Justice invited political parties to a public consultation on the

administrative reform although none of the substantive comments were included in final package (HUN 8 /2018, available at <https://spcommreports.ohchr.org/Tmsearch/TMDocuments>).

Rules on preventing conflict of interests in the public sector.

3000 character(s) maximum

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

3000 character(s) maximum

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

3000 character(s) maximum

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

3000 character(s) maximum

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

3000 character(s) maximum

Repressive measures

Criminalisation of corruption and related offences.

3000 character(s) maximum

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

3000 character(s) maximum

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

3000 character(s) maximum

Other – please specify

3000 character(s) maximum

Media Pluralism - Hungary

Media authorities and bodies

(Cf. Article 30 of Directive 2018/1808)

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

3000 character(s) maximum

In its 2018 concluding observations, the UN Human Rights Committee raised concern that Hungary's media laws and practices restrict freedom of opinion and expression and that, following successive changes in the law, the current legislative framework does not fully provide for an uncensored and unhindered press. The Committee noted with concern that the Media Council and the National Media and Infocommunications Authority lack sufficient independence to perform their functions and have excessively broad regulatory and sanctioning powers. It called on Hungary to ensure the existence of truly independent media and media-regulating bodies, and an enabling environment for their operation, free from undue governmental influence or interference (CCPR/C/HUN/CO/6, para 57, 58).

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 - Hungary

The process for preparing and enacting laws

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

3000 character(s) maximum

In its 2018 concluding observations, the UN Human Rights Committee raised concern about the process by which legislation has been adopted and about the negative impact of some of the resulting legislative provisions on the promotion and protection of human rights in Hungary. In particular, concerns were expressed at reports of insufficient consultation with opposition politicians, the speed at which the legislative process is often conducted, especially when initiated by committees and individual lawmakers, and the failure to ensure the transparency of draft legislation or to allow sufficient time for deliberation, public consultation and impact assessment. The Committee was also concerned about the practice of introducing

substantive legislative amendments after the end of parliamentary deliberation, making use of a special measure that is intended only for the review of technical or inconsistent provisions (CCPR/C/HUN/CO/6, para 5).

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

In its 2018 concluding observations, the UN Human Rights Committee expressed concern about the level of protection afforded in law and in practice to fundamental rights in Hungary, as the Fundamental Law had been subject to frequent amendments, often in relation to laws that the Constitutional Court had earlier ruled unconstitutional. The Committee noted that the institution of *actio popularis* had been abolished in the new Constitution, and was concerned that the constitutional complaints procedure afforded more limited access to the Constitutional Court, did not provide for a time limit for the exercise of constitutional review and did not have a suspensive effect on legislation being challenged. The Committee was also concerned about the use of cardinal laws that shield governmental policies from change by an ordinary majority in the parliament and about the limited information provided concerning the application of, or reference to, the International Covenant on Civil and Political Rights by the Supreme Court and the Constitutional Court (CCPR/C/HUN/CO/6, para 5).

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

In April and December 2020, several UN Special Procedures, including the UN Independent Expert on Protection against violence and discrimination based on sexual orientation and gender identity, urged Hungary to reconsider then proposed legislation, including an amendment to the constitution, undermining LGBTI equal rights. The Special Procedures expressed concern that the draft legislation had been proposed amid the COVID-19 pandemic, called on Hungary not to use the emergency context to discriminate against persons, communities or populations (OL HUN 1/2020; OL HUN 3/2020; see also: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25844&LangID=E>)

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

In 2020, the UN Committee on the Rights of the Child recommended Hungary to ensure that the national preventive mechanism under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, within the Office of the Commissioner for Fundamental Rights, has adequate resources to conduct regular monitoring visits to places where children are, or may be, detained (CRC/C/HUN/CO/6, para 12).

In raising concerns about the excessive use of force, including ill-treatment and torture, by law enforcement officials at the time of arrest and during interrogations, and about the very low number of prosecutions and convictions in such cases, the UN Human Rights Committee in 2018 urged Hungary to take appropriate measures to strengthen the Independent Police Complaints Board, to expand its investigatory powers and to ensure its independence in carrying out investigations of alleged misconduct by police officers (CCPR/C/HUN/CO/6, para 31).

Accessibility and judicial review of administrative decisions

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

3000 character(s) maximum

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

3000 character(s) maximum

The enabling framework for civil society

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

3000 character(s) maximum

In its 2018 concluding observations, the UN Human Rights Committee raised concern about unreasonable, burdensome and restrictive conditions imposed on some non-governmental organizations (NGOs) receiving foreign funding under Act LXXVI of 2017 on the Transparency of Organizations Supported from Abroad, including the requirement that certain NGOs should register as "foreign-supported organizations" and publicly identify their foreign supporters. It raised alarm over the introduction of the "Stop-Soros" package (T/19776, T/19775 and T/19774), imposing serious restrictions on the operations of civil society organizations (CSOs) and of critics of Hungary's immigration policy (CCPR/C/HUN/CO/6, para 53, 55). In his global update to the Human Rights Council, the High Commissioner for Human Rights expressed concern about the package and additional laws imposing punitive taxes on funding from abroad. (<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22772>). Several Special Procedures mandate-holders

initiated a dialogue with the Government citing concerns that the legislation and the various attacks on civil society, migrants, refugees and asylum seekers ran counter to Hungary's international and EU obligations. (HUN 7/2018; also [https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23533&LangID=E](https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23533&LangID=E;));).

In 2020, the UN Committee on the Rights of the Child urged Hungary to ensure that NGOs can conduct their activities unimpeded, including on detention, asylum and migration issues, in an environment conducive to human rights. It recommended Hungary strengthen its collaboration with children's rights NGOs (CRC/C/HUN/CO/6, para 14). In 2019 the UN Committee on Elimination of Racial Discrimination recommended Hungary to continue consulting and increasing its dialogue with human rights CSOs, in particular those working to combat racial discrimination. Deep concerns were also expressed at the presence and operation of organizations promoting racial hatred in Hungary (CERD/C/HUN/CO/18-25, para 18, 32).

In his 2018 report on 'Cooperation with the United Nations, its representatives and mechanisms in the field of human rights', the UN Secretary-General noted that two organizations that participated in Hungary's 2018 review by the Human Rights Committee, the Hungarian Helsinki Committee and Amnesty International Hungary, had been targeted, at least in part, for their advocacy on migrants' rights at the UN (A/HRC/39/41, para 47-49; para 51-59 of Annex I). Hungary was again included in the 2019 reprisals' report, which noted that legislative initiatives and related stigmatizing public discourse had been reported as intimidating and deterring civil society from cooperating with the UN, resulting in self-censorship and affecting research, advocacy and informed reporting in some cases (A/HRC/42/30, para 57; para 47-52 of Annex I). Follow-up information was included in the 2020 report (A/HRC/45/36, para 68-71 of Annex II).

Initiatives to foster a rule of law culture

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

3000 character(s) maximum

Other – please specify

3000 character(s) maximum

Justice System - Ireland

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

In its 2020 concluding observations the UN Committee on the Elimination of Racial Discrimination recommended that Ireland extend the scope of the Legal Aid Board to the areas of law that are particularly relevant to Travellers and other ethnic minority groups, including by designating the Social Welfare Appeals Office and the Workplace Relations Commission as prescribed tribunals under section 27 (2) (b) of the Civil Legal Aid Act 1995 (CERD/C/IRL/CO/5-9, para. 43).

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

In its 2020 concluding observations the UN Committee on the Elimination of Racial Discrimination recommended that Ireland provide training for the police, prosecutors and judges on the proper methods for identifying, registering, investigating and prosecuting racist incidents and racist hate crimes (CERD/C/IRL/CO/5-9, para. 22).

In the 2019 report following her visit to Ireland, the UN Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material recommended that judges, prosecutors, lawyers and law enforcement agencies be educated on international child right norms and standards, so that they adopt a child-friendly and gender-sensitive approach when dealing with child victims of sale and exploitation (A/HRC/40/51/Add.2, para 79. e.)

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

In the 2019 report following her visit to Ireland, the UN Special Rapporteur on the sale and sexual exploitation of children recommended that Ireland review the court system's capacity to handle childcare cases effectively and in a timely manner, adapt court infrastructure so that it is fit for purpose and establish a nationwide case-management system to reduce delays and pressure on the judiciary (A/HRC/40/51/Add. 2, para. 81).

Other - please specify

3000 character(s) maximum

Efforts to detect, investigate and prosecute the sale and sexual exploitation of children - In the 2019 report following her visit to Ireland, the UN Special Rapporteur on the sale and sexual exploitation of children recommended that Ireland create and maintain child-friendly reporting and complaint mechanisms, including free, dedicated helplines managed by qualified professionals, to report abuse and exploitation of children; provide training for relevant professionals; educate judges, prosecutors, lawyers and law enforcement agencies on international child right norms and standards; revise the Garda policy not to record incidents and proceed with investigations in the case of victims who are referred by a third party, such as a church, but who are initially unwilling to make a complaint; and prosecute cases of clerical and institutional child sexual abuse. (A/HRC/40/51/Add.2, para. 80).

Anti-Corruption Framework - Ireland

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 - Ireland

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

Digital Safety Commissioner Bill 2017 - In 2018, the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression initiated a dialogue with Ireland expressing concerns that major sections of the Digital Safety Commissioner Bill 2017 may be incompatible with standards of international human rights law pertaining to the right to freedom of expression. (see (OL IRL 1/2018, available at <https://spcommreports.ohchr.org/TmSearch/Results>)

Other institutional issues related to checks and balances - Ireland

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

Ireland will go through the SCA re-accreditation in June 2021, available at: <https://nhri.ohchr.org/EN/AboutUs/GANHRIAccreditation/Pages/2020-Sessions.aspx>

Accessibility and judicial review of administrative decisions

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

3000 character(s) maximum

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

3000 character(s) maximum

The enabling framework for civil society

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

3000 character(s) maximum

In 2020 UN Special Procedures mandate holders initiated a dialogue through written communication (AL IRL 2/2020) to Ireland, about information received concerning Section 22 of the Electoral Act 1997 as amended in 2001, which in practice restricts civil society organizations' effective exercise of the right to freedom of association that includes the right to seek, secure and use financial resources, including from international sources, available at: <https://spcommreports.ohchr.org/TmSearch/Results>

Initiatives to foster a rule of law culture

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

3000 character(s) maximum

Other – please specify

3000 character(s) maximum

Justice System - Germany

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)

In its 2019 concluding observations, the UN Committee against Torture noted with concern that in practice, detained persons do not always enjoy all the fundamental legal safeguards from the outset of their detention, including the receipt of information on their rights in writing, in a language that they understand. The Committee recommended Germany to ensure that detainees enjoy the benefits of all fundamental safeguards in practice from the outset of their deprivation of liberty, in accordance with international standards, including, in particular, the right to receive legal assistance at any time and without delay; and the right to be informed of the reasons for their detention and the nature of the charges against them in a language that they understand. (See CAT/C/DEU/CO/6, para 11, 12).

In its 2018 concluding observations, the UN Committee on Economic, Social and Cultural Rights expressed concern over the practical obstacles impeding access to justice in the State party by non-nationals whose rights have allegedly been violated by German companies abroad, despite the fact that German law provides for their access to justice and to legal aid. The Committee recommended Germany to take measures, including the provision of enhanced legal assistance for victims and the introduction of collective redress mechanisms in civil proceedings, criminal liability of corporations and disclosure procedures, to guarantee that the victims of human rights abuses by companies domiciled in Germany or under the country's jurisdiction have access to effective remedies and compensation in Germany. (See E/C.12/DEU/CO/6, para 9, 10).

In February 2021, UN Human Rights experts called on 57 countries, including Germany, to repatriate women and children from camps in northeast Syrian camps. The experts expressed concern that people held in the camps were exposed to violence, exploitation, abuse and deprivation in conditions and treatment that may well amount to torture or other cruel, inhuman or degrading treatment or punishment under international law, with no effective remedy at their disposal. The experts recalled the urgent need for justice, truth and reparation for all of the victims of the very serious violations of human rights and humanitarian law that have occurred in the region. In that context, the continued detention, on unclear grounds, of women and children in the camps was a matter of grave concern and undermines the progression of accountability, truth and justice. (See at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26730>)

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

In its 2019 concluding observations, the UN Committee against Torture noted with concern the lack of detail provided by Germany on cases in which the Convention has been invoked and directly applied before the domestic courts. It recommended that Germany disseminate the Convention to all public authorities, including the judiciary, thus facilitating invocation and direct application of the Convention before domestic courts, both at the federal and Länder levels. (See CAT/C/DEU/CO/6, para 57, 58).

At its 2018 Universal Period Review, Germany accepted several recommendations relating to training of justice professionals, including to systemize human rights education and training for professionals, including judiciary, to provide specialized training to prosecutors and judges and key actors in the criminal justice system about hate crimes and racist offences, and to implement comprehensive training and awareness-raising on the elimination of racial discrimination for police, judicial and administrative authorities. (See A/HRC/39/9 and A/HRC/39/9/Add.1, recommendations 155.124, 155.125 and 155.96).

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

International Judicial Cooperation – In its 2019 concluding observations the UN Committee Against Torture expressed serious concern about the fact that Germany was refusing to extradite persons suspected of crimes of torture in Chile, but was also reluctant to investigate these allegations and prosecute those responsible, on the grounds that those crimes were barred by the statute of limitations provided for in criminal law. The Committee was concerned that this situation would give rise to impunity and recommended that Germany either extradite alleged perpetrators of torture and ill-treatment to a State with jurisdiction over the offence or to an international criminal tribunal, according to its international obligations, or prosecute them, in compliance with the provisions of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (See CAT/C/DEU/CO/6, para 19, 20)

Universal Jurisdiction under International Law - On 24 February 2021, the higher regional court of Koblenz, Germany sentenced a former member of President al-Assad's security services, Mr. Eyad al-Gharibto for aiding and abetting crime against humanity in the form of torture and deprivation of liberty in Syria. The Office of the UN High Commissioner for Human Rights commended the ruling as a major step forward considering that with no international process under way, fair national courts can and should fill accountability gap for such crimes, wherever committed.

Solitary confinement - In its 2019 concluding observations, the UN Committee against Torture expressed

serious concern that in many Länder, solitary confinement may be imposed as a disciplinary measure for up to four weeks for adult prisoners, and two weeks for juveniles and young adults. The Committee recommended Germany to ensure that solitary confinement remains a measure of last resort, imposed for as short a time as possible and under strict supervision and judicial review with clear and specific criteria for its use. It further recommended Germany to abolish solitary confinement of juveniles and young adults and bring its legislation and practice into line with international standards. (See CAT/C/DEU/CO/6, para. 32, 33).

Counter-terrorism and national security - In its 2019 concluding observations, the UN Committee against Torture expressed serious concern over Germany's increasing reliance on "pre-emptive justice". It recommended Germany to monitor and detain individuals suspected of terrorism only on the basis of a prior, individualized risk assessment, and that the detention of individuals suspected of terrorism be in accordance with the requirements of the Council of Europe's Convention for the Protection of Human Rights and Fundamental Freedoms and the UN Nelson Mandela Rules. It reminded that individuals suspected of terrorism should have adequate access to legal representations and effective complaint mechanisms. (See CAT/C/DEU/CO/6, para. 41, 42, 43, 44, 45, 46, 47).

Anti-Corruption Framework - Germany

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 - Germany

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 - Germany

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

In its 2019 concluding observations, the UN Committee against Torture welcomed the establishment of the German Institute for Human Rights as Germany's national human rights institution in accordance with the Paris Principles. However, the Committee regretted that the Institute is not designated to monitor Germany's compliance with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

The Committee also welcomed the establishment of ombudspersons in several Länder to facilitate the independent and impartial investigation of allegations of criminal conduct by police officers, but remained concerned about the lack of such mechanisms in other Länder and at the federal level. It encouraged Germany to establish, at the federal and Länder levels, independent bodies to investigate all complaints of police misconduct and ensure that such complaints are promptly and thoroughly investigated. (See CAT/C/DEU/CO/6, para 17, 18, 37, 39). At its 2018 Universal Periodic Review, Germany supported a recommendation to create an independent mechanism to investigate torture and abuse by the police and to ensure independent, impartial and effective investigations and prosecutions in cases of alleged police violence (See A/HRC/39/9/Add.1, 155.122, 155.126).

While welcoming the decision of the Ministers of Justice of the Länder to increase the funds for the National Agency for the Prevention of Torture, the Committee further recommended that Germany provide the said Agency with sufficient human, financial, technical and logistical resources, to enable it to carry out its functions effectively and independently, in accordance with the Optional Protocol to the Convention and guidelines of the UN Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The Committee also recommended that the Agency be given greater authority in the way it carries out its mandate in both public and privately-run institutions. (See CAT/C/DEU/CO/6, para 13-18).

Accessibility and judicial review of administrative decisions

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

3000 character(s) maximum

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

3000 character(s) maximum

The enabling framework for civil society

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

3000 character(s) maximum

In her February 2021 global update to the Human Rights Council, the UN High Commissioner for Human Rights expressed concern about measures restricting the work of organizations that protect migrants' rights and deliver life-saving assistance. She noted that criminal or administrative proceedings had been initiated in Germany against humanitarian actors involved in search and rescue in the Mediterranean. (See www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26806&LangID=E).

Initiatives to foster a rule of law culture

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

3000 character(s) maximum

Other – please specify

3000 character(s) maximum

Justice System - Latvia

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

In its 2020 concluding observations, the UN Committee on the Elimination of Discrimination against Women expressed concern that women who are victims of multiple or intersecting forms of discrimination are unable to gain access to justice owing to multiple barriers and a lack of awareness of the legal remedies and compensation mechanisms available to them. The Committee recommended that Latvia continue its efforts to ensure effective access to justice, full inclusion and accessibility for disadvantaged or marginalized women and repeal the legal provisions concerning substituted decision-making, in order to restore the full legal capacity of all women through a supported decision-making regime and ensure the provision of judicial, procedural and age-appropriate accommodations (CEDAW/C/LVA/CO/4-7, para 13, 14).

