

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

Civil society organisation/NGO

* Organisation name

250 character(s) maximum

The Good Lobby Italia

* Main Areas of Work

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

If "Other", please specify

equality and participation

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

500 character(s) maximum

www.thegoodlobby.it

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

Italy

* First Name

Fabio

* Surname

Rotondo

* Email Address of the organisation (this information will not be published)

fabio@thegoodlobby.it

* Publication of your contribution and privacy settings

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

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 Organisation name, URL, transparency register number, first name and surname given above will not be published.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- ☐ No publication - Your contribution will not be published.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

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

Questions on horizontal developments

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

Overview topics for contribution

[overview_topics_for_contribution.pdf](#)

Please provide any relevant information on horizontal developments here

5000 character(s) maximum

Questions on developments in Member States

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

relevant legislation/documents. Significant developments can include challenges, positive developments and best practices, covering both legislative developments or implementation and practices (as outlined under "type of information").

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

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

Member States covered in contribution [several choices possible]

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

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

Justice System - Italy

Independence

Appointment and selection of judges, prosecutors and court presidents

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

3000 character(s) maximum

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

3000 character(s) maximum

Promotion of judges and prosecutors

3000 character(s) maximum

Allocation of cases in courts

3000 character(s) maximum

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

3000 character(s) maximum

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

3000 character(s) maximum

Remuneration/bonuses for judges and prosecutors

3000 character(s) maximum

Independence/autonomy of the prosecution service

3000 character(s) maximum

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

3000 character(s) maximum

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

3000 character(s) maximum

Quality of justice

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

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

3000 character(s) maximum

Resources of the judiciary (human/financial/material)

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

3000 character(s) maximum

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

3000 character(s) maximum

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

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

3000 character(s) maximum

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

3000 character(s) maximum

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

3000 character(s) maximum

Efficiency of the justice system

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

Length of proceedings

3000 character(s) maximum

Other - please specify

3000 character(s) maximum

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

According to the anti-corruption law of 2012, A.N.AC. is tasked with the analyses of the causes of corruption and with the drafting of the anticorruption strategy, through regulatory and supervising functions. Regarding these functions, the law assigns to A.N.AC. the power to monitor, request the exhibition of documents, and the adoption of acts or the removal of acts and behaviours in violation of the with law and transparency rules. In addition, A.N.AC. provides advice to the public administrations on the compliance of public employees with the code of conduct; establishes guidelines and standards for codes of conduct in specific administrative areas; reports annually to the Parliament on anticorruption activities, criminality in public entities and the effectiveness of the adopted strategy. In the area of transparency (regulated by legislative decree n. 33/2013), the Authority can impose pecuniary sanctions for the violation of the obligation of data publication. In addition, the Authority is tasked with the interpretation of the legal framework on “the ineligibility and incompatibility of positions in the public administration”, as well as the supervision on the correct enforcement of the pertinent legislation .

Prevention of Corruption

- Draft and implementation of the National Anticorruption Plan
- Supervision and monitoring of the adoption of the three-year Anticorruption Plans and Codes of Conduct by public administrations and state-controlled enterprises
- Sanction of entities in the event of failure to adopt the three-year Plans and/or the Codes of Conduct
- Supervision of the appointment of the Officers for the Prevention of Corruption and Transparency by each public administration

Integrity of Public Employees

- Supervision of the requirements of public officials' appointments and conflicts of interest
- Authorization to carry out external assignments for public officials
- Intake and management of whistleblowers complaints
- Guidance and supervision over the adoption of Codes of Conduct by each public administration.

Transparency

- Guidance and supervision over the inclusion of transparency rules into the three-year Anticorruption Plan by each public administration and state-controlled entities
- Sanctioning power in the event of failure to adopt such rules
- Definition of standards and templates for the mandatory publication of documents, information and data related to the “Transparent Administration” section of each entity
- Adoption of guidelines on the exercise of general civic access, in agreement with the Personal Data Protection

Protection

Authority financial statement: www.anticorruzione.it/portal/rest/jcr/repository/collaboration/Digital%20Assets/anacdocs/AmministrazioneTrasparente/Bilanci/BilancioPreventivoConsuntivo/2020/Prospetto%20sintetico%20bilancio%20di%20previsione%202020.pdf

Prevention

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

3000 character(s) maximum

Three legislative proposals on lobbying are under discussion in the Constitutional Affairs Committee of Camera dei Deputati. Parliamentary hearings were conducted and all those who spoke considered useful and urgent a lobbying regulation in Italy with an international framework. At least two of the three proposals have systemic features and would regulate the access and transparency of decision-making processes at a national level involving all institutions up to the municipalities with more than 100,000 inhabitants. Furthermore, the positive aspect would be the introduction of a national transparency register, mandatory agendas to be disclosed by decision makers and key Public officials, stakeholders' consultations , and sanctions in case of non-compliance. To date, the draft has still to be approved by the Committee.

