

2021 Rule of Law Report - targeted stakeholder consultation

Fields marked with * are mandatory.

Introduction

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

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

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

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

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

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

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

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

Type of information

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

Legislative developments

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

Policy developments

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

Developments related to the judiciary / independent authorities

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

Any other relevant developments

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

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

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

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

About you

* I am giving my contribution as

Civil society organisation/NGO

* Organisation name

250 character(s) maximum

Human Rights Watch

* 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

www.hrw.org

Human Rights Watch investigates and reports on abuses happening in all corners of the world. We work to protect the most at risk, from vulnerable minorities and civilians in wartime, to refugees and children in need. We direct our advocacy towards governments, armed groups and businesses, pushing them to change or enforce their laws, policies and practices.

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

56362448807-46

* Country of origin

Please add the country of origin of your organisation

Belgium

* First Name

Philippe

* Surname

Dam

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

damp@hrw.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

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 - 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

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 - 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

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

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 - 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

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)

France's state of health emergency, declared in March 2020 in response to the Covid-19 pandemic, was criticized by rights groups, lawyers, magistrates, and the Human Rights Consultative Commission for giving excessive power to the executive branch to restrict freedoms.

Sources:

- http://lesaf.org/wp-content/uploads/2020/05/contri_ext_loi_prorog_adelico_saf_sm_ldh.pdf
- http://www.syndicat-magistrature.org/IMG/pdf/note_e_tat_d_urgence_sanitaire.pdf
- https://www.cncdh.fr/sites/default/files/avis_2020_-_2_-_200424_avis_etat_durgence_sanitaire_et_etat_de_droit.pdf

Discriminatory police identity checks continued, including during the enforcement of Covid-19 lockdown measures. Human Rights Watch found that police target minority youth, including children as young as 12, for the stops, which often involve invasive, humiliating body pat-downs and searches of personal belongings. Source: <https://www.hrw.org/news/2020/06/18/france-children-face-abusive-racist-police-stops>

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 Calais, NGOs providing assistance to migrants and asylum seekers reported continued harassment and abuse by police against migrants and aid workers. In September 2020, the interior minister prohibited food distribution by NGOs not authorized or contracted by the State through December 14 2020. The French Ombudsperson said the measure constitutes "discrimination based on nationality."

France continued to detain people in immigration detention centers during the pandemic despite calls in March from the French Ombudsperson and the General Controller for Prisons for their closure given the risks of contracting Covid-19 and the fact that deportations could not be carried out in a reasonable timeframe due to travel restrictions.

Source: <https://www.cglpl.fr/2020/covid-19-le-cglpl-sest-rendu-dans-les-centres-de-retention-administrative-de-paris-vincennes-et-du-mesnil-amelot/>

Taking a case-by-case approach, French authorities have brought back a total of 28 French children since March 2019, leaving more than 250 French children and their mothers in indefinite and arbitrary detention in deeply degrading, and often inhuman and life-threatening conditions, despite calls by France's independent rights institutions and UN bodies for their repatriation. France continued to refuse to repatriate French men and boys detained without judicial review in northeast Syria for suspected ISIS links.

Source: <https://www.defenseurdesdroits.fr/fr/communiqu-de-presse/2019/05/decision-du-defenseur-des-droits-suite-aux-saisines-relatives-a-la>

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

In January 2020, the ECtHR found that detention conditions amounted to cruel and degrading treatment in a joined case involving 32 inmates in 6 prisons. The court ordered France to take action to end overcrowding, improve general conditions, and establish an effective preventive remedy for inmates to seek redress.

Source: <http://hudoc.echr.coe.int/eng?i=001-200446>

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

The government responded to a series of knife attacks by announcing it would close some mosques and Muslim associations, and deport foreigners it deemed “radicalized.” The decision in December 2020 to shut down a leading anti-discrimination group, the Collective Against Islamophobia in France (CCIF) threatened basic human rights and liberties including freedom of expression, association, and religion, and the principle of nondiscrimination.

Source: <https://www.hrw.org/news/2020/12/04/france-dissolving-anti-discrimination-group-threatens-rights>

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

In September 2020, the Interior Ministry published a new National Scheme for Law Enforcement, following criticism of police crowd control and anti-riot tactics during demonstrations in 2018 and 2019. It replaces the controversial GLI-F4 tear gas grenade by a non-explosive grenade, called GM2L, which releases tear gas while having a deafening effect and has also been criticized by rights groups. The scheme fails to ban the use of other weapons, such as rubber bullet launchers, which have injured thousands of people, despite calls from the French ombudsperson and rights groups. Journalists and rights groups raised concerns about new rules that could hamper the ability to observe and report on demonstrations.