In its 2019 concluding observations, the UN Committee against Torture expressed concern that the quality of legal aid does not always effectively guarantee the right to defence, and that indigent and vulnerable persons often do not have access to State-ensured legal aid. It was further concerned about the continued shortage of lawyers providing State-ensured legal aid, about the quality of the aid provided, and that their remuneration continued to be inadequate. While recognizing the introduction of restraining measures against perpetrators of domestic violence, the Committee was also concerned about the difficulties that victims have in filing complaints and accessing the authorities for protection and separation measures, including the single toll-free helpline for victims of crime operated by the Legal Aid Administration, and accessing medical and legal services, including counselling. It recommended that Latvia ensure that all victims of gender-based violence, including domestic violence, have access to medical and legal services, including counselling, redress and rehabilitation; and to monitor the effectiveness of complaints mechanisms, including the toll-free helpline, operated by the Legal Aid Administration (CAT/C/LVA/CO/6, Para 10, 11, 26, 27).

In its 2018 concluding observations, the UN Committee on the Elimination of Racial Discrimination noted the low numbers of complaints and cases of legal action for racial discrimination may reveal a lack of suitable legislation, poor awareness of the legal remedies available, a lack of will on the part of the authorities to prosecute the perpetrators of such acts, a lack of trust in the criminal justice system or a fear of reprisals against victims. The Committee recommended to take measures to ensure access to justice for all victims, and that cases of racial discrimination be registered and investigated, and perpetrators prosecuted and convicted. The Committee was further concerned at the reported impediments in access to justice faced by ethnic minorities in Latvia (CERD/C/LVA/CO/6-12, para 13, 18).

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

In its 2020 concluding observations, the UN Committee on the Elimination of Discrimination against Women noted with concern a lack of involvement on the part of civil society, in particular women's rights organizations, in systematic awareness-raising and training for judges, prosecutors, police officers and other law enforcement officials and lawyers, as well as public institutions, on the implementation of the Convention. The Committee recommended to strengthen capacity-building programmes for judges, prosecutors, police officers, other law enforcement officials, lawyers and public institutions, and ensure the involvement of civil society, in particular women's rights organizations, in the design and provision of such training (CEDAW/C/LVA/CO/4-7, para 9, 10).

In its 2019 concluding observations, the UN Committee against Torture recommended that Latvia provide mandatory training for prosecutors, judges, police and other law enforcement officials and social and medical workers, on how to identify and effectively protect victims of gender-based violence and domestic violence. The Committee also recommended providing specialized statutory training on trafficking in human beings to public officials, such as law enforcement officers and other first respondents, on identifying victims and on investigating, prosecuting and sanctioning perpetrators (CAT/C/LVA/CO/6, para 27, 29).

In its 2018 concluding observations, the UN Committee on the Elimination of Racial Discrimination recommended Latvia to develop training programmes on proper methods for identifying, registering, investigating and prosecuting racist incidents, hate crimes and cases of hate speech (CERD/C/LVA/CO/6-12, para 15).

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

In its 2019 concluding observations, the UN Committee against Torture expressed concern that Latvia remained a country of origin of victims of trafficking, for sexual and labour exploitation. It recommended Latvia to promptly, effectively and impartially investigate the crime of trafficking in persons and related practices; prosecute and punish perpetrators in accordance with the gravity of the crime; and compile statistical data, disaggregated by gender, age and ethnicity of the victims and their relationship to the perpetrator, on domestic, sexual and other forms of violence against women, including marital rape, and on the number of complaints, investigations, prosecutions and convictions of perpetrators and sentences handed down (CAT/C/LVA/CO/6, para 28, 29).

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

Treatment of persons in social care and psychiatric institutions – In its 2019 concluding observations, the UN Committee against Torture noted the absence of legal safeguards concerning involuntary hospitalization, involuntary medical treatment and the application of restraints to persons with intellectual or psychosocial disabilities in psychiatric institutions; and stated that psychiatric hospitals continue to fail to request the informed consent of patients regarding both their hospitalization and their intended treatment. The Committee recommended Latvia to ensure the right of the patient or his or her legal representative to be heard in person by the judge ordering the hospitalization, and that the court always seeks the opinion of a psychiatrist who is not attached to the psychiatric institution admitting the patient and on the basis of objective medical criteria stipulated in law (CAT/C/LVA/CO/6, para 22, 23).

Pretrial detention, including in short-term detention facilities - In its 2019 concluding observations, the UN Committee against Torture while noting the amendments to the Law on the Procedures for Holding Apprehended Persons, which provide that arrested persons may be held in short-term detention facilities for a maximum of seven days, the Committee was concerned that the Law does not specify the maximum duration for holding detainees and sentenced persons in short-term detention facilities; that detained and convicted persons may be held together, including during transport; and that persons remanded in custody have been held in police detention facilities for well beyond the statutory limit, and from two weeks to more than a month for the purposes of procedural actions in facilities designed for shorter stays. It is further concerned that, if necessary and upon request from the courts, the prosecutor's office or police, administratively detained and arrested persons, as well as persons placed in detention and convicted persons, may be returned to a police detention centre for the purposes of investigative work and procedural actions before being placed in a remand prison or prison, meaning that they may be returned to small police stations that are not suitable for this purpose. The Committee was also concerned that pretrial detention can last for up to 20 days, that this period has not been changed for persons detained for more serious crimes, and that the duration of deprivation of liberty in short-term detention facilities may also depend on the workload of the relevant court and the backlog of cases (CAT/C/LVA/CO/6, para 12).

Anti-Corruption Framework - Latvia

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 - Latvia

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 - Latvia

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

In its 2020 concluding observations, the UN Committee on the Elimination of Discrimination against Women expressed concern about the underfunding of the Office of the Ombudsperson and the fact that it lacks a specific mandate to promote and protect women's rights and gender equality. It recommended that Latvia increase the human, technical and financial resources of the Office of the Ombudsperson so as to enable it to effectively carry out its mandate (CEDAW/C/LVA/CO/4-7, para 17, 18).

Similar concerns had been raised by the UN Committee on the Elimination of Racial Discrimination in 2018, which further recommended that the Office increase its work on prohibiting racial discrimination, assist victims of violations under the Convention with access to justice and provide information, including data on the complaints of discrimination it examines and their outcomes (CERD/C/LVA/CO/6-12, para 9).

In 2019, the UN Committee against Torture had also expressed concern that the Office of the Ombudsperson lacked the financial resources required to fully and effectively discharge its mandate, especially if it was to carry out the additional mandate of a national preventive mechanism. The Committee was concerned that the staff of the Office received lower remuneration than officials in other institutions, and that financial resources had not been made available to render the building in which the Office is located accessible to persons with disabilities. In addition to addressing those concerns, the Committee also recommended Latvia to ensure that effective, independent and accessible complaints mechanisms are available to all persons deprived of their liberty and that they are not subjected to reprisals as a result their complaints, including the complaints submitted to the Office of the Ombudsperson (CAT/C/LVA/CO/6, para 20, 21).

Accessibility and judicial review of administrative decisions

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

3000 character(s) maximum

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

3000 character(s) maximum

The enabling framework for civil society

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

3000 character(s) maximum

Initiatives to foster a rule of law culture

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

3000 character(s) maximum

Other – please specify

3000 character(s) maximum

Justice System - Lithuania

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

In its 2018 concluding observations, the UN Human Rights Committee expressed concern about the legal framework providing for involuntary hospitalization and treatment of persons with psychosocial or intellectual disabilities, including without a court order. It was also concerned at provisions that allow for non-consensual surgical operations of persons with disabilities who have been deprived of their legal capacity, and at the lack of legal remedies to challenge such decisions. The Committee was concerned that the draft new Mental Health Act may not provide sufficient legal and procedural safeguards. While noting the proposed legislative amendments regarding limitation of the legal capacity of persons with disabilities, the Committee remained concerned that individuals declared legally incapacitated can challenge this decision only once per year and it was not clear how these amendments will ensure free and effective legal representation of persons deprived of legal capacity (CCPR/C/LTU/CO/4, para 13).

The UN Human Rights Committee further expressed concern at the increasing length of pretrial detention and recommended that Lithuania ensure that persons deprived of liberty are provided in practice with all fundamental legal guarantees, including the right of detained persons to be informed of and understand their rights, the right to have access to a lawyer and to adequate time and facilities for the preparation of their defence, and the right to notify a relative or person of their choice, from the very outset of deprivation of liberty (CCPR/C/LTU/CO/4 para 21 and 22).

In its 2019 concluding observations, the UN Committee on the Elimination of Discrimination against Women welcomed the 2019 legal aid reform providing for primary legal assistance (except in court proceedings) for all persons in vulnerable situations, including women, and secondary legal assistance in court proceedings to all victims, inter alia, of gender-based violence, including sexual and domestic violence, and hate crimes, irrespective of their financial status. However, the Committee noted that, in 2018, the Office of the Equal Opportunities Ombudsperson did not receive any complaints from women or girls with disabilities and that there was a low number of complaints of discrimination on the basis of sex or gender overall, due in part to the absence of regional and local branches of the Office. In the light of its general recommendation No. 33 (2015) on women's access to justice, the Committee recommended Lithuania to ensure full access to justice for disadvantaged or marginalized groups; raise awareness among women of the remedies available to them to claim violations of their rights under the Convention; and expand the scope of the Office of the Equal Opportunities Ombudsperson so as to facilitate access to justice for all women at the regional and local levels (CEDAW/C/LTU/CO/6, para 12 and 13).

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

In its 2019 concluding observations, the UN Committee on the Elimination of Racial Discrimination noted with concern that, while efforts to train law enforcement and judicial officers have been made in the past few years, the number of professionals trained remained low (CERD/C/LTU/CO/9-10, para 14).

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

Victims protection and court data – In its 2019 concluding observations, the UN Committee on the Elimination of Discrimination against Women welcomed efforts by Lithuania to combat trafficking in persons, in particular women and girls. However, it was concerned about the insufficient protection of victims of trafficking, including women, during the investigation and trial stage, and the lack of comprehensive information and comprehensible data on the number of investigations, prosecutions and convictions of perpetrators of trafficking and the sentences imposed on them. The Committee also regretted the lack of information as to whether women who are exploited in prostitution are recognized as victims and whether their identity is protected, including when they are called as witnesses in criminal proceedings (CEDAW/C/LTU/CO/6, para 24,26).

In its 2019 concluding observations, the UN Committee on the Elimination of Racial Discrimination was concerned about the low level of reporting of hate speech and hate crimes in Lithuania and about the fact

that these crimes are not always registered and investigated as such. The Committee was also concerned about the lack of available data on pretrial investigations for hate speech and incitement to hatred involving politicians or the media, including on the Internet, and recalling its general recommendation No. 35, it recommended that Lithuania collect such statistics. The Committee was further concerned that the data on cases relating to discrimination, hate speech and hate crimes, particularly cases relating to several articles of the Criminal Code, were not disaggregated by prohibited grounds. (CERD/C/LTU/CO/9-10, para 13, 14).

Reparations for victims – In its 2019 concluding observations, the Committee on the Elimination of Racial Discrimination expressed concern that the current law on compensation for victims of violent crimes does not include the crimes defined in articles 169, 170 and 171 of the Criminal Code, hence excluding the victims of racially motivated crimes from reparation under the Fund for Victims of Crime. Noting that Lithuania was in the process of amending its legislation relating to the compensation of victims of violent crimes to bring it in line with European Union requirements, the Committee recommended that Lithuania include compensation to victims of discrimination and incitement to hatred in accordance with articles 169, 170 and 171 of the Criminal Code and the draft amendment to the Law on the Compensation of Victims of Violent Crimes (CERD/C/LTU/CO/9-10, para 15 and 16).

Anti-Corruption Framework - Lithuania

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 - Lithuania

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

The UN Human Rights Committee in its 2018 concluding observation remained concerned that certain legal instruments, such as the Law on the Protection of Minors against the Detrimental Effect of Public Information, may be applied, including by the Office of the Inspector of Journalist Ethics, to restrict media and other content in a manner that unduly restricts freedom of expression regarding lesbian, gay, bisexual, transgender and intersex issues and contributes to discrimination (CCPR/C/LTU/CO/4, para 9).

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 - Lithuania

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

In its 2019 concluding observations, the UN Committee on the Elimination of Racial Discrimination noted that, in 2017, the Seimas Ombudsmen's Office acquired new areas of competence by virtue of the amended Law on the Seimas Ombudsmen, and the mandate of the Office of the Equal Opportunities Ombudsperson was extended to include prevention and educational activities. However, the Committee is concerned about the limited resources allocated to these two institutions, which may hinder their capacity to adequately perform their mandate and additional competences in an independent manner. (CERD/C/LTU/CO/9-10, para 7).

In its 2019 concluding observations, the UN Committee on the Elimination of Discrimination against Women expressed concern about the limited mandate of the A-Status accredited Seimas Ombudsman institution and its underfunding. It recommended that Lithuania extend the mandate of the Seimas Ombudsman to receive and make authoritative findings and recommendations on complaints brought by women, including in the private sphere, and increase its human, technical and financial resources so as to enable it to effectively carry out its mandate to promote and protect women's rights. (CEDAW/C/LTU/CO/6, para 16 and 17). See also the response to question: Accessibility of courts.

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

In its 2018 concluding observations, the UN Human Rights Committee expressed concern about allegations of denial of entry into the territory and failure to receive and register asylum applications of persons seeking international protection at the border and in reception and detention facilities. It was concerned at reports of detention of asylum seekers at the border for up to 28 days in unsuitable conditions without judicial remedies to challenge their detention. The Committee recommended that Lithuania ensure that migrants have access to a lawyer and legal aid where the interests of justice so require and are provided with information on their rights, including at the border; and also ensure against unlawful or arbitrary detention of asylum seekers at the border, including by clarifying in the Aliens Law that the holding of asylum seekers at the border, including in the transit zones, constitutes detention with accompanying procedural and judicial guarantees (CCPR/C/LTU/CO/4, para 19 and 20).

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

3000 character(s) maximum

In its 2018 concluding observations, the UN Human Rights Committee expressed concern that Lithuania did not fully and comprehensively investigate the complicity of the State party and State officials in human rights violations in counter-terrorism operations, including secret detention. While welcoming Lithuania's statement that once the judgment by the European Court of Human Rights in *Abu Zubaydah v. Lithuania* is final it will be executed, the Committee was concerned at reports that public servants in Lithuania had denied the binding nature of that judgment. It further recommended Lithuania to take the appropriate measures to investigate its complicity and that of State officials in human rights violations in counter-terrorism operations, and ensure that perpetrators are prosecuted and, if convicted, punished with appropriate sanctions and that victims have access to effective remedies (CCPR/C/LTU/CO/4, para 23 and 24).

The enabling framework for civil society

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

3000 character(s) maximum

In its 2018 concluding observations, the UN Human Rights Committee expressed concern at initiatives that would restrict and inhibit freedom of expression, including that of individuals addressing the complicity of Lithuanians in Nazi crimes against Jews and others. In particular, it was concerned at reports that the names of associations, news agencies, journalists, human rights defenders and other individuals are published in the annual Assessment of Threats to National Security by the State Security Department, and at the absence of any information regarding the criteria and procedures for such publication or its justification. It was also concerned at reports of proposed amendments to the Law on Consumer Protection which would ban the sale of material that "distorts historical facts" about the nation. The Committee recommended that Lithuania should cease publicly referring to individuals and entities that exercise their freedom of expression as "national security threats". It should ensure that all of its initiatives, legislative or otherwise, guarantee that authors, journalists, human rights defenders and other individuals and associations are able to freely exercise their right to freedom of expression, in accordance with article 19 of the Covenant and the Committee's general comment No. 34 (CCPR/C/LTU/CO/4, para 27 and 28).

In its 2019 concluding observations, the UN Committee on the Elimination of Racial Discrimination recommended that Lithuania continue consulting and increasing its dialogue with civil society organizations working in the area of human rights protection, in particular those working to combat racial discrimination, in connection with the preparation of and follow-up to UN reviews (CERD/C/LTU/CO/9-10, para 31).

Initiatives to foster a rule of law culture

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

3000 character(s) maximum

Other – please specify

3000 character(s) maximum

Justice System - Italy

Independence

Appointment and selection of judges, prosecutors and court presidents

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

3000 character(s) maximum

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

3000 character(s) maximum

Promotion of judges and prosecutors

3000 character(s) maximum

Allocation of cases in courts

3000 character(s) maximum

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

3000 character(s) maximum

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

3000 character(s) maximum

Remuneration/bonuses for judges and prosecutors

3000 character(s) maximum

Independence/autonomy of the prosecution service

3000 character(s) maximum

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

3000 character(s) maximum

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

3000 character(s) maximum

In 2019, several UN Special Procedures mandate-holders, including the Special Rapporteur on the independence of judges and lawyers, entered in dialogue with Italy about reported personal attacks by the then-Minister of the Interior against the judge who released the captain of the humanitarian rescue vessel Sea-Watch 3. The mandate-holders expressed concerns that this would constitute a serious breach of respect for the principle of judicial independence, with effects that could go beyond the particular case at stake. It could deter other judges from adjudicating on similar matters impartially, on the basis of facts and in accordance with the law, and might have the effect of undermining the outcome of criminal proceedings in politically-sensitive cases that may be brought before judicial authorities in the future (AL ITA 6/2019, available at <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=24702>, see also at www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=24833&LangID=Ein)

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

In its 2019 report on the mission of a team to Italy, OHCHR noted that access to lawyers was sometimes impeded and that lawyers faced obstacles in their efforts to provide legal assistance to migrants; that access to interpreters was not always available, which impeded reporting of racist hate crimes. Victims also informed that team about challenges in accessing justice as police had sometimes refused to record and investigate their complaints of racist hate crimes, unless they were of very grave nature (available at www.ohchr.org/Documents/Countries/IT/ItalyMissionReport.pdf, para 48, 82).