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

The current law (no. 215 of 20 July 2004) provides that the members of government offices, in the exercise of their functions, must devote themselves exclusively to the care of the public interests and must refrain from carrying out acts and participating in collective deliberations in situations of conflict of interest. In fact, it identifies the causes of incompatibility between the office of government and the exercise of a series of activities and professions.

The Antitrust Authority and, with particular reference to publishing companies, the Communications Authority will monitor such situations of conflict of interest.

Currently under discussion in the Chamber there are two proposals that intervene on the regulation of the resolution of conflicts of interest of the holders of government offices replacing the current regulations. This is the dossier on the subject drawn up by the study service of the Chamber of Deputies

<https://documenti.camera.it/Leg18/Dossier/Pdf/AC0248.Pdf>

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

ANAC: The Code of Public Contracts (Legislative decree n. 50/2016, article 213) identifies () ANAC as the responsible entity for the supervision and regulation of public contracts, in order to ensure compliance with the principles of transparency, legitimacy and competition of the operators in the public procurement market and prevent corruption. Thus, the whole strategy for corruption prevention is concentrated in one single institution. The Authority achieves its goals in the area of public procurement through regulation, advisory in order to prevent disputes -, and supervision function, along with inspection and sanctioning powers. These competences are completed by an important monitoring activity through the collection of data on tenders and on the companies operating in the sector: for this purpose, ANAC manages the Observatory for public contracts. These data are made public through the institutional website, in order to increase the transparency of the market. ANAC was the 1st classified in the 2018 European Commission Award "Better Governance through Procurement Digitalization" in the category of National Contract Registers.

Public Procurement

- Supervision of public contracts for works, services and supplies, including those of regional interest, in ordinary and special sectors
- Supervision of the qualification system for economic operators, including sanctioning powers
- "Collaborative supervision" through the signing of memorandum of understanding with procuring agencies, 10

aimed at collaboration in the preparation and management of tenders, in order to avoid criminal activities

- Advisory function through the issuing of consultative or binding opinions on legislation and pre-litigation cases
- Regulatory function through the adoption of guidelines, standards on tenders, specifications, and other soft regulatory tools, aimed at facilitating the exchange of information, and the development of best practices
- Management of the qualification system for contracting authorities, the mandatory national register of the members of adjudicatory committees on public procurement and the register of in-house companies
- Appeal before the Administrative Judge of contracting authorities' measures in serious violations of the Code of Contracts

ANAC has also inspection powers and the power to request the exhibition of documents. In addition, ANAC may impose pecuniary sanctions to the economic operators who refuse to provide such information.

ANAC Annual Report: <https://www.anticorruzione.it/portal/rest/jcr/repository/collaboration/Digital%20Assets/anacdocs/Comunicazione/News/2019/000.ANAC.RELAZIONE.PARLAMENTO.2019.pdf>

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

3000 character(s) maximum

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

3000 character(s) maximum

Repressive measures

Criminalisation of corruption and related offences.

3000 character(s) maximum

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

3000 character(s) maximum

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

3000 character(s) maximum

Other – please specify

3000 character(s) maximum

Media Pluralism - Italy

Media authorities and bodies

(Cf. Article 30 of Directive 2018/1808)

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

3000 character(s) maximum

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

3000 character(s) maximum

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

3000 character(s) maximum

Transparency of media ownership and government interference

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

3000 character(s) maximum

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

3000 character(s) maximum

Framework for journalists' protection

Rules and practices guaranteeing journalist's independence and safety

3000 character(s) maximum

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

3000 character(s) maximum

Access to information and public documents

3000 character(s) maximum

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

3000 character(s) maximum

Other - please specify

3000 character(s) maximum

Other institutional issues related to checks and balances - Italy

The process for preparing and enacting laws

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

3000 character(s) maximum

Since the beginning of the XVIII Legislature (23 March 2018), 108 laws have been passed (38 laws converting decree-laws and 70 other ordinary laws, 39 of government initiative, 29 of parliamentary initiative and 2 of mixed popular and parliamentary initiative); 108 laws have been published in the "Official Gazette"; 51 decree-laws have also been issued (4 by the Gentiloni government, 26 by the Conte I government and 21 by the Conte II government), 63 legislative decrees and 9 delegation regulations.

For the approval of 19 of the 108 laws, the Government used, in at least one branch of Parliament, the position of the issue of trust (in 9 of these 19 cases trust was placed in all parliamentary passages).

<https://www.camera.it/temiap/documentazione/temi/pdf/1105144.pdf>

the decree law. Created to address emergency and urgent situations, over time it has become the main means by which governments have pursued their political agenda. A forcing of the constitutional precept that has led decree-laws to become one of the most debated types of measures in parliament.

Below is the number of decrees of the 4 governments of the 16th and 17th legislatures.

<https://blog.openpolis.it/decreti-legge-uso-abuso-dello-strumento>

December 2019 launch of the Italian Government's platform dedicated to consultation and public participation processes

<https://partecipa.gov.it/?locale=en>

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

Contact

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