Following demonstrations against police abuse in France, President Emmanuel Macron said he wanted to generalize the wearing of body cameras by police officers by the end of his term in 2022. Rights groups and lawyers have long stressed that body cameras alone are not an effective means of combating ethnic profiling.

Source:

<https://www.hrw.org/fr/news/2018/02/19/controles-au-facies-il-est-urgent-dagir>

Counterterrorism

In August, the Constitutional Court struck down a provision in a 2020 security law that imposed restrictions on freedom of movement and other security measures on persons convicted for terrorism offenses after they served their prison sentence.

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)

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

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Remuneration/bonuses for judges and prosecutors

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Independence/autonomy of the prosecution service

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

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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 April 2020, the Council of Europe Committee for the Prevention of Torture (CPT), said that ill-treatment by the police, especially against migrants and Roma, remains frequent, particularly in police facilities, and noted that most cases of alleged police ill-treatment are not prosecuted and only very few result in criminal sentences or even disciplinary sanctions. The CPT concluded that the current system of investigations into allegations of ill-treatment is not effective.

Source: <https://rm.coe.int/16809e2059>

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)

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

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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

Racism and Intolerance

In a landmark ruling in October 2020, the leadership, former MPs, and multiple members of the neo-Nazi Golden Dawn party, were convicted for constituting and/or participating in a criminal organization that orchestrated or colluded in the murder of the 34-year-old anti-fascist activist and rapper Pavlos Fyssas, the murder of 27-year-old Pakistani national Shehzad Luqman, and numerous other brutal attacks against migrants and trade unionists.

Source: <https://www.hrw.org/news/2020/10/07/justice-delivered-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.

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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

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

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

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

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Framework for journalists' protection

Rules and practices guaranteeing journalist's independence and safety

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

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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)

3000 character(s) maximum

In March 2020, Greece barred the lodging of asylum claims for anyone crossing the border irregularly during that month, prosecuted people for irregular entry, arbitrarily detained nearly 2,000 people in unacceptable conditions in two newly established detention sites on the mainland, under the pretext of Covid-19, and violently pushed back people attempting to enter Greece.

Sources:

<https://www.hrw.org/news/2020/03/31/greece-nearly-2000-new-arrivals-detained-overcrowded-mainland-camps>

<https://www.hrw.org/news/2020/03/17/greece-violence-against-asylum-seekers-border>

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)

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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

News emerged in September 2020 that 33 members of nongovernmental groups, and two “third-country nationals,” are facing criminal charges of espionage, violating state secrets, and belonging to a criminal organization for allegedly facilitating the irregular entry of foreign nationals from Turkey to Lesbos.

During the Greece-Turkey border crisis in March 2020, a series of attacks against staff of international and nongovernmental organizations (NGOs), including UNHCR, aid workers and journalists, was reported after inflammatory comments were made by government officials targeting NGOs working with refugees. On Lesbos, angry mobs attacked NGO facilities and vehicles with bats. Some NGOs suspended operations and even evacuated volunteers back to Athens. Threats from right-wing sources and intimidation of aid workers and vandalism and arson directed against NGO properties continued at time of writing.

With legislative changes adopted in March, May, and September 2020, the government introduced strict and intrusive registration and reporting requirements for nongovernmental groups and all their members, staff, and volunteers, working in the areas of asylum, migration, and social inclusion, raising concerns about disproportionate interference with the rights to privacy, data protection (it requires publication of personal data of donors and supporters), and freedom of association. In July 2020, the Expert Council on NGO Law at the Council of Europe concluded that the new regulations should be substantially revised so that they are brought into line with European standards.

In July 2020, the government passed a highly controversial law regulating demonstrations that raised concerns about undue interference with the right to peaceful assembly. The law gives authorities broad

discretion to disband assemblies that have not been notified, even though it allows for spontaneous protests, and provides that organizers can be held accountable for harm or damage caused by protesters under certain circumstances.