In the 2019 report on her mission to Italy, the UN Special Rapporteur on contemporary forms of slavery noted that migrant workers are exposed to severe forms of blackmail, based on corruption and on a parallel, criminal system that systematically exploits the vulnerability of migrants and their inability to seek justice by filing complaints against the perpetrators. She noted multiple barriers to the effective investigation and prosecution of slavery in the agrifood sector, such as impediments to gaining access to victims in the field and to their testimonies, in particular among irregular migrant workers; she further noted prosecuting the caporali alone was not enough if structural gaps were not adequately addressed. She recommended that the Government: (a) create stronger incentives for reporting labour exploitation by ensuring that victims are not

prosecuted and that they receive adequate protection, assistance and a residence permit for social protection, regardless of their cooperation with the investigating authorities; (b) ensure the effectiveness of complaint mechanisms and access to them, by providing information in languages accessible to migrants and legal assistance to facilitate access to justice and remedies for human rights violations; and (c) prosecute perpetrators involved in the criminal infiltration of supply chains (A/HRC/42/44/Add.1, para 61, 100, 114).

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

In its 2019 concluding observations, the UN Committee on the Rights of the Child urged Italy to provide regular substantive training for judges, lawyers, prosecutors, the police and other relevant professional groups on standardized, gender- and child-sensitive procedures for dealing with victims and on how gender stereotyping by the judiciary negatively affects law enforcement (CRC/C/ITA/CO/5-6, para 22).

In its 2019 report on the mission of a team to Italy, OHCHR noted that with respect to lesbian, gay, bisexual, transgender and intersex (LGBTI) migrants, lawyers reported a lack of specialized training for those conducting asylum interviews, resulting sometimes in inappropriate questioning (available at www.ohchr.org/Documents/Countries/IT/ItalyMissionReport.pdf , para 79).

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

In a decision released in January 2021, the UN Human Rights Committee found that Italy had failed to show that it had met its duty to conduct a prompt investigation into allegations relating to the violation of the right to life of more than 200 migrants who were on board a vessel that sank in the Mediterranean Sea in 2013, and had thus violated its obligations the International Covenant on Civil and Political Rights (CCPR/C/130/DR/3042/2017, available at https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR/C/10/DR/3042/2017&Lang=en; see also at www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=26691&LangID=E).

Other - please specify

3000 character(s) maximum

Definition of victim of enforced disappearance - In its concluding observations in 2019, the UN Committee on Enforced Disappearances recommended that Italy review its domestic legislation to effectively incorporate the full scope of the definition of victims and to ensure the implementation of the right to receive reparation and the right to know the truth, in line with article 24 of the Convention on Enforced Disappearances (CED/C/ITA/CO/1, para 33).

Duty to investigate and search for missing persons - In its concluding observations in 2019, the UN Committee on Enforced Disappearances recommended that Italy take the measures necessary to prevent the disappearance of migrants, in particular children, and to find the whereabouts of those already missing. It further recommended that Italy take the legislative and administrative measures necessary to establish investigation practices in domestic law, in accordance with articles 10, 11 and 12 of the Convention (CED/C/ITA/CO/1, para 22).

Gender-based violence - In its 2019 concluding observations, the UN Committee on the Rights of the Child urged Italy to ensure that allegations of crimes relating to gender-based violence, including the trafficking of foreign children, in particular girls, are independently and thoroughly investigated and that perpetrators are brought to justice (CRC/C/ITA/CO/5-6, para 22).

Accountability of law enforcement officers - In its 2019 report on the mission of a team to Italy, OHCHR noted that law enforcement officers do not wear visible identification badges or warrant numbers, which makes it difficult for individuals to effectively report misconduct and file complaints, as they are unable to identify the officer(s) involved (available at www.ohchr.org/Documents/Countries/IT/ItalyMissionReport.pdf, para 47).

Child sexual abuse and exploitation - In its 2019 concluding observations, the UN Committee on the Rights of the Child expressed concern about the numerous cases of children who had been sexually abused by religious personnel of the Catholic church and the low number of investigations and criminal prosecutions. It recommended that Italy establish an independent and impartial commission of inquiry to examine all cases of sexual abuse of children by religious personnel of the Catholic church; and ensure the transparent and effective investigation of all cases of sexual abuse allegedly committed by religious personnel of the Catholic

church, the criminal prosecution of alleged perpetrators, the adequate criminal punishment of those found guilty and the compensation and rehabilitation of child victims, including those who have become adults (CRC/C/ITA/CO/5-6, para 21).

Anti-Corruption Framework - Italy

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

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

3000 character(s) maximum

In its 2019 concluding observations, the UN Committee on the Rights of the Child recommended that Italy strengthen institutional capacities to effectively detect, investigate and prosecute corruption, and ensure, including through the eradication of corruption in public procurement processes and the overpricing of contracts for the provision of public goods and services, that funds allocated to all programmes supporting the realization of children's rights at the national, regional and local levels are fully and efficiently spent (CRC /C/ITA/CO/5-6, para 8(g)).

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

In the 2019 report on her mission to Italy, the UN Special Rapporteur on contemporary forms of slavery noted that migrant workers are exposed to severe forms of blackmail, based on corruption. She recommended that the country ensure that labour inspections are free from corruption and guarantee the safety and security of inspectors and of workers. She further recommended that the Government more effectively address corruption in the administration at various levels to avoid fraudulent practices and ineffective labour inspections (A/HRC/42/44/Add. 1, para 61, 111, 115).

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

In its 2019 concluding observations, the UN Committee on Enforced Disappearances recommended that Italy guarantee that law enforcement or security officials who are suspected of having committed the offence of enforced disappearance are suspended and do not take part in the related investigations (CED/C/ITA/CO /1, para 21).

Other – please specify

3000 character(s) maximum

Media Pluralism - Italy

Media authorities and bodies

(Cf. Article 30 of Directive 2018/1808)

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

3000 character(s) maximum

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

3000 character(s) maximum

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

3000 character(s) maximum

Transparency of media ownership and government interference

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

3000 character(s) maximum

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

3000 character(s) maximum

Framework for journalists' protection

Rules and practices guaranteeing journalist's independence and safety

3000 character(s) maximum

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

3000 character(s) maximum

Access to information and public documents

3000 character(s) maximum

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

3000 character(s) maximum

Other - please specify

3000 character(s) maximum

Freedom and safety of journalists - In a 2018 communication, several UN Special Procedures mandate-holders noted information received that journalists had reported increasing difficulties accessing immigration centres and interviewing public officials about migration, that authorities had engaged in practices aimed at discouraging the investigative work of journalists, and that the writer Mr. Roberto Saviano had received verbal threats from the Minister of the Interior about the possible loss of his police protection after he voiced criticism of the Government's anti-immigration policy. The mandate-holders expressed concern at reports alleging multiple attacks, including judicial proceedings and defamation campaigns, implemented by the authorities against migrant rights defenders, including journalists. They also expressed concern that these measures allegedly intended to circumscribe the activities and dissuade civil society, journalists and individual human rights defenders from carrying out their legitimate and necessary activities to provide humanitarian aid to migrants. (ITA 2/2018, available at <https://spcommreports.ohchr.org/TmSearch/Results>).

Other institutional issues related to checks and balances - Italy

The process for preparing and enacting laws

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

3000 character(s) maximum

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

In 2020, several UN Special Procedures mandate-holders initiated a dialogue with Italy through written communication expressing concern about information received concerning the decision reportedly adopted by the Government to close the country's ports as a measure to fight against the spread of COVID-19 insofar as such a decision may result in preventing people from seeking safety and asylum (AL IT 3/2020 available at <https://spcommreports.ohchr.org/TmSearch/Results>).

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

In its 2019 concluding observations, the UN Committee on Enforced Disappearances recommended that Italy expedite the adoption of the law establishing a national human rights institution in full compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) (CED/C/ITA/CO/1, para 11).

Italy supported the 2019 UPR recommendations on this issue (A/HRC/43/4/Add.1, para 4).

In its 2019 report on the mission of a team to Italy, OHCHR noted that many stakeholders highlighted that the absence of an NHRI is a serious challenge to independent monitoring and civil society engagement. OHCHR also noted that the lack of independence of Italy's National Office Against Racial Discrimination (UNAR) impedes its functioning, and may contribute to underreporting of human rights violations, discourage engagement with victims and civil society, and endanger trust and cooperation available at: www.ohchr.org/Documents/Countries/IT/ItalyMissionReport.pdf, para 22-23)

Accessibility and judicial review of administrative decisions

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

3000 character(s) maximum

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

3000 character(s) maximum

The enabling framework for civil society

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

3000 character(s) maximum

In 2019-2020 several UN Special Procedures mandate-holders initiated a dialogue in their communications with Italy concerning the criminalisation of human rights defenders carrying out search and rescue operations and incidents of obstruction of search and rescue capacity by the Italian authorities (ITA 4/2019; ITA 6/2019; ITA 5/2020; and ITA 7/2020, all available at <https://spcommreports.ohchr.org/TmSearch/Results>

Italy supported UPR recommendations in 2019 on the issue of de-criminalisation of migrants' rights defenders (A/HRC/43/4/Add.1, para 4).

In her February 2021 global update to the Human Rights Council, the UN High Commissioner for Human Rights expressed concern about measures restricting the work of organizations that protect migrants' rights and deliver life-saving assistance. She noted that criminal or administrative proceedings had been initiated in Italy against humanitarian actors involved in search and rescue in the Mediterranean (www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26806&LangID=E).

Initiatives to foster a rule of law culture

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

3000 character(s) maximum

Other – please specify

3000 character(s) maximum

Justice System - Luxembourg

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

In its 2018 concluding observations, the UN Committee on the Elimination of Discrimination against Women expressed concern about the limited funding provided to legal aid services and the resulting reluctance of lawyers to represent victims of violence and discrimination against women, thereby restricting their capacity to claim their rights, as well as the low level of awareness among women and girls of their rights, as well as of available remedies and services. The Committee recommended that Luxembourg allocate sufficient resources to ensure that women who are victims of discrimination and gender-based violence but are without sufficient means have access to free legal aid. (CEDAW/C/LUX/CO/6-7, para 17, 18)

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

The UN Committee on the Elimination of Discrimination against Women, in its 2018 concluding observations, noted with concern that the Convention the Elimination of All Forms of Discrimination against Women had been invoked in court only once and that it may indicate insufficient knowledge within, among others, the judiciary about the Convention, the Committee's jurisprudence under the Optional Protocol to the Convention and its general recommendations. The Committee recommended that Luxembourg disseminate those among the judiciary, law enforcement authorities, civil society and the general public. It reiterated its previous recommendation that Luxembourg integrate the Convention, the Optional Protocol thereto and the general recommendations of the Committee into the university curricula for legal and related studies and into capacity-building programmes for the judiciary and law enforcement officers. The Committee also noted with concern the lack of gender-sensitive capacity-building for the judiciary on the application of legislation on trafficking in persons (CEDAW/C/LUX/CO/6-7, para 8, 9, 31).

During Luxembourg's last Universal Periodic Review in 2018, it supported recommendation to introduce compulsory human rights training for civil servants and public employees, including judges, magistrates and lawyers. (A/HRC/38/11/Add.1, para 15).

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

Trafficking cases - In its 2018 concluding observations, the Committee on the Elimination of Discrimination against Women noted with concern the low prosecution and conviction rates in trafficking cases in the preceding year, partly due to delays in criminal proceedings, and the lack of victim and witness protection measures in place (CEDAW/C/LUX/CO/6-7, para 31).

Anti-Corruption Framework - Luxembourg

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

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

3000 character(s) maximum

Prevention

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

3000 character(s) maximum

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

3000 character(s) maximum

Rules on preventing conflict of interests in the public sector.

3000 character(s) maximum

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

3000 character(s) maximum

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

3000 character(s) maximum

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

3000 character(s) maximum

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

3000 character(s) maximum

Repressive measures

Criminalisation of corruption and related offences.

3000 character(s) maximum

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

3000 character(s) maximum

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

3000 character(s) maximum

Other – please specify

3000 character(s) maximum

Media Pluralism - Luxembourg

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 - Luxembourg

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 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

In its 2018 concluding observations, the UN Committee on the Elimination of Discrimination against Women noted with concern the restricted capacities of the Centre for Equal Treatment, which prevent it from filing complaints on behalf of women who are victims of discrimination or investigating cases of discrimination against women; it recommended to broaden the capacities of the Centre for Equal Treatment to allow it to file complaints on behalf of women who are victims of discrimination, investigate and issue binding decisions in cases of discrimination against women and ensure that women who are victims of intersecting forms of discrimination have access to effective remedies for claiming their rights (CEDAW/C/LUX/CO/6-7, para 17, 18).

In its 2018 concluding observations, the UN Committee on the Elimination of Discrimination against Women expressed concern that the Advisory Commission on Human Rights lacked the human, technical and financial resources necessary to effectively carry out its mandate. The Committee recommended that Luxembourg enhance resource allocation to the Advisory Commission on Human Rights and implement the recommendations issued in 2015 by the Global Alliance of National Human Rights Institutions (CEDAW/C/LUX/CO/6-7, para 21, 22).

Accessibility and judicial review of administrative decisions

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

3000 character(s) maximum

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

3000 character(s) maximum

The enabling framework for civil society

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

3000 character(s) maximum

Initiatives to foster a rule of law culture

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

3000 character(s) maximum

Other – please specify

3000 character(s) maximum

Justice System - Netherlands

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

In 2019, the UN High Commissioner for Human Rights welcomed a landmark decision by the Supreme Court of the Netherlands which requires to take more ambitious climate action in order to protect human rights from the adverse effects of climate change. She noted the Court's acceptance that human rights obligations are central to the response to the climate change, available at <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25450>.

In 2020, the UN Special Rapporteur on extreme poverty and human rights welcomed a landmark ruling by the District Court of the Hague in the Netherlands. The court ordered the immediate halt to a digital benefit fraud detection tool targeted at poor neighborhoods in the Netherlands because it violated human rights norms. The Special Rapporteur stated that this is a clear victory for all those who are justifiably concerned about the serious threats digital welfare systems pose for human rights. He noted that this decision sets a strong legal precedent for other courts to follow because for the first times a court anywhere has stopped the use of digital technologies and abundant digital information by welfare authorities on human rights grounds, available at <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25522>

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

In its 2018 concluding observations, the UN Committee against Torture took note of efforts made by the Netherlands to strengthen the right to legal counsel, including by adopting legislative measures to implement the European directive on the right of access to a lawyer (directive 2013/48/EU) and amending the Code of Criminal Procedure to provide legal aid to persons suspected of category C (minor) offences. In addition, while noting the procedural safeguards in domestic legislation, the Committee raised concern about the information that in practice, persons under police custody are often denied the right to notify a person of their own choosing about their detention. The Committee also regretted the reservation made by the Netherlands concerning article 40 of the Convention on the Rights of the Child, thereby allowing children to be interviewed or interrogated in the absence of a lawyer or their parents, in cases involving minor offences. Concerns were also expressed that unaccompanied children asylum seekers do not receive sufficient assistance, including legal aid, throughout the asylum procedure (CAT/C/NLD/CO/7, para 9, 18, 36).

In its 2019 concluding observations, the UN Human Rights Committee appreciated the continued efforts of the Netherlands to deal with asylum seekers, including a family reunification policy that allows family reunification for persons granted subsidiary protection and the provision of free legal aid to asylum seekers at all stages of the asylum procedure. However, the UN Committee was concerned about the limited access of victims of domestic violence to free legal aid. The Committee recommended that the Netherlands ensure that free legal aid is provided to all victims of domestic violence. The Committee was also concerned that the interests of the investigation provided for in section 62 (2) of the Dutch Criminal Procedure Code concerning the right of notification of custody is unduly vague and that the exceptions and safeguards are not clearly specified. The Committee was also concerned about reports that the right of notification of custody of persons deprived of liberty, who are not subject to the regime of section 62 (2), is not always respected in practice. The Committee remained concerned about allegations of the lack of a clear rule on the role of lawyers during questioning, which may unduly hinder their assistance to their clients. The Committee recommended to review the Dutch Criminal Procedure Code with a view to ensuring that provisions on the right of persons deprived of liberty of notification of custody are clearly defined in line with the Covenant on

Civil and Political Rights, and ensure that this right is respected in practice. It should also provide clear guidance on the role of lawyers during interrogation, in line with the Covenant (CCPR/C/NLD/CO/5, para 17, 32 c, 33a, 38, 39).

Resources of the judiciary (human/financial/material)

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

3000 character(s) maximum

In its 2019 concluding observations, the UN Human Rights Committee noted the efforts to reform the legal aid system, however the Committee was concerned at the decrease in funding allocated in the legal aid sector and about the measures that the State party is contemplating, including a competitive tendering system for subsidized legal aid and an advisory body that can decide which cases qualify for subsidized legal aid and legal aid packages (rechtshulp pakket), which may have significant adverse effects on persons in a vulnerable position who are in most need. The Committee recommended that the Netherlands review the ongoing reform measures in the legal aid system, with a view to ensuring that people, including the most vulnerable in all constituent countries, can benefit from the new system on an equal footing and to enhancing access to justice for all (CCPR/C/NLD/CO/5, para 46).

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

3000 character(s) maximum

In its 2019 concluding observations, the UN Human Rights Committee recommended to provide adequate training to law enforcement officials, judges and prosecutors on the promotion of racial, ethnic and religious diversity and to judges, prosecutors, law enforcement officials, immigration officers and staff working in all reception facilities, including on procedures for identifying victims of human trafficking (CCPR/C/NLD/CO/5, para 16d, 27d).

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

In its 2019 concluding observations, the UN Human Rights Committee was concerned by the substantial numbers of asylum cases and family reunification cases pending decisions and by long delay in judicial reviews of immigration detention decisions. The Committee recommended to intensify efforts to reduce the backlogs in the asylum application process and the family reunification process and to facilitate prompt judicial review of immigration detention decisions (CCPR/C/NLD/CO/5, para 17, 19e, 24, 25d).

Other - please specify

3000 character(s) maximum

Juvenile justice - In its 2018 Concluding Observations, the UN Committee against Torture raised concern that pursuant to the Adolescent Criminal Law and section 77 (b) of the Dutch Penal Code, minors aged 16 and 17 may be tried as adults under ordinary criminal law in cases of grave offences (for example homicide) and may be sent to serve their sentence in adult penitentiary institutions (CAT/C/NLD/CO/7, para 36).

Hate speech, pretrial detention - In its 2019 concluding observations, the UN Human Rights Committee regretted the lack of information on the prosecution of hate crimes in recent years. The Committee recommended to investigate hate crimes and cases of trafficking and labour exploitation thoroughly, prosecute suspected perpetrators where appropriate and, if they are convicted, punish them and provide victims with adequate remedies. The Committee was also concerned by the insufficient reasoning provided in judicial decisions ordering pretrial detention and recommended to strengthen the reasoning (CCPR/C/NLD/CO/5, para 15, 16c, 27b, 44, 45).

