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## **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](mailto: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](mailto:rule-of-law-network@ec.europa.eu)**

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

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

## Type of information

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

OTHER

If "Other", please specify

### RESEARCH GROUP

\* Organisation name

*250 character(s) maximum*

RESEARCH GROUP OF THE SPANISH MINISTRY OF SCIENCE, INNOVATION AND UNIVERSITIES BASED AT UNIVERSITY OF BARCELONA, BARCELONA, SPAIN

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\* Main Areas of Work

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

If "Other", please specify

### REGIONAL AND LOCAL VIOLATIONS OF THE RULE OF LAW PRINCIPLES AND OF HUMAN RIGHTS

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

500 character(s) maximum

We are a group of professors members of a Spanish Research group of the Spanish Ministry of Science, Innovation and Universities, a project under the direction of Dr. Helena Torroja, Professor of Public International Law at the University of Barcelona. The Project title is SECESSION, DEMOCRACY AND HUMAN RIGHTS: THE ROLE OF INTERNATIONAL AND EUROEPAN LAW IN THE CATALAN CASE' Reference PID2019-106956RB-I00,

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Transparency register number

\* Country of origin

SPAIN

\* First Name

HELENA

\* Surname

TORROJA

\* Email Adress of the organisation (this information will not be published)

htorroja@ub.edu

\* Publication of your contribution and privacy settings

- 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*

Today we are witnessing an exaggeration and abuse of human rights demands, demands that are not free of politicization. This trend is even worse in societies pervaded by supremacist national populist ideologies. The European Commission has adopted a firm and strict position in this sense, mainly in cases concerning the politics and attitudes of **the central authorities** of the State, such as in the case of Hungary and Poland.

But, what happens when the authors of the abuses of the Rule of Law, Human Rights and the other values included in Article 2 of the TEU, are **regional or local authorities**?

So far, the attitude of the European Commission has been ambivalent. We observed with satisfaction that the Head of the Commission Ursula von der Leyen made some declarations condemning the discriminatory and xenophobic practices of several Town houses in Poland (which declared their towns as LGTB-ideology free zones). It was a pronouncement of the Commissioner on a practice of a local power included in her fist "state of

union” speech in September 2020. The European Commission sent even a letter to each local government in Poland that had passed such homophobic resolutions. It is true that Poland had been object of the preventive mechanism of article 7.1 TEU. But, in any case these were behaviors of local powers.

It is also relevant to examine the possible Rule of law and human rights violations committed by regional and local authorities inside the State. The recent mechanism on conditionality to protect the European Union budget, linked to the existence of violations of principles of the Rule of Law (Regulation of the EP and Council 2020/2092 of 16<sup>th</sup> December 2020), has put the focus on the infra State organs, not only on the central organs.

We want the Commission to pay attention that the regional and local authorities in Catalonia are violating the Rule of Law and Human Rights. And that even if such violations have been prosecuted and punished by the central authorities in Spain, the regional and some local powers continue to defend the same attitude. They have even convinced the public opinion and some judges in Belgium that in Spain we have “political prisoners”, or that the fugitives of justice sited in Brussels, such as Mr. Puigdemont or Mr. Comin are in “exile”.

Well, we suggest the Commission that in order to accomplish its defense of article 2 TUE, it should not be convinced by such arguments. Just a single line in its next Rapport on the Rule of Law in the EU, on its worries about the authoritarian drive of the Catalan Government, would help a lot for the defense of the human rights and fundamental freedoms of Catalans. The democratic argument (the power of the majorities) doesn’t have strength, if you consider that in the last regional elections of 14<sup>th</sup> February 2021, there were 47% abstentions, and so the majority of the secessionist parties in the Catalan Parliament is very weak (27% of the total members of the electorate).

But overall, when we talk about the Rule of Law and Human Rights, one should expect that the Commission respects the principles of equal treatment of Member States, and solidarity. In Catalonia, we are suffering the situation of a national populist authoritarian regime that justifies its conduct in the name of the idea of a nation. The situation is not different from what is happening in Hungary and Poland. Spain has fulfilled all its duties in order to safeguard the Rule of Law. But, the result is that you still consider that the claim that there are “political prisoners” or “political exiled or refugees” in Spain is an internal affair. This is no more an internal affair than European citizenship that fights for respect of the Rule of Law and Human Rights as included in article 2 TEU.

We expect that in the Second Report on the Rule of Law in Europe, you include at least one line on the abuses of the Rule of Law made by pro-secessionist Catalan authorities, that include human rights violations. It would be coherent with the statement on the violations of the Rule of Law and human rights made by other infra state powers, such as the case of the several Polish cities declaring themselves LGTB-free zones.



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## 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
- If you're human, leave