Sources:

<https://www.hrw.org/news/2020/03/06/interview-whats-happening-refugees-greece>

<https://rm.coe.int/expert-council-conf-exp-2020-4-opinion-ngo-registration-greece/16809ee91d>

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

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Resources of the judiciary (human/financial/material)

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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 - 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

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

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

In September 2020, the Media Council, a regulatory body the members of which are appointed by the ruling party, revoked the frequency for Klubradio, an independent radio station in Budapest, entering into effect in February 2021. The Media Council justified its actions referring to Klubradio's repeated breaches of the media law. Klubradio denied the allegations. In February 2021, a court forced the embattled independent radio station Klubradio off air, upholding a September decision by the country's media regulator to revoke Klubradio's license for alleged breaches of the country's restrictive media laws

Source: <https://www.hrw.org/news/2021/02/10/hungary-forces-klubradio-air>

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

In July 2020, Szabolcs Dull, the editor-in-chief of the largest online independent daily, Index, was fired as a result of a financial takeover of the company controlling Index's revenue streams. The new owner has close links to Prime Minister Viktor Orban and his government. Index's entire staff resigned in protest.

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

3000 character(s) maximum

The government continued its attacks on media and freedom of expression. Most media outlets are directly or indirectly controlled by the government, which has a chilling effect on independent journalism.

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

Between March and June 2020, daily online government coronavirus task force press briefings required media outlets to submit questions by email, with the government in most cases ignoring questions posed by critical outlets and journalists.

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

3000 character(s) maximum

In March 2020, the government amended the criminal code to make it a crime to spread “fake news” or engage in “fear mongering” during a pandemic punishable by up to five years’ imprisonment. At the time, Harlem Desir, then media freedom representative for the Organization for Security and Co-operation in Europe (OSCE), called on the government to ensure that the Authorization Act should not impede the work of media in Hungary. By July 2020, police had launched 134 criminal investigations concerning “fear mongering.” A majority of cases concern people who expressed critical comments on social media regarding the government’s handling of the pandemic. At time of writing, investigations were ongoing.

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

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

The government used the Covid-19 pandemic as a pretext to continue its attacks on rule of law and democratic institutions.

In March 2020, the government declared a state of emergency in response to the pandemic and the parliament, where the ruling party has a two-thirds majority, passed an Authorization Act giving the government unlimited power to rule by decree indefinitely and without parliamentary oversight. The law also included a new criminal offense for the publication of “fake” or “distorted facts” pertaining to the pandemic.

The government adopted hundreds of decrees before the Authorization Act and state of emergency were revoked in mid-June, including several unrelated to public health, such as decrees that stripped funds to municipalities, disproportionately affecting localities ruled by opposition parties.

While the Authorization Act was revoked in mid-June, Parliament simultaneously adopted a new law enabling the government to declare future public health or medical emergencies during which it could order any and all measures it deems necessary without parliamentary approval, including suspending laws and curtailing fundamental rights such as freedom of movement and assembly for six months. These powers are renewable every six months with minimal or no parliamentary or judicial oversight.

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

Migration and Asylum

Following a May ruling from the CJEU that automatic and indefinite placement of asylum seekers in transit zones on the Hungary-Serbia border amounted to unlawful detention, the government dismantled the transit zones and transferred approximately 400 asylum seekers to the only two open reception centers in Hungary. Authorities had already suspended asylum seekers’ access to the zones in March, using the pandemic as a pretext.

In June, the government rammed through a law abolishing the right to seek asylum on Hungarian territory and requiring asylum claims be lodged at specifically designated embassies in non-EU countries. If granted access to the territory, the asylum seeker, including children, will be placed in automatic detention for 30 days with no possibility to appeal their detention. According to the Hungarian Helsinki Committee, as of late July, only seven people—all members of the same family—had applied under the new restrictive system; their application was rejected.

In October, the EU Commission initiated legal action against Hungary on grounds that the new procedures breach EU asylum law.

As of September, the government re-introduced further border closures in response to rising Covid-19 infections, barring entry to most non-Hungarian citizens. Exceptions made for citizens from Czech Republic, Slovakia, and Poland were criticized by the European Commission as discriminatory and contravening the principle of free movement within the EU.

Discrimination

Roma continue to be discriminated in workplaces and schools and many live in abject poverty. In January, following a lower court decision ordering €275,000 (US\$327,112) in damages to 60 Roma students who had been unlawfully segregated in primary school, Prime Minister Orban said the ruling was an affront to people's sense of justice when "members of an ethnically dominant ethnic group can receive a significant amount of money without doing any kind of work." In May, the Supreme Court upheld the lower court's decision.