Discriminatory crimes - In the 2020 report of her visit to the Netherlands, the UN Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance noted that, although much work remained to be done to ensure accountability, the Government had commendably taken action to prosecute those responsible for discriminatory crimes and speech. The Special Rapporteur was encouraged to learn of prosecutions of high-ranking politicians. As noted by the European Commission against Racism and Intolerance, however, sanctions for those who were convicted of discrimination remained disproportionately low relative to their severity, undercutting the deterrent effect of the punishments. For example, the District Court of The Hague convicted a right-wing politician who had sung an anti-Moroccan chant during a political rally for inciting discrimination and insult. Because the defendant was a democratically elected member of parliament, the Court considered the case exceptional. The Court decided that it need not follow sentencing for other cases inciting discrimination and insult; in the Court's eyes, declaring a politician guilty without imposing a punishment was sufficient. The Special Rapporteur was concerned, moreover, that those prosecuted for racist violence and disorderly conduct for attacking people peacefully protesting against racism have received minimal sanctions. For example, those convicted of attacking peaceful anti Black Piet protesters in 2018 received fines and community service. According to the Special Rapporteur, such sentences did not send a message that was sufficiently strong to deter others from engaging in similarly offensive behaviour. She recommended that the Netherlands ensure that racial and ethnic minorities enjoy effective protection from and access to remedies for racial discrimination (A/HRC/44/57/Add.2, para 48, 49, 98b).

Anti-Corruption Framework - Netherlands

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 - Netherlands

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 - Netherlands

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

In its 2019 concluding observations, the UN Human Rights Committee recommended that the Netherlands review its counter-terrorism legislative measures, with a view to assessing their human rights impact and bringing those measures and judicial safeguards on their manner of application into line with international due process standards and the provisions of the Covenant on Civil and Political Rights and ensure meaningful participation of civil society in the process. In particular, it should revise the Dutch Nationality Act with a view to ensuring effective safeguards against arbitrary loss of nationality and discriminatory effects as well as the effective exercise of the right to appeal (CCPR/C/NLD/CO/5, para 51).

The UN Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance in her 2020 report of her visit to the Netherlands noted that racial and ethnic minority members serving on national and local legislative bodies have reported experiencing different treatment from their colleagues. These individuals face considerable opposition in pursuing reform to secure racial equality and non-discrimination. In addition, they have recounted enduring personal indignities as a result of the pervasive racist political discourse. Some have even reported threats and intimidation from the public, including death threats. The Special Rapporteur recommended that the Netherlands encourage open debate about the definition of Dutch values to ensure that these standards are reflective of Dutch society as a whole, and to prevent discriminatory perspectives from informing policies that are integral to fostering social cohesion. In addition, she recommended to adopt participative approaches to policymaking to ensure the participation of affected and vulnerable groups and adopt policymaking approaches that centre on the needs and voices of these groups. Moreover, the Government must consult vulnerable communities on the issues they confront. The Special Rapporteur recommended engaging with other communities facing threats, including Muslims and human rights defenders such as anti-Black Piet activists (A/HRC/44/57/Add.2, para 41, 75, 79e).

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

In its 2018 concluding observations, the UN Committee against Torture was concerned about consistent reports on the lack of both resources and independence of the national preventive mechanism. It was also concerned about information that the mechanism does not effectively monitor detention facilities leased to foreign countries and military detention facilities, including those managed overseas (CAT/C/NLD/CO/7, para 22, 24).

In December 2020, the Global Alliance for National Human Rights Institutions (GANHRI) Sub-Committee on Accreditation (SCA) recommended that the Netherlands Institute for Human Rights (NIHR) be re-accredited with A status. The SCA highlighted that NHRIs with A status should take reasonable steps to enhance their effectiveness and independence, in line with the Paris Principles and the recommendations made by the SCA during the review, available at <https://nhri.ohchr.org/EN/AboutUs/GANHRIAccreditation/Pages/SCA-Reports.aspx>

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

In its 2018 concluding observations, the UN Committee against Torture raised concern at information that the application of article 20 (a) of the regulation on classification, placement and transfer of detainees leads to an automatic placement of a person suspected or convicted of terrorism in high security units designated for terrorists, known as "TA", without any individual assessment and where detainees are routinely subjected to very restrictive regimes. It is further concerned at the reported lack of effective complaint mechanisms in the TA units and the absence of statistical data on the number of complaints filed by detainees in the TA units and the nature and outcome thereof (CAT/C/NLD/CO/7, p 28).

The UN Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance in her 2020 report of her visit to the Netherlands noted that the Temporary Administrative Counter-terrorism Measures Act, enacted on 1.03.2017, provides administrative authorities with far-reaching administrative control measures to reject or revoke subsidies, permits or exemptions to individuals whom the Government suspects of being associated with terrorist activities. The Act does not forest out clear and

reasonable grounds for suspicion or require judicial supervision or authorization prior to the application of the administrative control orders. The SR received reports that the Act had only been applied a few times, with the authorities applying administrative measures in just 6 of 40 cases. In the other cases, the administrative authorities concluded that the evidence was insufficient to link the individual to terrorist activities. The Special Rapporteur was also concerned by citizenship-stripping legislation, policies and procedures. It has been reported to the Special Rapporteur that a handful of cases have resulted in nationality stripping. Although being neutral on the face of it, the Netherlands citizenship-stripping legislation, policies and procedures apply only to citizens with dual nationality and therefore disproportionately affects Nederlanders of Moroccan and Turkish descent. Because of its limited applicability, citizenship-stripping legislation in the Netherlands aggravates stereotypes of terrorism by associating terrorism with people of certain ethnic and national origins. The associated policies and their effects are incompatible with international human rights principles of equality and nondiscrimination. Furthermore, the Special Rapporteur was concerned that citizenship-stripping orders are based primarily on information gathered by the security services and that the individuals affected only have recourse through an appeal to administrative courts on procedural grounds. Such a limited review prevents access to an effective remedy. Those facing a citizenship-stripping order should have access to sufficient information and appeals processes to challenge the order (A/HRC/44/57/Add.2, p 59,60)

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

3000 character(s) maximum

The enabling framework for civil society

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

3000 character(s) maximum

In his 2020 country visit report, the UN Special Rapporteur on freedom of religion or belief expressed concern about several draft laws and policies that may negatively impact on civil society and appeared to target certain religious and belief communities. This included draft legislation attempting to limit funding from “unfree countries” used to “buy undesirable influence” and “abuse Dutch liberties”. A transparency law may also require all organizations to declare income amounts and their country of origin, which some kerkgenootschappen and other organizations were concerned would deter funders. Discussions was under way on drafting an additional “funding from unfree countries” law in 2019, which might further prohibit Dutch organizations from obtaining funding from specific countries. A “problematic behaviour bill”, which would seek to limit so-called undesirable acts stemming from religiously or ideologically motivated behaviour deemed contrary to Dutch values and the rule of law, was also under consideration. The Special Rapporteur noted that many organizations worried that these bills were being drafted within the context of increasing discrimination against Muslims and that some aspects of freedom of religion or belief were being undermined. The Special Rapporteur asserted that all government measures must be fully compliant with international law and the obligation not to discriminate in intent or in effect against any persons or groups in the enjoyment of their fundamental rights, except on the basis of objective and reasonable criteria and in conformity with the requirements of proportionality, necessity and legality (A/HRC/43/48/Add.1, para 39, 40).

The UN Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance in her 2020 report of her visit to the Netherlands found the treatment of human rights defenders working to combat racism, discrimination and intolerance of great concern. Consultations with antiracism

activists highlighted they were frequently targets of insults, violence and threats, especially by extreme right-wing actors. On some occasions, local politicians had supported such targeting. The seeming failure of law enforcement and judicial authorities to extend equal protection of the law to anti-racism activists was worrying. The Special Rapporteur especially emphasized the need to ensure effective protection for anti-racism protesters and organizers (A/HRC/44/57/Add.2, para 61, 62, 78b).

In her February 2021 global update to the UN Human Rights Council, the UN High Commissioner for Human Rights expressed concern about measures in several EU countries restricting the work of organizations that protect migrants' rights and deliver life-saving assistance. She noted that criminal or administrative proceedings had been initiated in the Netherlands against humanitarian actors involved in search and rescue in the Mediterranean (<https://bit.ly/3qf0tyD>).

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

Racial Profiling - In its 2019 concluding observations, the UN Human Rights Committee, while recognizing the efforts by the Netherlands to curb racial profiling in law enforcement, remained concerned about the disproportionate use of stop-and-search powers by law enforcement officials targeting persons belonging to ethnic minority groups (racial profiling). It was particularly concerned about the use of a person's external appearance, including ethnicity, and of information and communications technology (ICT), such as mobile applications, which may further such practice if applied without precaution. The Committee also expressed concern about the absence of a mechanism to monitor the use of stop-and-search powers by law enforcement officials and the lack of record on the use of such powers. The Committee recommended that the Netherlands continue its efforts to provide all law enforcement personnel with effective training and sensitization in order to curb racial profiling, including the use of ICT in stop-and-search operations and set up a mechanism to monitor and collect data on the use of stop-and-search powers by law enforcement officials (CCPR/C/NLD/CO/5, para, 48, 49).

The Intelligence and Security Services Act 2017 - In its 2019 concluding observations, the UN Human Rights Committee was concerned about the Intelligence and Security Services Act 2017. The Committee was also concerned by the limited practical possibilities for complaining, in the absence of a comprehensive notification regime, to the Review Committee on the Intelligence and Security Services (art. 17). The Committee recommended to review the Act with a view to strengthen the independence and effectiveness of the two new bodies established by the Act, the Evaluation Committee on the Use of Powers and the Review Committee on the Intelligence and Security Services (CCPR/C/NLD/CO/5, para, 54, 55)

Justice System - Malta

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

In its 2018 concluding observations, the UN Committee on the Rights of Persons with Disabilities expressed concern about the lack of documents in accessible formats for blind and deafblind persons and persons with intellectual or psychosocial disabilities in various proceedings and the absence of policies to empower persons with disabilities to participate in the justice system as direct or indirect participants, such as lawyers, court officers or law enforcement officials. It recommended in particular to provide free or affordable legal aid for persons with disabilities in all areas of law and ensure the necessary budgetary allocations to the institution or institutions mandated with this task (CRPD/C/MLT/CO/1, para 21-22).

In a press statement of October 2020, following the mission of a team to Malta, the Office of the High Commissioner for Human Rights noted that migrants interviewed reported limited contact with the outside world, including lawyers and civil society organisations. OHCHR further reported that even when migrants were released from detention into open shelters, they faced an array of problems, including a lack of information about what will happen to them and delays in asylum processing (www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=26337&LangID=E).

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

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

In its 2018 concluding observations, the UN Committee on the Rights of Persons with Disabilities expressed concern about the lack of systematic and continuous training for members of the judiciary, members of the

legal profession, prosecutors and prison officers with regard to the equal rights of persons with disabilities and human rights in general. It recommended that Malta provide mandatory and ongoing capacity-building programmes, including training on the provisions of the Convention for members of the judiciary and the legal profession; for example, by broadening the audience of the disability equality training that is currently being provided to the recruits at the Police Academy (CRPD/C/MLT/CO/1 para 21-22).

In its 2019 concluding observations, the UN Committee on the Rights of the Child recommended that Malta periodically conduct specific trainings on the Convention on the Rights of the Child and its Optional Protocols for all professionals working for and with children. Malta should ensure that all relevant persons in authority are trained on how to effectively assess the child's best interests, and that all professionals working with and for children systematically receive appropriate training on hearing and taking into account children's views in all decisions affecting them and in accordance with the child's age and maturity. The Committee also urged Malta to provide systematic training for judges, prosecutors, law enforcement officers and other professionals, on the identification, and referral to adequate services, of potential victims of child marriage and female genital mutilation. The Committee moreover urged Malta to ensure that child protection authorities are promptly informed and assigned to participate in procedures for the determination of the best interests of the child, including by training border officials on the rights of the child and in child-sensitive procedures (CRC/C/MLT/CO/3-6, para 14, 20-21, 29, 42).

Digitalisation (including resilience of justice systems in COVID-19 pandemic)

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

3000 character(s) maximum

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

3000 character(s) maximum

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

3000 character(s) maximum

Efficiency of the justice system

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

Length of proceedings

3000 character(s) maximum

Other - please specify

Sexual exploitation and abuse - In its 2019 concluding observations, the UN Committee on the Rights of the Child recommended Malta to review and adapt its legislative framework to ensure that businesses operating in or managed from Malta do not negatively affect children's rights, and to explicitly prevent and aim to eliminate child sexual exploitation, especially in travel and tourism. It also expressed concern about cases of sexual abuse of children committed within their family and/or by persons in their circle of trust, including by religious personnel of the Catholic Church. Inter alia, it urged Malta to establish accessible, effective, confidential, child-friendly mechanisms, procedures and guidelines to ensure mandatory reporting and referral of cases of child sexual abuse and exploitation; transparent and effective investigation of all cases (including in travel and tourism), the criminal prosecution of alleged perpetrators, and adequate criminal punishment of those found guilty. It also recommended to establish an independent and impartial commission of inquiry to examine cases of sexual abuse reportedly committed by religious personnel (CRC/C/MLT/CO/3-6, para 17, 27). In 2019, Malta supported a recommendation from its latest Universal Periodic Review on addressing child abuse and sexual exploitation (A/HRC/40/17 and A/HRC/40/17/Add.1).

Administration of juvenile justice - In its 2019 concluding observations, the UN Committee on the Rights of the Child expressed several concerns about the treatment of children in the criminal justice system. The Committee urged Malta inter alia to review its legislation to ensure all children under 18 be treated as children and referred to the juvenile justice system when in conflict with the law, including when co-accused with adults; further limit the use and length of pretrial detention of children; ensure detention be used as a last resort and for the shortest possible time and be regularly reviewed with a view to its withdrawal; and when detention was unavoidable, ensure that children are held separately from adults. The Committee referred in particular to the case of children who had allegedly hijacked the vessel that had rescued them off the coast of Libya in March 2019, expressing concern they were being charged with terrorism before the Court of Magistrates and not before the Juvenile Court, and had been initially placed in the high-security division of an adult prison (CRC/C/MLT/CO/3-6, para 44-45). In a Press briefing note of May 2019 on the case, the spokesperson of the UN High Commissioner for Human Rights called on Malta to reconsider the charges, noting also that the minors concerned had reportedly been interrogated without being appointed legal guardians or placed in the care of independent child protection officials, responsible for ensuring their best interests (<https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=24569&LangID=E>).

Anti-Corruption Framework - Malta

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

In its 2019 concluding observations, the UN Committee on the Rights of the Child called on Malta to strengthen audits to increase transparency and accountability with regard to public expenditure across all sectors, and to strengthen institutional capacities to effectively detect, investigate and prosecute corruption, taking note of target 16.5 of the Sustainable Development Goals (CRC/C/MLT/CO/3-6, para 11(e)).

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

In 2018, several Special Procedures mandate-holders initiated a dialogue with Malta citing concerns over alleged Government interference into the investigation of the killing of investigative journalist, Daphne Caruana Galizia, and the large number of pending civil lawsuits against her family, including lawsuits initiated by public officials (OL MLT 1/2018), available at <https://spcommreports.ohchr.org/Tmsearch/TMDocuments>)

Fresh public calls for accountability were issued again by Special Procedures mandate-holders in October and December 2019, including together with the Council of Europe Commissioner for Human Rights and the OSCE Representative on Freedom of the Media, noting failure by the authorities to fully investigate the killing. They called for the public inquiry or other investigations to also consider the factors behind her assassination, including the major cases of corruption she was investigating and had denounced repeatedly. (see <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=25150&LangID=E> and www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=25381&LangID=E)

In 2019, Malta supported several recommendations from its latest Universal Periodic Review, on strengthening anti-corruption institutions and investigating cases of violence, harassment or threats against journalists (A/HRC/40/17 and A/HRC/40/17/Add.1).

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

3000 character(s) maximum

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

3000 character(s) maximum

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

3000 character(s) maximum

Repressive measures

Criminalisation of corruption and related offences.

3000 character(s) maximum

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

3000 character(s) maximum

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

3000 character(s) maximum

In December 2019, the UN Special Rapporteur on the right to privacy addressed to Malta detailed recommendations on strengthening the legal framework on Malta Secret Service, in order to tighten safeguards and avoid potential for conflicts of interest in matters of surveillance and interception of telecommunications, especially where the role of Ministers and the Prime Minister was involved. The Special Rapporteur noted that flaws and the lacunae in some of Malta's relevant laws had long been noted and that they needed to be reformed in such a way so as to introduce greater accountability and better safeguards that would protect democracy, privacy and the rule of law. The Special Rapporteur respectfully submitted that new legal safeguards as he recommended would not only intrinsically improve the protection of citizens available under Maltese law, but that they would also serve to bolster international confidence in the commitment of the Executive in Malta to bringing integrity to the country's institutions. (OL MLT 2/2019, available at <https://spcommreports.ohchr.org/Tmsearch/TMDocuments>; see also press release at <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=25441&LangID=E>).

Other – please specify

3000 character(s) maximum

Media Pluralism - Malta

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 - Malta

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

In 2020, several Special Procedures mandate-holders initiated a dialogue with Malta citing concern about information received on the closure of the country's ports as a measure to fight against the spread of COVID-19. Acknowledging States' sovereign responsibility to manage their borders, they emphasised that denial of access to territory without safeguards to protect against refoulement could not be justified on the ground of any health risks (MLT 1/2020, available at <https://spcommreports.ohchr.org/Tmsearch/TMDocuments>).

In a press statement of October 2020, the Office of the UN High Commissioner for Human Rights noted that the situation for migrants had become all the more acute in light of the COVID-19 pandemic, with humanitarian search and rescue vessels being prevented from continuing their life-saving work, as well as a lack of access by civil society groups that help migrants. (www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=26337&LangID=E).

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

In its 2018 concluding observations, the UN Committee on the Rights of Persons with Disabilities recommended that Malta repeal and/or amend articles 21 (1) and 24 (1) of the Equal Opportunities (Persons with Disability) Act to ensure sufficient representation and engagement of representative organizations of persons with disabilities, accountability and transparency. It further called on Malta to review the draft Equality bill on Human Rights and the Equality Commission to ensure that the planned Maltese national human rights institute adheres to the Paris Principles (CRPD/C/MLT/CO/1, para 50).

In its 2019 concluding observations, the UN Committee on the Rights of the Child referred to its general comment No. 2 (2002) on the role of independent national human rights institutions in the promotion and protection of the rights of the child. It reiterated its previous recommendation (CRC/C/MLT/CO/2, para 19) that Malta take appropriate measures to strengthen the independence of the Office of the Commissioner for Children, by ensuring the provision of adequate specific and separate human, technical, and financial resources as well as the immunities required for it to effectively carry out its function, including dealing with complaints from or for children in a child-sensitive and expeditious manner (CRC/C/MLT/CO/3-6, para 13).

Accessibility and judicial review of administrative decisions

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

3000 character(s) maximum

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

3000 character(s) maximum

The enabling framework for civil society

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

3000 character(s) maximum

In its 2019 concluding observations, the UN Committee on the Rights of the Child expressed deep concern at instances of criminalizing search and rescue operations for refugees and migrants, including children, carried out in the Mediterranean Sea by some civil society organizations. The Committee urged Malta to guarantee the rights and freedom of action of civil society and to ensure that the rescue of migrants is not considered a crime (CRC/C/MLT/CO/3-6, para 15).

In 2019, several UN Special Procedures mandate-holders initiated a dialogue with Malta citing concerns about allegations of acts of intimidations against human rights defender Sarah Clarke, then International Policy and Advocacy Manager at the non-governmental organization PEN International, by Maltese high level officials during a UN High Level event on 10 December 2018 (OL MLT 1/2019), available at <https://spcommreports.ohchr.org/Tmsearch/TMDocuments>). Her case was included in the 2019 Report of the UN Secretary-General on reprisals (A/HRC/42/30 para 70, 71).

In her February 2021 global update to the UN Human Rights Council, the UN High Commissioner for Human Rights expressed concern about measures in several EU countries restricting the work of organizations that protect migrants' rights and deliver life-saving assistance. She noted that criminal or administrative proceedings had been initiated in Malta against humanitarian actors involved in search and rescue in the Mediterranean. (www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26806&LangID=E).

Initiatives to foster a rule of law culture

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

3000 character(s) maximum

Other – please specify

3000 character(s) maximum

Justice System - Poland

Independence

Appointment and selection of judges, prosecutors and court presidents

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

3000 character(s) maximum

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

3000 character(s) maximum

In the 2020 report following her visit to Poland, the UN Special Rapporteur in the field of cultural rights noted that changing the rules governing the appointment and dismissal of judges had eroded the rule of law and the system of checks and balances in Poland. Respect for the Constitution and safeguarding of the independence of the judiciary, which ensured its implementation, were among the most important steps that must be taken to secure human rights. Many individuals facing violations of their cultural rights had indicated that the independence of the judiciary and the strength of the court system represented their best hope for justice and protection against abuse. The expert referred the Government to the recommendations of the Special Rapporteur on the independence of judges and lawyers on his mission to Poland and stressed the importance of their full and timely implementation(A/HRC/43/50/Add.1, para 17)

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

In 2019, the UN Special Rapporteur on the independence of judges and lawyers initiated a dialogue regarding Justice Alina Czubieniak, who had been subject to disciplinary proceedings and sanctions as a consequence of a decision she took in the legitimate exercise of her judicial functions. The disciplinary proceedings initiated against the judge followed the exercise of her freedom of expression. (POL 3/2019, available at <https://spcommreports.ohchr.org/Tmsearch/TMDocuments>).

In February 2020, the UN High Commissioner for Human Rights expressed concern at legislation which passed into law in Poland that month that risked further jeopardizing the independence of the judiciary in the country, restricting the rights of judges and the impartiality of courts of law. Under the new legislation, she noted, judges who questioned the Government's planned judicial reforms could be fined or even dismissed. (<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25523&LangID=E>)

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

In her global update to the Human Rights Council in February 2020, the UN High Commissioner for Human Rights expressed concern about adopted legislation curtailing the independence of judges and lawyers; enabling the dismissal of judges; and levying severe penalties against prosecutors, lawyers and judges critical of the Government's judicial changes. There had been sharp increases in disciplinary proceedings against judges, and numerous lawsuits against journalists and media outlets not affiliated to the government. In his global update to the Human Rights Council in March 2018, the UN High Commissioner had also expressed concern about reforms in previous years targeting the Constitutional Court and the judiciary, severely weakening checks and balances, politicising the Office of the Prosecutor General, increasing the powers of the secret services, and leading to a significant strengthening of executive control over the judiciary, the media, civil society, and other spheres of public life. The High Commissioner had called on the Government to reverse or amend these measures, and to implement the recommendations of UN Special Rapporteur on the independence of judges and lawyers. (<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25621&LangID=E> and <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22772&LangID=E>)

In its 2019 concluding observations, the UN Committee against Torture expressed concern about Poland's judicial reforms, including at the Constitutional Tribunal, which hampered the constitutionally protected principle of judicial independence and enabled legislative and executive interference with the administration of justice, as noted in the report of the Special Rapporteur on the independence of judges and lawyers on his mission to Poland (A/HRC/38/38/Add.1). The Committee recommended that Poland review the ongoing judicial reform to ensure that it complies with international standards of independence of the judiciary, principles of rule of law and separation of powers and Poland's Constitution (See CAT/C/POL/CO/7, para 9-10).

In its 2019 concluding observations, the UN Committee on the Elimination of Racial Discrimination expressed concern about the changes to the institutional framework made since 2015, which may jeopardize the independence of the judiciary and National Public Prosecutor, raising concerns about the integrity of the legal enforcement of equality guarantees. The Committee recommended to take effective steps to guarantee the independence of the judiciary and the National Public Prosecutor from political interference. (See CERD/C/POL/CO/22-24, para 11-12).

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

In the 2020 report following its visit to Poland, the UN Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (SPT) was concerned that many detainees its delegation spoke to had not had the chance to consult a lawyer, especially in the first stage of proceedings. The Subcommittee was further concerned at the lack of an appropriate system of legal aid in Poland for those who could not afford a private lawyer. It recommended that Poland take effective measures to guarantee that all persons deprived of their liberty are afforded, in law and in practice, from the time they are arrested, the right to have prompt access to an independent lawyer and, if necessary, to legal aid in accordance with international standards. (CAT/OP/POL/RONPM/1, para 51, 52)

In the 2019 report following its visit to Poland, the Working Group on the issue of discrimination against women in law and in practice noted that the dismissal of cases of gender-based violence and the often lenient punishment for perpetrators were not conducive to the pursuit of justice and are one of the reasons for the withdrawal of complaints by victims/survivors. Building the trust of victims/survivors in the system was essential for the success of efforts to combat gender-based violence against women. The Working Group recommended to improve services for victims/survivors of gender-based violence and their access to justice, in particular women in vulnerable situations. (See A/HRC/41/33/Add.2, para 78, 87)

In its 2018 concluding observations, the UN Committee on the Rights of Persons with Disabilities was concerned that persons with psychosocial or intellectual disabilities deprived of their legal capacity were denied the right to take part in litigation and to stand as witnesses in procedures before civil courts. It was also concerned about the barriers that persons with disabilities in general faced in their access to justice owing inter alia to a lack of: procedural accommodation and use of appropriate language and other means, modes and formats of communication in legal proceedings; physical accessibility of justice buildings, courts and tribunals; human rights-based knowledge of the justice system and law enforcement on the rights of persons with disabilities; legal assistance for persons with disabilities, including legal assistance and procedural accommodation for persons with psychosocial disabilities. The Committee recommended that Poland guarantee persons with intellectual and/or psychosocial disabilities deprived of their legal capacity equal and supported access to all judicial processes. (See CRPD/C/POL/CO/1, para 21, 22)

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

In its 2019 concluding observations, the UN Committee on the Elimination of Racial Discrimination recommended to strengthen the training of judicial officials on the provisions of the Convention and provide detailed examples of cases of racial discrimination decided by judicial and other relevant complaint mechanisms. (See CERD/C/POL/CO/22-24, para 8)

The UN Committee against Torture in its 2019 concluding observations urged Poland to provide training to judges and prosecutors in order to ensure their ability to effectively identify torture and ill-treatment and investigate all allegations of confessions obtained under torture. It also recommended to ensure that all law enforcement officers, civilian judges, military judges and public prosecutors receive mandatory training emphasizing the link between non-coercive interrogation techniques, the prohibition of torture and ill-treatment and the obligation of the judiciary to invalidate confessions made under torture. It further recommended that Poland provide mandatory and continuous training on trafficking to all justice and law enforcement personnel and systematically monitor and evaluate the impact of measures against trafficking and compile data on investigations, prosecutions and punishments against traffickers. (See CAT/C/POL/CO/7, para 10, 28 and 38).

In the 2019 report following its visit to Poland, the UN Working Group on the issue of discrimination against women in law and in practice noted the positive changes in attitudes among law enforcement personnel and judicial actors and of various training courses. However there was a need to review the content of training and education programmes to ensure greater understanding by justice officials of women's barriers to access to justice, including those at the legal, institutional, structural, socioeconomic and cultural levels, and making gender-based violence against women an explicit and integral part of the curriculum, occupying a dedicated space. (See A/HRC/41/33/Add.2, para 67 and 87f)

In its 2018 Concluding observations, the UN Committee on the Rights of Persons with Disabilities recommended that the State party provide training to professionals, including judges and law enforcement officials, to raise their awareness of the rights under the Convention on the Rights of Persons with Disabilities. (See CRPD/C/POL/CO/1, para 6e)

Digitalisation (including resilience of justice systems in COVID-19 pandemic)

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

3000 character(s) maximum

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

3000 character(s) maximum

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

3000 character(s) maximum

Efficiency of the justice system

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

Length of proceedings

3000 character(s) maximum

In the 2020 report following its visit to Poland, the UN Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (SPT) noted that although the Criminal Procedure Code prescribes the maximum legal durations for pretrial detention, a number of detainees interviewed by the delegation complained that the length of their detention on remand lasted for excessive amounts of time, in some cases more than one year. The Subcommittee recalled that detention in custody of persons awaiting trial should be the exception rather than the rule. It recommended that Poland take measures to ensure that pretrial detention policy meets international standards, namely that the recourse to detention is always the measure of last resort. It further recommended that Poland consider further increasing the use of alternative measures to pretrial detention and ensure that the mechanism for reviewing detention decisions is effective. (CAT/OP/POL/RONPM/1, para 78,79)

Other - please specify

3000 character(s) maximum

Equal recognition before the law - The UN Committee on the Rights of Persons with Disabilities in its 2019 concluding observations called upon to repeal all discriminatory provisions under the Civil Code and other legal acts allowing for the deprivation of legal capacity of persons with disabilities. It was also recommended that Poland establish a procedure aimed at restoring the full legal capacity of all persons with disabilities, and develop supported decision-making mechanisms that respect their autonomy, will and preferences (CRPD/C/POL/CO/1, para 20).

Prosecution of racially motivated crimes - The UN Committee on the Elimination of Racial Discrimination in its 2019 concluding observations was concerned about the extremely low percentage of offences of hate speech and hate crimes that were reported, despite the recorded increase in the incidence of such crimes; that some of the reported racially motivated crimes remained unregistered and not investigated as such; that the increased number of preparatory proceedings and indictments of perpetrators of racist crimes did not result in a significant increase in the number of convictions and about the lack of detailed information on investigations and prosecutions of, and convictions for, racist hate speech and hate crimes. The Committee recommended that Poland take measures to encourage and facilitate the reporting of hate speech and hate crimes by ensuring the registration of all reported cases, effective investigations and prosecutions, and the imposition of appropriate penalties on perpetrators; and also provide detailed information on investigations and prosecutions of, and convictions for, such crimes (CERD/C/POL/CO/22-24, para 19-20).

Investigation of acts of torture - The UN Committee against Torture in its 2019 concluding observations urged Poland to take effective measures to guarantee that all detained persons are afforded, in law and in practice, all fundamental legal safeguards from the very outset of their deprivation of liberty and take effective steps to ensure that all detained persons have prompt access to legal assistance, including on-duty attorneys and legal advisers provided by State-funded legal aid, before their initial interrogation. The Committee was concerned about the low number of conclusive prosecutions of alleged acts of torture of persons deprived of their liberty and about the discrepancy between the number of complaints submitted by victims of torture and ill-treatment and the number of sentences handed down, despite the issuance by the Prosecutor General of guidelines regarding crimes related to the deprivation of life or inhuman or degrading treatment and punishment where the perpetrator is a police officer or other public official. The Committee also added that the merging of the functions of Minister of Justice and Prosecutor General might have a negative effect regarding investigations into violations of the Convention (CAT/C/POL/CO/7, para 16, 31).

Anti-Corruption Framework - Poland

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

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

3000 character(s) maximum

Prevention

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

3000 character(s) maximum

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

3000 character(s) maximum

Rules on preventing conflict of interests in the public sector.

3000 character(s) maximum

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

3000 character(s) maximum

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

3000 character(s) maximum

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

3000 character(s) maximum

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

3000 character(s) maximum

Repressive measures

Criminalisation of corruption and related offences.

3000 character(s) maximum

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

3000 character(s) maximum

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

3000 character(s) maximum

Other – please specify

3000 character(s) maximum

Media Pluralism - Poland

Media authorities and bodies

(Cf. Article 30 of Directive 2018/1808)

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

3000 character(s) maximum

In the 2020 report following her visit to Poland, the UN Special Rapporteur in the field of cultural rights noted that legal safeguards for diversity and pluralism in the media landscape, coherent with international human rights law obligations, had been undermined by legislative amendments in 2015. Article 21 of the Broadcasting Act stipulates that public radio and television should be pluralistic, impartial, well balanced and independent. Article 2 of the Press Act clearly states that State bodies have an obligation to create the necessary conditions for a diversity of press outlets, programming, subjects and attitudes to be present and accessible in the public realm. However, in 2015, the laws amending the Broadcasting Act temporarily

placed the power to appoint and dismiss the management and supervisory boards of the public service broadcasters in the hands of the Minister of State Treasury, which substantially eroded the independence of public broadcasters and led to a large wave of dismissals of public media staff, especially those working in management, editorial functions and foreign news. This trend of greater government control of the public media, which was contrary to constitutional and legislative dispositions, had been widely reported as problematic. The Special Rapporteur noted that the argument of the public media authorities that private media mainly presents other views than those of the Government did not justify predominant coverage of the views of the ruling party in public media. It was the responsibility of public media to ensure impartiality, to guard against political pressure and to provide space for a healthy, democratic debate accessible to all. In addition, the Special Rapporteur noted that proposed measures to limit the shares of foreign capital in the media landscape would disproportionately affect media outlets that are critical of the current government. (A/HRC/43/50/Add.1, para 28-30)

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 - Poland

The process for preparing and enacting laws

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

3000 character(s) maximum

In 2019, during a press briefing on Poland, the Spokesperson for the UN High Commissioner for Human Rights urged the Polish Government and the members of the Parliament (Sejm) to consider carefully the potential impact of the draft legislation on the rule of law submitted on 12 December 2019. It was noted that some amendments, proposed by the ruling party, were apparently provided to the draft law overnight. (<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25447&LangID=E>)

In the 2020 report following her visit to Poland, the UN Special Rapporteur in the field of cultural rights noted that article 9 of the Constitution requires Poland to respect international law binding upon it. In practice, more needed to be done to systematically and effectively implement such international standards. One particular area of difficulty was regular and transparent consultation with experts and civil society organizations on policy ideas, and the tendency to introduce and pass legislation rapidly, with little opportunity for debate or amendment. (A/HRC/43/50/Add.1, para 8).

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

In its 2020 report, the UN Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment noted the designation of the ombudsman office as Poland's national preventive mechanism had not been followed by the allocation of appropriate additional resources to fulfil this additional mandate. It also noted the mandate of the mechanism was not clearly separated from the rest of the ombudsman's mandate and there were no explicit provisions in the mechanism legislation regarding earmarked funding or donations. The SPT made many recommendations to strengthen the office's human and financial resources, mandate and visibility (CAT/OP/POL/RONPM/1, para 16-32). Similar concerns and recommendations were raised by the UN Committee against Torture in its 2019 concluding observations. The Committee was concerned about personal attacks against the Human Rights Commissioner in 2019, noting he had been called upon to resign by one of the Deputy Ministers of Justice, potentially as reprisals for engaging with the Committee (CAT/C/POL/CO/7, para 23, 24). In his 2019 report on cooperation with the United Nations, its representatives and mechanisms in the field of human rights the UN Secretary-General noted that the national human rights institution of Poland and the Commissioner on Human Rights had been subject to acts of intimidation and reprisals (A/HRC/42/30, para 72).

In the 2020 report, the UN Special Rapporteur in the field of cultural rights expressed concern that, since 2015, the Commissioner for Human Rights and his office had been facing increasing governmental pressure, including through attempts to strip his immunity and impose budget cuts. The Special Rapporteur called upon the authorities to respect the Commissioner's independence and to ensure the institution's ability to effectively fulfil its mandate. (A/HRC/43/50/Add.1 para 15).

In its 2019 concluding observations, the UN Committee on the Elimination of Racial Discrimination was concerned about the Commissioner's insufficient human and financial resources, in particular for its Equal Treatment Department. Also, the Commissioner had no statutory mandate to investigate racial discrimination complaints in the private sector. The Committee recommended to provide the human and financial resources necessary to fully discharge its mandates (CERD/C/POL/CO/22-24 para 9-10).

In 2019, several Special Procedures mandate-holders initiated a dialogue with Poland expressing serious concerns regarding the civil action brought by Polish public broadcaster TVP against Mr Bodnar, in his

personal capacity, for statements made in his professional capacity as Commissioner (POL 1/2019). In its 2018 concluding observations, the UN Committee on the Rights of Persons with Disabilities called for adequate legal bases and sufficient resources and funding to the Human Rights Commissioner's Office as the national body mandated under the Disability Convention (CRPD/C/POL/CO/1 Para 56).