Academic Freedom

In October, the Court of Justice of the European Union (CJEU) ruled that a 2017 law that effectively forced the George Soros funded Central European University to leave Budapest and relocate in Vienna, violated European Union law.

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

The government and ruling party members continued their smear campaign against human rights defenders, frequently describing them as "Soros agents" or "national security risks" in government-friendly media.

In June 2020, the CJEU ruled that a 2017 law requiring civil society organization receiving over €20,000 (\$23,790) from outside of Hungary to formally register as foreign-funded, was contrary to EU law. At time of writing, the government had taken no action to implement the CJEU ruling and revoke the law.

Civil society organizations and lawyers continued to work on behalf of migrants and refugee rights despite a controversial 2017 law criminalizing aid and assistance to asylum seekers, refugees and migrants. At time of writing, nobody had been charged under the law.

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

The government's efforts to control academic institutions continued. A law adopted in June, which entered into effect in September 2020, effectively abolished the autonomy of the University of Theatre and Film in Budapest, depriving its highest governing body of decision-making power over budgetary, organizational, and staffing issues. The Ministry of Technology and Innovation single-handedly appointed the members of the new board of trustees and the supervisory body—all closely linked to the government and with limited to no knowledge of the arts.

Source: <https://www.hrw.org/news/2020/09/03/hungary-continues-attacks-academic-freedom>

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)

3000 character(s) maximum

Becoming the first federal state to do so, Berlin adopted a law in June 2020 entitling victims to seek compensation for discrimination by public authorities, including police.

In April 2020, the trial of two alleged former Syrian intelligence officials began in Koblenz in a landmark case, under Germany's universal jurisdiction laws, concerning torture in a Syrian prison.

Source: <https://www.ecchr.eu/en/case/trial-updates-first-trial-worldwide-on-torture-in-syria/>

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 - 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

Protests against government measures to tackle Covid-19, such as the obligation to wear masks in certain places, attracted people with antisemitic and neo-Nazi views. Following two mass rallies in Berlin in early and late August 2020, the German Union of Journalists documented attacks against nine camera crews, twenty-two journalists, and threats against two editorial departments.

Source: <https://dju.verdi.de/presse/pressemitteilungen/++co++454a5292-eb63-11ea-90b1-001a4a160100>

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 May 2020, the German constitutional court ruled that the German Federal Intelligence Service's (BND) practice of monitoring worldwide internet traffic was unconstitutional and did not ensure the protection of media freedom. Reporters without Borders said reforms proposed in response to the ruling further widen BND powers.

Source: <https://www.reporter-ohne-grenzen.de/deutschland/alle-meldungen/meldung/zu-wenig-schutz-fuer-auslaendische-journalisten>

In a September 2020 report, parliament's scientific service found that planned amendments to the Network Enforcement Act (NetzDG) are not in line with the German constitution. The planned changes, designed to combat hate crime, require internet companies to report suspected illegal content and some of the poster's personal information, including their IP address, to the Federal Criminal Police Office.

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

Protests against the government's Covid-19 measures attracted people with neo-Nazi and antisemitic views. Vulnerable groups, such as migrant workers, asylum seekers, and homeless people were disproportionately affected by the Covid-19 pandemic.

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

Racism, antisemitism, and Islamophobia, including violent hate crimes, remained a concern. In a March 2020 report, the European Commission against Racism and Intolerance (ECRI), a Council of Europe monitoring body, said the police do not sufficiently co-operate with civil society to detect and register hate crimes, resulting in under-reporting of such offenses.

Source: <https://rm.coe.int/ecri-report-on-germany-sixth-monitoring-cycle-/16809ce4be>

A lawyer, politicians, activists, and public figures received threats throughout the year. The threats, which started in August 2018, were sent by a secretive group calling itself "NSU 2.0," referring to the German neo-Nazi group that between 2000 and 2007 killed at least 10 people in Germany. Investigations initiated in 2018 revealed that personal information of victims was retrieved from police computers, intensifying the public debate over right-wing extremism within police forces. By mid-September 2020, 25 investigations against 50 suspects, including police, were ongoing.