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

In the 2020 report following her visit to Poland, the UN Special Rapporteur in the field of cultural rights noted that the rules and processes for submitting requests for government grants were for the most part available on the Internet and easily accessible and, except for a small number of targeted programmes, the vast majority of grants seemed to be open to all types of applicants and organizations. However, concerns had been expressed by various sources about the lack of transparency regarding the attribution of points in the evaluation of projects, especially those attributed for consistency with the strategic goals. There was a need to both clarify the general and strategic goals of grants and provide more detailed explanations for the scores attributed by the experts involved. Also, the Ministry was involved in selecting both the experts who assess project proposals and the directors of national cultural institutions, and the programmes of these institutions were subject to the approval of the Minister, which implied a rather large influence on programming. For the directors and staff of cultural institutions, the fact that some members of the ruling party had not agreed with their artistic and cultural choices had translated into repeated criticism in public media and, sometimes, into prosecutions and investigations. In some particular cases, this had even led to dismissals (A/HRC/43/50/Add.1 para 20, 23).

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

3000 character(s) maximum

The enabling framework for civil society

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

3000 character(s) maximum

In the 2020 report following her visit to Poland, the UN Special Rapporteur in the field of cultural rights noted she had received mixed reports regarding the space available for Polish civil society action, which is important for securing cultural rights. On the one hand, demonstrations were regularly organized by a variety of actors and the Special Rapporteur was told that protection granted to participants by police forces was sometimes good, including in the case of equality marches where participants sometimes felt safe. On the other hand, there were shocking reports about the failure of police forces to protect peaceful demonstrators against violent physical attacks and about abuses by the police forces themselves, as well as lack of legal remedies from the prosecutor's office in cases of abuse. One worrying example concerned the reported intrusive body searches of female demonstrators arrested for trying to stop the logging of the forest of Białowieża, a World Heritage site. The Special Rapporteur noted that the right to freedom of assembly was generally respected in law and in practice but that, in recent years, protesters had increasingly risked

surveillance, intimidation, physical attacks by counter protestors and sometimes even the use of force by the authorities, arrest and prosecution for their activities (A/HRC/43/50/Add.1, para 83, 84).

In the 2019 report following its visit to Poland, the Working Group on the issue of discrimination against women in law and in practice recommended to use the valuable knowledge and experiences of women's rights organizations. Not only should they receive the appropriate funding, their voices must be heard in the formulation of government policies and strategies. International and regional support should also prioritize women's rights organizations in the current context of the shrinking space for civil society organizations. (A/HRC/41/33/Add.2, para 28)

The Committee on the Rights of Persons with Disabilities in its 2018 concluding observations called upon Poland to ensure the comprehensive and effective involvement of organizations of persons with disabilities in monitoring tasks under the Convention, and provide them with the funding necessary for that purpose (CRPD/C/POL/CO/1, para 56c).

In 2018, several Special Procedures mandate-holders initiated a dialogue with Poland citing concerns about a new safety and security law written specifically for the UN Framework Convention on Climate Change (COP24) in Poland, that could hamper civil society's involvement in the climate talks. Later in the year, they also exchanged with Poland citing concerns about the judicial harassment of the Polish non-governmental organisation, the Open Dialog Foundation, working on the protection and promotion of human rights, democracy and rule of law in the post-Soviet area, and about the treatment of its President. (POL 3/2018, POL 4/2018, available at <https://spcommreports.ohchr.org/Tmsearch/TMDocuments>).

Initiatives to foster a rule of law culture

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

3000 character(s) maximum

Other – please specify

3000 character(s) maximum

Justice System - Portugal

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

In 2020, the UN Human Rights Committee in its concluding observations expressed concern about reports that detainees, particularly foreigners, are not always promptly informed of their rights in a language that they understand, including of their right to access legal counsel from the time of arrest. The Committee was also concerned about the lack of effective access to legal assistance for persons detained, and recommended Portugal to ensure those fundamental legal standards (CCPR/C/PRT/CO/5, para 38, 39). These echoed similar concerns expressed in the 2019 concluding observations by the UN Committee against Torture, which had recommended Portugal to ensure that all arrested or detained persons are afforded in practice all fundamental safeguards from the very outset of their deprivation of liberty, including the rights to be assisted by a lawyer and to be brought before a judge without delay (CAT/C/PRT/CO/7, para 13, 14). The UN Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment had formulated similar recommendations after its 2018 visit to Portugal in its report (CAT/OP/PRT/1, para 62, 63, 64).

Resources of the judiciary (human/financial/material)

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

3000 character(s) maximum

In 2019, the UN High Commissioner for Human Rights in her letter following the third cycle of Universal Periodic Review of Portugal recommended that Portugal continue efforts to improve women's professional empowerment by increasing the representation of women the Supreme Court of Justice, available at https://lib.ohchr.org/HRBodies/UPR/Documents/Session33/PT/HC_letter_33rdSession_Portugal.pdf

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

3000 character(s) maximum

Regarding the International Convention of the Rights of the Child, the UN Committee on the Rights of the Child, in its 2019 observations, recommended to introduce mandatory training for judges who are to enter family and juvenile courts. The Committee further recommended to ensure training on hearing and considering children's views in all decisions affecting them. In the context of sale, trafficking and abduction of children, the Committee also recommended Portugal to adequately train professionals on the procedures for the identification and care of child victims of sale, sex trafficking and forced labour to ensure that victims receive the support they are entitled to under the law (CRC/C/PRT/CO/5-6, para 13, 20c, 43).

In its 2018 concluding observations, the UN Committee on Enforced Disappearances noted the lack of information on the provision of training on international human rights law, including the International Convention for the Protection of All Persons from Enforced Disappearance, and recommended to provide specific and regular training on the provisions of the Convention (CED/C/PRT/CO/1, para 22, 23).

The UN Committee against Torture, in its 2019 concluding observations, recommended Portugal to develop mandatory initial and in-service training programmes on the Convention against Torture and Other Cruel,

Inhuman or Degrading Treatment or Punishment. The Committee further recommended to expand specialized training programmes for both judges and prosecutors to ensure their ability to effectively identify torture and ill-treatment and investigate all allegations of such acts (CAT/C/PRT/CO/7, para 33, 34, 45, 46).

In its concluding observations from 2020, the UN Human Rights Committee issued several recommendations to Portugal with regards to training on the International Covenant on Civil and Political Rights. Besides the general recommendation to educate about the Covenant and its Optional Protocol, the Committee also referred to specific training, in particular, in the context of hate speech and hate crimes against vulnerable and minority groups. Other specialized training that the Committee considered necessary was on gender-sensitive detection, handling, investigation and prosecution of cases of violence against women and training on procedures for identifying victims of trafficking in persons (CCPR/C/PRT/CO/5, para 4, 5, 14, 15, 22, 23, 32, 33).

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

In its 2020 concluding observations, the UN Human Rights Committee expressed concern about reports of persons being held in pretrial detention for long periods and regretted the lack of information on measures taken to reduce the length of investigations and on legal procedures to improve judicial efficiency (CCPR/C/PRT/CO/5, para 40).

Other - please specify

3000 character(s) maximum

Child justice - In its 2019 concluding observations, the UN Committee on the Rights of the Child expressed concern at the continued absence of legislation on and guidelines for the determination and application of the best interests of the child in justice (among other sectors) and that this lack of guidance may result in contradictory interpretations of the law and decisions by different instances. It recommended Portugal to ensure that the principle of the best interests of the child is incorporated into legislation and into all relevant policies, programmes and projects. Further, the Committee recommended to expand the right of the child to be heard in all civil, administrative and criminal judicial and administrative proceedings affecting the child (CRC/C/PRT/CO/5-6, para 18a, 18b, 20a, 20b).

Housing - In October 2019, the UN Special Rapporteur on the right to adequate housing praised Portugal for the new Basic Housing Law. She welcomed that the law provides protection measures for those at risk of evictions, such as consultation, information, legal aid and accompaniment, as well as the prohibition to conduct evictions at night. She stated that she would be watching closely to ensure that the provisions relating to access to justice for violations of the right to housing, including complaints to the Ombudsman, are fully implemented, without which, the right to housing would not be ensured. (available at <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25083&LangID=E>)

Anti-Corruption Framework - Portugal

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

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

3000 character(s) maximum

Prevention

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

3000 character(s) maximum

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

3000 character(s) maximum

Rules on preventing conflict of interests in the public sector.

3000 character(s) maximum

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

3000 character(s) maximum

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

3000 character(s) maximum

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

3000 character(s) maximum

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

3000 character(s) maximum

Repressive measures

Criminalisation of corruption and related offences.

3000 character(s) maximum

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

3000 character(s) maximum

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

3000 character(s) maximum

In its 2020 concluding observations, the UN Human Rights Committee, while appreciating information on legislative, institutional and enforcement measures taken to prevent and combat corruption, expressed concern about recent scandals involving high-level cases of corruption in Portugal. The Committee recommended Portugal to continue its efforts, including through providing training to law enforcement agencies, prosecutors and judges on detecting, investigating and prosecuting corruption, and on strengthening the independence and specialization of law enforcement agencies and prosecutors dealing with corruption cases, in order to enable the investigation of complex and high-level corruption cases (CCPR

/C/PRT/CO/5, para 8, 9). Portugal previously supported recommendations from its third Universal Periodic Review in 2019 to strengthen work on anti-corruption and to establish rules on professional conduct in the area of corruption prevention to judges and prosecutors as well as Members of Parliament (A/HRC/42/7, para 137.93; 137.04).

Other – please specify

3000 character(s) maximum

Media Pluralism - Portugal

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 - Portugal

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

To guarantee the right of the child to have his or her best interests taken as a primary consideration, the UN Committee on the Rights of the Child recommended Portugal in its 2019 concluding observations to establish compulsory processes for ex-ante and ex-post impact assessments of all laws and policies relevant to children on the realization of the right of the child to have his or her best interests taken as a primary consideration, CRC/C/PRT/CO/5-6, para 18c).

To guarantee the right of the child to be heard into legislation on the civil protection process, in its 2019 concluding observations, the UN Committee on the Rights of the Child recommended Portugal to develop toolkits for the consultation of children on national policy developments that affect them so as to standardize such consultations at a high level of inclusiveness and participation (CRC/C/PRT/CO/5-6, para 20d).

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

In 2018, Portugal supported several recommendations from the Universal Periodic Review recommending to provide Office of the Ombudsman, which is the national human rights institution, with appropriate financial, material and human resources (A/HRC/42/7, para 137).

These concerns were also raised by several UN mechanisms and the UN High Commissioner for Human Rights in her letter following the third cycle of UPR of Portugal. In 2018, the UN Committee on Enforced Disappearances in its concluding observations recommended Portugal to ensure that the Ombudsman is provided with the necessary financial, material and human resources to effectively and independently carry out its mandate, including that as national preventive mechanism under the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CED/C/PRT/CO/1, para 10, 11). The concerns were shared by the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on its visit to Portugal undertaken from 1 to 10 May 2018 (CAT/OP/PRT/1, para 16, 17), and the UN Human Rights Committee in its concluding observations in 2020 (CCPR/C/PRT/CO/5, para 6, 7).

In 2019, the UN Committee on the Rights of the Child in its concluding observations recommended the State party as well to ensure adequate human, technical and financial resources to the Office of the Ombudsman

for the effective implementation of its mandated functions. Further, it recommended to designate a specific mechanism within the Office of the Ombudsman for monitoring children's rights, and to raise awareness among the general public, and children in particular, and support the awareness-raising efforts carried out by the Office of the Ombudsman on the right to file a complaint directly with the Ombudsman (CRC/C/PRT/CO/5-6, para 12).

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

In its 2019 concluding observations, the UN Committee on the Rights of the Child expressed concern about the weaknesses in policy and practice relating to legal representation and guardianship of unaccompanied and separated children during refugee determination processes. The Committee recommended Portugal to strengthen policies and practices to improve the identification and registration of unaccompanied and separated children, including through ensuring that they are provided with effective legal representation and an independent guardian immediately after they have been identified (CRC/C/PRT/CO/5-6, para 41, 42).

In its 2019 concluding observations, the UN Committee against Torture had similarly expressed concern about access by lawyers to individuals held in detention facilities at airports, noting that entrance fee for the airport terminal, charged by a private company, impeded such access. The Committee recommended Portugal to refrain from retaining asylum seekers and irregular migrants for prolonged periods, and to guarantee that individuals retained have unhindered, prompt and adequate access to counsel, including legal aid services (CAT/C/PRT/CO/7, para 39, 40). The same concerns were shared by the UN Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment after its 2018 visit to Portugal (CAT/OP/PRT/1, para 43).

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

3000 character(s) maximum

The enabling framework for civil society

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

3000 character(s) maximum

In October 2020, several UN Special Rapporteurs initiated a dialogue with Portugal on the case of Mr. Mamadou Ba, a human rights defender, one of the founding members of the European Network Against Racism (ENAR) and leader of SOS Racismo. The defender had been the target of repeated and increasing racist harassment, intimidation and threats since 2012, including several death threats against him and his family in 2020. This eventually led to his departure from the country out of safety concerns late 2020. The Special Rapporteurs expressed concern with the initial denial of police protection and the two-week delay in offering protection in some circumstances. They also reaffirmed the importance of bringing perpetrators to justice and ensuring a safe and enabling environment for all human rights defenders, in particular those advocating for equality and non-discrimination and documenting racist speech, behaviour and related

human rights violations (PRT 1/2020, available at <https://spcommreports.ohchr.org/Tmsearch/TMDocuments>).

Initiatives to foster a rule of law culture

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

3000 character(s) maximum

Other – please specify

3000 character(s) maximum

Justice System - Romania

Independence

Appointment and selection of judges, prosecutors and court presidents

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

3000 character(s) maximum

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

3000 character(s) maximum

Promotion of judges and prosecutors

3000 character(s) maximum

Allocation of cases in courts

3000 character(s) maximum

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

3000 character(s) maximum

In the end of mission statement after its official visit to Romania in 2020, the Working Group on Discrimination Against Women and Girls found encouraging the high number of women in the judiciary, representing 73% of the total number of judges and 52% of the prosecutors. At the Constitutional Court, three out of the nine judges were women and at the High Court of Cassation, which was presided by a woman, the majority were women too. The Working Group was pleased to hear about the positive jurisprudence of these courts advancing women's rights. (Statement available at <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25687&LangID=E>. The full report of the visit (A/HRC/47/38/Add.1) is forthcoming and will be presented at the 47th session of the UN Human Rights Council in June 2021.)

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

In the end of mission statement after its visit to Romania in 2020, the Working Group on Discrimination Against Women and Girls pointed to the need for a greater understanding of women's barriers to access to justice. They found that measures should be taken inter alia to build the victims' trust in the system, as well

as sensitise relevant authorities through gender-sensitive trainings. Furthermore, investigative efforts should be focused on all relevant evidence, as they heard that witnesses were often required for cases of domestic violence, and evidence of physical injury for cases of rape. In addition, the authorities' coordination and cooperation with NGOs could be improved. The Working Group witnessed first-hand the impact that NGOs' work had on preventing violence against women and assisting victims' access to justice, particularly in closed off, rural communities. However, they found that it could not be left solely to NGOs to address the problems (available at <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25687&LangID=E>).

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

In the end of mission statement after its visit to Romania in 2020, the Working Group on Discrimination Against Women and Girls pointed to several needs for more training of justice professionals. They observed that Romania had one of the highest numbers of early marriages in Europe which generally remained unsanctioned, and that while forced marriage was not a specific criminal offence, other relevant provisions (such as trafficking, abduction) were not frequently used. They found that efforts should be made to review the legislation and its implementation, including through training of the relevant officials. Similarly, they heard from their interlocutors that sexual violence was a widespread, but seriously under-reported phenomenon, partly due to the lack of trust in the criminal justice system as mechanisms for combating sexual violence faced some shortcomings. Rape was not defined by the lack of consent, but by coercive circumstances, which may lead to an overreliance on physical resistance. Cases of sexual intercourse with children younger than 13, including girls as young as 11, sometimes got qualified as consensual sex, even when there were multiple perpetrators, some of whom were significantly older (even five times). Cases of non-consensual sexual intercourse with girls and women with disabilities were also often defined as consensual. The Working Group attributed this to the existence of gender stereotyping in the qualification of sexual offenses, such as the idea that the lack of consent should be expressed by physical resistance, or that women and girls provoke sexual violence, by their behaviour or attire. They recommended efforts to ensure that all instances of non-consensual sex be prosecuted as rape and that rape be treated as a serious offence, including through training, and ensuring accountability of judicial agents (available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25687&LangID=E>; The full report of the visit (A/HRC/47/38/Add.1) is forthcoming and will be presented at the 47th session of the UN Human Rights Council in June 2021).

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 - Romania

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

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

3000 character(s) maximum

Prevention

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

3000 character(s) maximum

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

3000 character(s) maximum

Rules on preventing conflict of interests in the public sector.

3000 character(s) maximum

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

3000 character(s) maximum

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

3000 character(s) maximum

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

3000 character(s) maximum

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

3000 character(s) maximum

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

3000 character(s) maximum

Repressive measures

Criminalisation of corruption and related offences.

3000 character(s) maximum

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

3000 character(s) maximum

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

3000 character(s) maximum

Other – please specify

3000 character(s) maximum

Corruption and trafficking in women and girls

In the end of mission statement after its visit to Romania in 2020, the Working Group on Discrimination Against Women and Girls observed that some of the main drivers behind human trafficking were corruption, lack of trust in the Romanian authorities, alongside with discrimination, affecting particularly Roma girls. They noted that trafficking in women and girls (primarily for purposes of sexual exploitation and begging) was a major concern in Romania. The country had the highest number of victims of trafficking and traffickers in the EU, with girls constituting 31% of the victims compared to 14% on average in the EU. They noted that following the ratification of the Palermo Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime in December 2002, Romania had taken measures to tackle the phenomenon, including passing legislation on the protection of victims/survivors. Despite these positive developments, there were significant challenges in practice, including police corruption and involvement of public officials, particularly in cases of girls living in State-run institutions. There was also an issue of impunity and inadequate application of criminal law, as well as insufficient support services and specialised, well-equipped centres. Some of the centres envisaged by law were not operational and many of the services for victims had been provided by NGOs, which received limited funding (available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25687&LangID=E>; The full report of the visit (A/HRC/47/38/Add.1) is forthcoming and will be presented at the 47th session of the UN Human Rights Council in June 2021).

Media Pluralism - Romania

Media authorities and bodies

(Cf. Article 30 of Directive 2018/1808)

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

3000 character(s) maximum

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

3000 character(s) maximum

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

3000 character(s) maximum

Transparency of media ownership and government interference

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

3000 character(s) maximum

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

3000 character(s) maximum

Framework for journalists' protection

Rules and practices guaranteeing journalist's independence and safety

3000 character(s) maximum

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

3000 character(s) maximum

In 2018, several Special Procedures mandate-holders initiated a dialogue about concern at the reported use of force against demonstrators and journalists, leading to severe injury of several of them, in the context of a large gathering of over 100,000 persons protesting legislative changes concerning the laws of justice and the penal code. Over 500 persons, including 35 police officers, were injured, with over 80 of them requiring hospitalization. Among the injured were eight journalists, including reporters from the Austrian public television and a German newspaper. (See ROU 4/2018, available at <https://spcommreports.ohchr.org/TmSearch/Results>).

Access to information and public documents

3000 character(s) maximum

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

3000 character(s) maximum

Other - please specify

3000 character(s) maximum

Other institutional issues related to checks and balances - Romania

The process for preparing and enacting laws

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

3000 character(s) maximum

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

3000 character(s) maximum

Regime for constitutional review of laws.

3000 character(s) maximum

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

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

3000 character(s) maximum

In March, April and May 2020, Romania duly notified the UN Secretary-General of the declaration on 16 March 2020, the extension in April, and the termination on 14 May, of a state of emergency in the territory of Romania, by Decrees no. 195 and no. 240/2020, to deal with the pandemic. Romania notified that some of the measures taken or which would be taken in the context, on the basis of the Decree, may involve derogations from the obligations under the International Covenant on Civil and Political Rights (C.N. 121.2020, C.N.151.2020 and C.N.175.2020).

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

Romania currently does not have an accredited national human rights institution. The Romanian Institute for Human Rights was previously recognised as a 'C institution', a category for organizations non-member and non-compliant with the Paris Principles, which is no longer in use by GANHRI (available at <https://nhri.ohchr.org/EN/AboutUs/GANHRIAccreditation/Documents/Status%20Accreditation%20Chart%20as%20of%2020%2001%202021.pdf>)

In the end of mission statement after its visit to Romania in 2020, the Working Group on Discrimination Against Women and Girls noted the operation of different state-based human rights bodies: the National Council for Combatting Discrimination, the Office of the Romanian Ombudsman, and the Romanian Institute for Human Rights, all of which were playing an important role in the promotion and protection of the human rights of women and girls. They called on the Government to ensure adequate resources to these institutions and strengthen their independence (available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25687&LangID=E>; The full report of the visit (A/HRC/47/38/Add.1) is forthcoming and will be presented at the 47th session of the UN Human Rights Council in June 2021).

At its Universal Periodic Review in 2018, Romania supported seven recommendations pertaining to national human rights institutions, notably to ensure the compliance of the NHRI with the Paris Principles; finalize the process of accreditation of NHRIs with the status responding to the Paris Principles; and ensure the proper functioning of the newly established Children's Ombudsman in accordance with the Paris Principles (A/HRC/38/6/Add.1).

Accessibility and judicial review of administrative decisions

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

3000 character(s) maximum

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

3000 character(s) maximum

The enabling framework for civil society

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

3000 character(s) maximum

In the end of mission statement after its visit to Romania in 2020, the Working Group on Discrimination Against Women and Girls noted that there had been positive developments in legal, policy and institutional frameworks on gender equality and women's rights. However, there remained many implementation challenges, including coordination between relevant authorities and the use of existing expertise in civil society organisations. Women's rights organisations in Romania played a key role in the fight against discrimination against women and girls, complementing, and often taking on, tasks of the Government – with activities including awareness raising, education and training on gender equality and gender-based violence, providing shelter, support, rehabilitation and reintegration services for victims/survivors of gender-based violence, migrant and refugee women. The Working Group noted that civil society had stepped in to address many of the problems related to discrimination against women and girls, and it had witnessed first-hand the impact of their work. In light of the key role that women's and girls' organisations and networks played in ensuring human rights, the Working Group recommended that their significant expertise should be utilised, they should be granted adequate resources and be included in policy making. Also, any harassment of activists must be prevented (available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25687&LangID=E>; The full report of the visit (A/HRC/47/38/Add.1) is forthcoming and will be presented at the 47th session of the UN Human Rights Council in June 2021).

Earlier in 2018, several Special Procedures mandate-holders entered in dialogue with Romania with regard to information received about repeated attempts since 2013 to hamper the exercise of the freedom of assembly and expression of the Hungarian-speaking Szekler minority in Romania, during their annual commemoration event organised by the Szekler National Council (SNC). The different penalties and decisions to hamper the holding of the Day of Szekler Freedom march has deterred many participants to demonstrate as they fear the authorities could impose penalties such as fines. In contrast, other movements, including extremist political parties, had repeatedly organized similar marches without any interference from the authorities (ROU 2/2018, available at <https://spcommreports.ohchr.org/TmSearch/Results>).

Initiatives to foster a rule of law culture

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

3000 character(s) maximum

Other – please specify

3000 character(s) maximum

Justice System - Slovak Republic

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

At its 2019 Universal Periodic Review, Slovakia supported one relevant recommendation, namely to “implement and rigorously enforce ethical standards and reforms to the judicial selection and appointment process in order to safeguard the justice system and judicial accountability.” (A/HRC/41/13/Add.1, para 3, recommendation 121.93).

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

In its 2019 concluding observations, the UN Committee on Economic, Social and Cultural Rights noted with concern information about the high incidence of violence against women, including sexual harassment, stalking and domestic violence, in Slovakia, and recommended the country to improve women's access to justice for all forms of violence against women (E/C.12/SVK/CO/3, para 28,29).

In its 2019 concluding observations, the UN Committee on Enforced Disappearances was concerned about instances in which persons deprived of their liberty were not afforded all the fundamental legal safeguards from the outset of their deprivation of liberty, in particular access to a lawyer and to communicate the deprivation of liberty to their family or any other person of their choice, including as per section 34 of the Code of Criminal Procedure. While welcoming the information provided by Slovakia on its efforts to ensure that all deprivations of liberty are properly recorded, the Committee recommended the country to adopt measures necessary to ensure in practice that all persons deprived of liberty are afforded, from the outset of their deprivation of liberty, all the fundamental legal safeguards, notably access to a lawyer. The Committee also found that the State party should review section 34 of its Code of Criminal Procedure to ensure that it is fully compliant with the Convention (CED/C/SVK/CO/1, para 16,17).

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

In its 2019 concluding observations, the UN Committee on Enforced Disappearances noted that Slovakia did not provide specific and regular training on the Convention for the Protection of All Persons from Enforced Disappearance and the crime of enforced disappearance, including due to lack of expertise. The Committee welcomed Slovakia's expressed interest in receiving training support and recommended Slovakia ensure that all law enforcement and security personnel, including inter alia judges, prosecutors and other officials responsible for the administration of justice, receive specific and regular training on the provisions of the Convention. It also encouraged Slovakia to provide training to judges on the offence of enforced disappearance, in particular to ensure its proper application and the appropriate consideration of section 420a (1) of the Criminal Code (CED/C/SVK/CO/1, para 22,23).

In its 2019 concluding observations, the UN Committee on Economic, Social and Cultural Rights regretted that, although the Covenant takes precedence over domestic laws, examples of cases in which the Covenant had been applied by domestic courts were so far limited. The Committee recommended that Slovakia increase judges', lawyers' and prosecutors' knowledge of the Covenant in order to ensure that its provisions are taken into account in domestic court decisions, and more generally to raise awareness of the Covenant and of the justiciability of economic, social and cultural rights among members of the judicial branch and the general public. The Committee further expressed concern at the lack of effective judicial recourse for victims, including among groups that commonly face discrimination, such as Roma, migrants and asylum seekers and persons with disabilities, and regretted the lack of legal recognition of intersectionality. It recommended that Slovakia continue training of the judiciary on legal standards relating to non-discrimination and extend such training to other legal professionals and government officials. The Committee also recommended Slovakia remove barriers to effective judicial remedy for victims of discrimination under the Anti-Discrimination Act of 2004, including by undertaking awareness-raising activities of discriminated groups about their rights and available complaint mechanisms (E/C.12/SVK/CO/3, paras 4, 5, 12, 13).

In its 2018 concluding observations, the UN Committee for the Elimination of Racial Discrimination urged Slovakia to inter alia provide training, on a regular basis, to civil servants, judges, magistrates and law enforcement officers, with a view to ensuring the effective application of the Convention on the Elimination of All Forms of Racial Discrimination and of its legislation on racial discrimination, and to ensure that, in carrying out their duties, they respect and defend all human rights while also taking steps to eliminate racially discriminatory acts or practices (CERD/C/SVK/CO/11-12, para 9,10).

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

At its 2019 Universal Periodic Review, Slovakia supported one relevant recommendation namely to “improve the functioning of the judicial system by implementing a “Swift Justice” programme and an automated case management system to track the progress of cases so as to reduce the current backlog.” (A/HRC/41/13/Add. 1, para 3, recommendation 121.92).

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

In its 2018 concluding observations, the UN Committee for the Elimination of Racial Discrimination remained concerned that court proceedings in cases of racial discrimination continued to be excessively lengthy, thus impacting negatively on effective access to justice for victims. The Committee urged Slovakia to inter alia adopt appropriate and effective measures to address the problem of lengthy court proceedings for victims of racial discrimination and take all the steps necessary to guarantee that all victims of racial discrimination have access to effective legal remedies and compensation (CERD/C/SVK/CO/11-12, para 9,10).

Other - please specify

3000 character(s) maximum

Anti-Corruption Framework - Slovak Republic

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

In its 2019 concluding observations, the UN Committee on Economic, Social and Cultural Rights noted Slovakia's efforts to tackle corruption, including the adoption of Act No. 315/2016 Coll. on the Register of Public Sector Partners, the protection of whistle-blowers and the conviction of some high-ranking officers. However, the Committee remained concerned by the continued levels of corruption in Slovakia and regretted that information on investigations, prosecutions and convictions reflecting the cross-cutting impact of corruption on human rights was so far limited. The Committee recommended Slovakia to further increase investigations, prosecutions and convictions for corruption, including in cases of gross corruption by high-level officials, and take robust measures to prevent future incidences of corruption (E/C.12/SVK/CO/3, para 8,9).

At its 2019 UPR, Slovakia supported several related recommendations, namely to 'take all necessary steps to strengthen anti-corruption laws, ensure independence of the judiciary and protect the rights and safety of journalists', to 'reform the police and prosecution services by improving transparency and oversight to combat corruption, increase accountability and improve public trust in the judicial system', and 'to continue improving the functioning of the justice system, including the prosecutor's office, and the fight against the corruption and the slowness of judicial procedures.' (A/HRC/41/13/Add.1, para 3, Recommendations 121.80, 121.81 and 121.95)

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

3000 character(s) maximum

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

3000 character(s) maximum

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

3000 character(s) maximum

Repressive measures

Criminalisation of corruption and related offences.

3000 character(s) maximum

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

3000 character(s) maximum

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

3000 character(s) maximum

Other – please specify

3000 character(s) maximum

Media Pluralism - Slovak Republic

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

In 2018, the UN Special Rapporteurs on extrajudicial, summary or arbitrary executions and on the promotion and protection of the right to freedom of opinion and expression entered in a dialogue with Slovakia following the murder of the investigative journalist, Mr Jan Kuciak and his partner, Ms. Martina Kusnirova. They expressed concern that despite previously reporting threats received to the Prosecutor, no protection measures appeared to have been taken, as well as at the serious impact such killings would have not only on individual journalists and their families but also on the general public's right to information and a democratic society. While they welcomed the Government's immediate response calling for an investigation into to the killings, they underlined the importance of a prompt, thorough and impartial investigation in order to bring those accountable to justice and to prevent impunity for crimes against journalists. Further, given the impact the killing may have on other reporting, they urged the Government to take all possible steps to protect and support journalists working to uncover tax fraud and other matters of public interest (UA SVK 1 /2018, available at <https://spcommreports.ohchr.org/Tmsearch/TMDocuments>, see also press release at <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22753&LangID=E>

At its 2019 Universal Periodic Review, Slovakia supported eight related recommendations following the double killing, such as to take all measures to protect and support journalists working to uncover corruption and other matters of the highest public interest (A/HRC/41/13/Add.1, para 3).

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 - Slovak Republic

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

In their respective concluding observations in 2018 and 2019, the UN Committee for the Elimination of Racial Discrimination (CERD), the UN Committee on Enforced Disappearances (CED) and the UN Committee on Economic, Social and Cultural Rights (CESCR) all expressed regret or concern that the Slovak National Centre for Human Rights did not yet fully comply with the Paris principles and remained a B-status NHRI. While the CED noted with appreciation that the budget of the National Centre had recently increased by 40 per cent and that its personnel was also increased with seven additional employees, it regretted that the legislative reform to improve the normative framework of the National Centre proposed by the Government did not receive the necessary support in the National Council of the Slovak Republic. The CESCR was further concerned by reports of inadequate funding to the Centre, and its lack of full independence and transparent appointment processes. It recommended that Slovakia: (a) expand efforts to increase funding to the Slovak National Centre for Human Rights; (b) improve the independence of the Centre in accordance with the Paris Principles; (c) take all necessary steps to ensure fully transparent recruitment processes for all staff members; (d) Ensure that all institutions overseeing the promotion and protection of human rights, including the Centre, the Public Defender of Rights, the Commissioner for persons with disabilities and the Commissioner for children, work together under a comprehensive framework (CERD/C/SVK/CO/11-12, para 7, 8; CED/C/SVK/CO/1, para 10,11; E/C.12/SVK/CO/3, para 6, 7).

Slovakia supported ten related recommendations at its 2019 UPR, notably to complete the legislative procedures required to ensure full compliance of its NHRI with the Paris Principles without further delay as well as to ensure the independence of the institution of the Commissioner for Children (A/HRC/41/13/Add.1, para 3).

In its 2018 concluding observations, the CERD also reiterated its previous recommendation that Slovakia take all necessary measures to accelerate the establishment of an independent monitoring mechanism to investigate crimes involving police officers, considering numerous reports of excessive use of force and ill-treatment by law enforcement officers against ethnic minorities, in particular Roma, and that the majority of these reports were either not duly investigated, or when investigations had been initiated they had been suspended, and most complaints against law enforcement officers had been dismissed (CERD/C/SVK/CO/11-12, para 15,16).

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

In their concluding observations in 2018 and 2019, the UN Committee for the Elimination of Racial Discrimination and the UN Committee on Economic, Social and Cultural Rights expressed concern about forced sterilization of Roma women and the absence of adequate access to remedy for victims. The CERD noted Slovakia's information about measures adopted to prevent forced sterilization and to provide compensation to victims but was concerned that access to justice, reparation and compensation remained difficult for Roma women who had been subjected to forced sterilization. It urged Slovakia to inter alia ensure that Roma women who were victims of sterilization without their informed consent had access to effective remedies and adequate compensation, that perpetrators be brought to justice, and that legislation and regulations on informed consent in situations of sterilization be enforced effectively. The CESCR Committee further recommended Slovakia should ensure full, independent and transparent investigation into occurrences of forced sterilization of Roma women, including the complicity of any State officials, applying disciplinary and criminal sanctions where warranted (CERD/C/SVK/CO/11-12, para 23, 24; E/C.12/SVK/CO/3, para 44, 45)

In its 2019 concluding observations, the Committee on Enforced Disappearances noted with concern that the definition of “close person” contained in section 116 of the Civil Code, provided by Slovakia to make reference to the persons who could have a legitimate interest in having access to information under the terms of article 18 of the Convention for the Protection of All Persons from Enforced Disappearance, is restrictive and that the requirement for persons, other than direct relatives, to be considered “close” may be difficult to demonstrate. While noting with interest the affirmation by Slovakia that, in practice, persons deprived of liberty can communicate with close persons and that their choice is not questioned by the relevant authorities, the Committee recommended Slovakia to take the measures necessary to ensure that any person with a legitimate interest can have prompt and easy access to, at least, the information stipulated in article 18 (1) of the Convention. In addition, the Committee encouraged Slovakia to review its definition of “close person” so as to bring it into line with article 18 (1) of the Convention (CED/C/SVK/CO/1, paras 20,21).

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

3000 character(s) maximum

The enabling framework for civil society

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

3000 character(s) maximum

Initiatives to foster a rule of law culture

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

3000 character(s) maximum

Other – please specify

3000 character(s) maximum

Justice System - Slovenia

Independence

Appointment and selection of judges, prosecutors and court presidents

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

3000 character(s) maximum

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

3000 character(s) maximum

Promotion of judges and prosecutors

3000 character(s) maximum

Allocation of cases in courts

3000 character(s) maximum

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

3000 character(s) maximum

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

3000 character(s) maximum

Remuneration/bonuses for judges and prosecutors

3000 character(s) maximum

Independence/autonomy of the prosecution service

3000 character(s) maximum

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

3000 character(s) maximum

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

3000 character(s) maximum

Quality of justice

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

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

3000 character(s) maximum

In its 2018 concluding observations, the Committee on the Rights of Persons with Disabilities noted with concern the lack of information on specific procedural, gender- and age-appropriate accommodation for persons with disabilities in judicial proceedings, in particular for deaf-blind persons; the lack of accessibility of the buildings of law enforcement agencies and the judiciary; barriers to access to justice for persons with psychosocial and/or intellectual disabilities, in particular persons living in institutions and/or deprived of their legal capacity; the fact that the State party has not formulated policies to empower persons with disabilities to be part of the justice system as direct or indirect participants, such as lawyers, court officers or law enforcement officials. The Committee also expressed concern at the reported cases of excessive use of force against persons in psychiatric institutions by medical staff and judicial police officers (CRPD/C/SVN/CO/1, para 18 – 20, 25).

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

Hate speech and incitement to violence - In the 2019 report following his visit to Slovenia, the Special Rapporteur on minority issues stated that the wording of article 297 of the Penal Code, and consequently its interpretation, had helped to create an environment of impunity and discouragement; those who engaged in hate speech and incitement to violence against minorities were unlikely to be prosecuted and could therefore act with little concern of any punishment or consequences, while victims felt there was simply no point in complaining if they believed no one would be prosecuted or punished (A/HRC/40/64/Add.1, para 49).

Anti-Corruption Framework - Slovenia

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

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

3000 character(s) maximum

Prevention

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

3000 character(s) maximum

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

3000 character(s) maximum

Rules on preventing conflict of interests in the public sector.

3000 character(s) maximum

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

3000 character(s) maximum

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

3000 character(s) maximum

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

3000 character(s) maximum

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

3000 character(s) maximum

Repressive measures

Criminalisation of corruption and related offences.

3000 character(s) maximum

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

3000 character(s) maximum

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

3000 character(s) maximum

Other – please specify

3000 character(s) maximum

Media Pluralism - Slovenia

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 - Slovenia

The process for preparing and enacting laws

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

3000 character(s) maximum

In its 2018 concluding observations, the Committee on the Rights of Persons with Disabilities expressed concern about the lack of consultation with organizations of persons with disabilities aimed at ensuring their meaningful involvement in the design and implementation of disability-related legislation and programmes; the lack of awareness among decision makers in the executive and legislative branches and among professional and administrative staff about Slovenia's obligations under the Convention on the Rights of Persons with Disabilities, in all areas of life (CRPD/C/SVN/CO/1 para 4).

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

In its 2018 concluding observations, the Committee on the Rights of Persons with Disabilities was concerned about the limited capacity of the national preventive mechanism of the Human Rights Ombudsman to effectively address allegations of torture and ill-treatment against persons with disabilities in institutions. It also expressed concern at the lack of independence, capacity and resources of the Council of Slovenia for Persons with Disabilities designated as the independent monitoring framework for the implementation of the Convention (CRPD/C/SVN/CO/1 para 25, 57).

In the 2019 report following his visit to Slovenia, the Special Rapporteur on minority issues welcomed the amendments to the Human Rights Ombudsman Act made in late 2017, which set out a new legal basis for the Office of the Ombudsman to apply for A-status under the Paris Principles. The amendments provide for the establishment of a consultative body to the Ombudsman, with pluralistic representation in order to strengthen cooperation with civil society, as well as the establishment of a centre for human rights as a component dealing with a general mandate in relation to educational, training and promotional activities. Additional financial support for the office and further staff to aid in the fulfilment of its mandate were also envisaged (A/HRC/40/64/Add.1 para 19).

In December 2020, GANHRI Sub-Committee on Accreditation (SCA) recommended that the Ombudsman office be re-accredited with A status. The SCA commended the efforts undertaken by the Ombudsman to advocate for the 2017 amendments to its enabling legislation. It encouraged the Ombudsman to continue efforts to address all human rights issues affecting the society in which it operates, including the rights of migrants and refugees, rights of persons with disabilities, and human trafficking. The SCA specifically recommended that the Ombudsman office advocate for the formalization and application of a broader and

more transparent selection and appointment process. Noting that while the NHRI's funding situation had improved, it would benefit from additional funding in order to continue to carry out its functions effectively, it also recommended the Ombudsman's office advocate for more adequate funding as well as for appropriate modifications to applicable administrative procedures to ensure that its independence and financial autonomy is guaranteed. Noting that the law as amended in 2017 did not explicitly mandate the Ombudsman to encourage Slovenia to ratify or accede to international human rights instruments, the SCA encouraged the Ombudsman to advocate for an appropriate legislative amendment to make this mandate explicit (GANHRI Sub-Committee on Accreditation Report –December 2020, available at <https://nhri.ohchr.org/EN/AboutUs/GANHRIAccreditation/Documents/SCA%20Report%20December%202020%20-%2024012021%20-%20En.pdf>).

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

In the 2019 report following his visit to Slovenia, the Special Rapporteur on minority issues emphasised the human rights dimensions of the process by which citizens of the former Yugoslav republics who were not citizens of Slovenia could acquire Slovenian citizenship following the entry into force of the 1991 Citizenship Act. Nearly all of those removed ('erased') from the registry of permanent residents as a result of the law, belonged to minorities, leading in effect to discriminatory consequences. While half of these people would eventually regain their residency status, or in some cases succeeded in acquiring citizenship after decades of litigation, the situation of perhaps 10,000 who mainly lived outside Slovenia remained unclear. Compensation was still being fought over, despite judgments of the European Court of Human Rights, and a decision by the Constitutional Court in April 2018 ruling against the limitations for those who filed claims for damages in judicial processes on the amount of compensation awarded. As the Constitutional Court of Slovenia announced just a few days before the Special Rapporteur conducted his mission, the government compensation scheme should be amended to ensure that individual claimants can require judicial review of the amount of lump-sum damages (A/HRC/40/64/Add.1 para 53, 55).

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

3000 character(s) maximum

The enabling framework for civil society

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

3000 character(s) maximum

Initiatives to foster a rule of law culture

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

3000 character(s) maximum

Other – please specify

3000 character(s) maximum

Justice System - Spain

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

In the 2020 report of his official visit to Spain, the UN Special Rapporteur on minority issues noted that, while existing legislation recognizes the co-official status of Basque with Castilian in the Basque-speaking regions of Navarre and the mixed-language zones, judicial pronouncements have in recent years limited the permissible use of minority languages in Navarre, as in other parts of the country. This includes an October 2019 pronouncement of the High Court of Justice of Navarre that overturned provisions requiring bilingual public signage and notices in mixed-language and non-Basque-speaking areas. Article 231 of the organic law on the judiciary has been identified as one of the obstacles to the full implementation by Spain of its human rights obligations in relation to the use of co-official minority languages, since it stipulates that in judicial procedures, judges, magistrates, prosecutors, clerks and other officers are to use Castilian, and that co-official minority languages will be allowed only if no party objects. The UN Special Rapporteur invited the Government of Spain to modify article 231 of the organic law on the judiciary in order to guarantee a more directly exercisable right to use a minority co-official language jointly with Castilian, so that the proceedings for criminal, civil and administrative judicial authorities can effectively be held in both co-official languages (A/HRC/43/47/Add.1, para 54, 55, 85).

In its 2019 concluding observations, the UN Committee on the Rights of Persons with Disabilities expressed concern about the widespread lack of accessibility of buildings in which law enforcement agencies and

judicial bodies are located. It lamented the lack of procedural gender- and age-appropriate accommodation in judicial proceedings that considers the diversity among persons with disabilities. The Committee expressed concern over the barriers that prevent persons under substituted decision-making regimes from participating in legal proceedings on an equal basis with others. The Committee recommended to enact legislation to remove all barriers for persons with disabilities in their access to justice and to enable their participation in all legal proceedings on an equal basis (CRPD/C/ESP/CO/2-3, para 24, 25).

In the context of the sale, trafficking and abduction of children, the UN Committee on the Rights of the Child recommended Spain in its 2018 concluding observations to promote measures for increased collaboration among autonomous communities and resources to provide child victims with free legal aid (CRC/C/ESP/CO/5-6, para 46).

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

In its 2019 concluding observations, the UN Committee on the Rights of Persons with Disabilities expressed concern about the lack of training for the judiciary about the rights of persons with disabilities and the standards enshrined in the Convention on the Rights of Persons with Disabilities. It recommended Spain to continue to provide professionals, including judges and law enforcement officials with training to raise their awareness of the rights (CRPD/C/ESP/CO/2-3, para 6, 7, 24, 25).

The UN Committee on Economic, Social and Cultural Rights recommended Spain in its 2018 concluding observations to provide training to, amongst others, judges, lawyers, and law enforcement officials on the content of the rights recognized in the Covenant on Economic, Social and Cultural Rights, and on the possibility of invoking the Covenant in court. (See E/C.12/ESP/CO/6, para 5, 6).

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

In its 2018 concluding observations, the UN Committee on the Rights of the Child recommended Spain to increase the number of specialized judges for children and ensure the availability of specialized juvenile court facilities and child-friendly procedures and, in this regard, review the 2017 agreement by the General Council of the Judiciary to transfer specialized children's judges to general courts (CRC/C/ESP/CO/5-6, para 47). In 2020, Spain supported several recommendations from the Universal Periodic Review with regard to this matter (A/HRC/44/7 and A/HRC/44/7, para 150.70 - 150.173).

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

Best interests of the child and respect for the views of the child - In its 2018 concluding observations, the UN Committee on the Rights of the Child expressed concern over the uneven implementation of the child's right to have his or her best interests taken as a primary consideration in the autonomous communities. The Committee recommended Spain to ensure that this right is consistently interpreted and applied in all legislative, administrative and judicial proceedings and decisions. The Committee further recommended Spain to increase its efforts to promote due respect for children's views, at any age, in all relevant judicial and administrative proceedings. It recommended Spain to harmonize the relevant laws, particularly the Civil Code and the Code of Civil Procedure, with the Convention (CRC/C/ESP/CO/5-6, para 16, 17).

Racial Profiling in the context of law enforcement and judiciary - In the report of his official visit to Spain in 2019, released in March 2020, the UN Special Rapporteur on minority issues reported that provisions in the Law on the Security of Citizens, which impose large fines for filming law enforcement agents and reverse the burden of proof, had been raised as a significant factor contributing to distrust of the police and the judiciary among some minorities: they felt that they were unable to present their allegations, since filming such incidents is illegal, and that they had to assume the burden of proof for any allegation of police misbehaviour. While the UN Special Rapporteur on minority issues was advised that the State Secretariat for Security had issued, in October 2018, strict instructions that filming or taking a photo of law enforcement officials was not an infraction as such and that all law enforcement officers should issue a proper receipt for all physical searches to the persons searched, the Special Rapporteur noted that the legislation still in force could be seen to contradict the proposed strict interpretation. (A/HRC/43/47/Add.1, para 34). Similar concerns were raised by the UN Working Group on People of African Descent in the report on its 2018 country visit (A/HRC/39/69/Add.2, para 49).

Incommunicado detention - In a 2019 decision on an individual complaint case, the UN Committee Against Torture found that Spain violated the human rights of an individual who suffered torture and incommunicado detention. The Committee urged Spain to ensure the complainant received justice and reparation and that all allegations of torture be investigated promptly, thoroughly and impartially by the competent authorities. To prevent similar violations in the future, the Committee also urged Spain to take legislative measures aimed at ending incommunicado detention as it served to create an atmosphere more conducive to acts of torture.

Anti-Corruption Framework - Spain

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

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

3000 character(s) maximum

Prevention

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

3000 character(s) maximum

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

3000 character(s) maximum

Rules on preventing conflict of interests in the public sector.

3000 character(s) maximum

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

3000 character(s) maximum

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

3000 character(s) maximum

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

3000 character(s) maximum

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

3000 character(s) maximum

Repressive measures

Criminalisation of corruption and related offences.

3000 character(s) maximum

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

3000 character(s) maximum

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

3000 character(s) maximum

Other – please specify

3000 character(s) maximum

Media Pluralism - Spain

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 against journalists (incl. defamation)

3000 character(s) maximum

Other - please specify

3000 character(s) maximum

Other institutional issues related to checks and balances - Spain

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

In the report on its 2018 visit to Spain, the UN Working Group on People of African Descent recommended Spain undertake legislative reforms affecting people of African descent in consultation with, and the involvement of, civil society representing them (A/HRC/39/69/Add.2, para 58). In its 2020 Universal Periodic Review, Spain supported a similar recommendation (A/HRC/44/7 para 150.220 and A/HRC/44/7/Add.1, para 10).

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

In its 2019 concluding observations, the UN Committee on the Rights of Persons with Disabilities expressed concern about the independent monitoring of the implementation of the Convention. The Committee recommended the State party to strengthen the capacity of the Spanish Committee of Representatives of Persons with Disabilities and its role as an independent monitoring mechanism for the implementation of the Convention, and provide adequate resources and funding for its functioning (CRPD/C/ESP/CO/2-3, para 62, 63).

In its 2018 concluding observations, the UN Committee on the Rights of the Child recommended Spain to take measures necessary to protect and reinforce the independent monitoring of children's rights and to reopen the Office of the Ombudsman for Children in Madrid. It recommended the State party to strengthen the capacity of the national office of the Ombudsman to receive, investigate and address complaints by children in a child-sensitive manner, particularly children in those autonomous communities where no office of the Ombudsman exists (CRC/C/ESP/CO/5-6, para 11).

In 2020, Spain supported a recommendation from the Universal Periodic Review to strengthen the capacity of the Office of the Ombudsman in order to adequately respond to children's complaints (A/HRC/44/7 and A/HRC/44/7/Add.1, para. 10, 150.22).

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

In the report on its 2018 visit to Spain, the UN Working Group on People of African Descent recommended Spain to adopt measures to shorten the delay in processing asylum requests and ensure persons have access to procedural safeguards to challenge their detention (A/HRC/39/69/Add.2, para. 66).

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

3000 character(s) maximum

In 2018, the UN Committee on the Elimination of Discrimination against Women (CEDAW) welcomed the decision by Spain's highest court in favour of a victim of domestic violence, which reaffirmed that Spanish law must incorporate the rights and freedoms of human rights treaties. The hailed judgment centered on the CEDAW's decision in an individual complaint case brought by a woman who had failed to obtain from the Spanish police, administrative and judicial authorities the protection needed in a situation of repeated domestic violence, which had resulted in the death of her child. Among other recommendations, CEDAW recommended Spain pay compensation to the complainant, and to take measures to ensure that past acts of domestic violence were taken into consideration when determining custody and visitation rights regarding children. The complainant was obliged to take the case to the Spanish courts to enforce compliance with the Committee's recommendation; a case that went all the way to Spain's Supreme Court. On appeal, the Supreme Court enforced compliance with the Committee's recommendations, acknowledging that the provisions of international treaties to which Spain is a party, formed part of its law and that the

recommendations of CEDAW were binding in nature. (Decision CEDAW/C/58/D/47/2012, See also <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23849&LangID=E>).

The enabling framework for civil society

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

3000 character(s) maximum

In her February 2021 global update to the UN Human Rights Council, the UN High Commissioner for Human Rights expressed concern about measures in several EU countries restricting the work of organizations that protect migrants' rights and deliver life-saving assistance. She noted that criminal or administrative proceedings had been initiated in Spain against humanitarian actors involved in search and rescue in the Mediterranean. (See at www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26806&LangID=E).

Initiatives to foster a rule of law culture

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

3000 character(s) maximum

Other – please specify

3000 character(s) maximum

Justice System - Sweden

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

Counter-terrorism - In its 2018 concluding observations, the UN Committee on the Elimination of Racial Discrimination expressed concern about reports that, at present, the Terrorism Act disproportionately targets Muslims, while crimes committed by other groups, such as neo-Nazi groups, are not investigated as terrorism. It recommended that Sweden ensure that measures to combat terrorism are undertaken in such a way as to protect fundamental human rights, including the right to equality CERD/C/SWE/CO/22-23, para 20, 21).

Justice response to racist hate speech and violence – In its 2018 concluding observations, the UN Committee on the Elimination of Racial Discrimination expressed concern about the gap between the number of reported cases of hate speech and hate crimes against several minorities, on the one hand, and the number of investigations, prosecutions and convictions of perpetrators, on the other (CERD/C/SWE/CO/22-23, para 10). In 2020, under the 3rd cycle of the Universal Periodic Review of Sweden, the country supported recommendations to take steps to overcome the obstacles that prevent the effective prosecution of hate speech and strengthen efforts to properly enforce the legislation prohibiting agitation against racial, religious and ethnic minorities (A/HRC/44/12/Add.1 and A/HRC/44/12).

Anti-Corruption Framework - Sweden

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

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

3000 character(s) maximum

Prevention

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

3000 character(s) maximum

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

3000 character(s) maximum

Rules on preventing conflict of interests in the public sector.

3000 character(s) maximum

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

3000 character(s) maximum

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

3000 character(s) maximum

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

3000 character(s) maximum

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

3000 character(s) maximum

Repressive measures

Criminalisation of corruption and related offences.

3000 character(s) maximum

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

3000 character(s) maximum

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

3000 character(s) maximum

Other – please specify

3000 character(s) maximum

Media Pluralism - Sweden

Media authorities and bodies

(Cf. Article 30 of Directive 2018/1808)

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

3000 character(s) maximum

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

3000 character(s) maximum

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

3000 character(s) maximum

Transparency of media ownership and government interference

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

3000 character(s) maximum

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

3000 character(s) maximum

Framework for journalists' protection

Rules and practices guaranteeing journalist's independence and safety

3000 character(s) maximum

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

3000 character(s) maximum

Access to information and public documents

3000 character(s) maximum

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

3000 character(s) maximum

Other - please specify

3000 character(s) maximum

Other institutional issues related to checks and balances - Sweden

The process for preparing and enacting laws

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

3000 character(s) maximum

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

3000 character(s) maximum

Regime for constitutional review of laws.

3000 character(s) maximum

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

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

3000 character(s) maximum

Independent authorities

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

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

3000 character(s) maximum

In its 2018 concluding observations, the UN Committee on the Elimination of Racial Discrimination expressed concern that the mandate of the Equality Ombudsman is limited, that the number of successfully resolved cases is relatively low and that the resources available may not be commensurate with the expected performance of the office (CERD/C/SWE/CO/22-23, para 6).

In 2020, under the 3rd cycle of the Universal Periodic Review of Sweden, the country supported the recommendations to establish a national human rights institution in conformity with the Paris Principles and to consider expanding the mandate of the Equality Ombudsman and allocate sufficient resources (A/HRC/44/12/Add.1 and A/HRC/44/12).

Accessibility and judicial review of administrative decisions

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

3000 character(s) maximum

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

3000 character(s) maximum

The enabling framework for civil society

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

3000 character(s) maximum

In 2019, the UN Independent Expert on human rights and international solidarity in his mission report recommended Sweden to cover acts of humanitarian assistance to refugees and asylum seekers by a humanitarian exemption to avoid the criminalization of such acts. (A/HRC/41/44/Add.1, para 79))

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

Contact

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