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

Surveillance and Terrorism, Counterterrorism

There were several constitutional complaints pending against changes in laws in some states broadening police powers while failing to increase transparency and oversight. These measures include broad surveillance powers, such as the use of malware and extension of preventive custody.

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)

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Remuneration/bonuses for judges and prosecutors

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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

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

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Resources of the judiciary (human/financial/material)

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

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

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Length of proceedings

3000 character(s) maximum

Other - please specify

3000 character(s) maximum

Anti-Corruption Framework - Italy

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Prevention

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

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

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Repressive measures

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Other – please specify

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Media Pluralism - Italy

Media authorities and bodies

(Cf. Article 30 of Directive 2018/1808)

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

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

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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

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)

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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

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- 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 October 2020, the government reversed some of the worst policies adopted under the previous government, reinstating humanitarian residency permits, guaranteeing asylum seekers access to specialized shelters, and removing obstacles to their access to rights. The new decree reduces but does not eliminate fines on ships that perform search-and-rescue at sea.

Source: <https://www.hrw.org/news/2020/10/07/finally-good-news-asylum-seekers-italy>

After declaring, in April 2020, Italian ports “unsafe” because of the Covid-19 pandemic, authorities allowed, often with unjustified delay, nongovernmental rescue organizations to disembark rescued people but began impounding ships on technical or administrative grounds. In September 2020, the government grounded an airplane deployed by Sea Watch, a rescue group, to spot boats in distress in the Mediterranean, and impounded the rescue ship the organization operates with Médecins Sans Frontières. In mid-September, Italy allowed Mediterranean Saving Humans to disembark 25 people who had spent 38 days on an oil tanker as Malta (and Italy) refused to accept them.

The UN special rapporteur on the situation of human rights defenders called on Italy in early October to end the criminalization of humanitarian rescuers, highlighting the open cases against Carola Rackete, the captain of a Sea Watch ship, and 10 crew members of the Luventa rescue ship.

Source: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26361&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

The government continued its attacks on members of the judiciary. Judges and prosecutors are subject to arbitrary disciplinary proceedings for standing up for the rule of law and speaking up against problematic judicial reforms—an interference with their judicial independence.

In January 2020, parliament adopted a law that could allow the firing of judges who carry out court rulings counter to the government's policies.

Source: <https://www.hrw.org/news/2020/01/28/poland-veto-law-punishing-judges-criticism>

A Disciplinary Office, established in September 2018, by late June had brought 152 disciplinary proceedings against judges, of which 16 were pending before courts at time of writing. In October 2020, the Disciplinary Chamber revoked the immunity of judge Beata Morawiec, suspended her from her official duties and halved her salary for alleged bribery. The judge, who denied all allegations and who is the head of a national judges' association, is known for being critical of the government's legal reforms and for defending the independence of the judiciary.

In August 2020, over 1,200 judges were under investigation for having signed a letter addressed to the Organisation for Security and Cooperation in Europe (OSCE) asking it to monitor the presidential elections in Poland.

In February 2020, the Council of Europe Parliamentary Assembly voted to bring Poland under its monitoring mechanism, the first time in two decades that such steps have been taken against an EU member state. In August 2020, a Dutch court suspended all extraditions to Poland due to concerns over lack of judicial independence, requesting the CJEU for guidance on the matter.

In January 2020, the Council of Europe's Commissioner for Human Rights urged the Senate, the upper house in Poland's parliament, to reject the controversial bill curtailing the independence of judges and prosecutors and their freedom of expression.

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 (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 - 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

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 government strengthened control over the press and continued its smear attacks on media outlets and journalists critical of the government and ruling party. In the lead up to June 2020 elections, Reporters Without Borders reported that the public service broadcaster in 97 percent of cases, portrayed President Duda in a positive light, while the opposition candidate in 87 percent of cases was portrayed in a negative light. In July 2020, President Duda accused a German-owned broadcaster of interfering in the Polish elections due to an article criticizing the president for pardoning a convicted child abuser.

Following waves of dismissals in 2019 at the state-owned public broadcaster, in January 2020, in what appeared to be a political move, the broadcaster fired two experienced independent journalists without providing reasons for their dismissals. Similarly, in May 2020, a journalist working for the public broadcaster for 20 years was dismissed without reason.

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

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

Presidential elections scheduled for March 2020 were postponed to July due to concerns over unfair campaigning as a result of movement restrictions due to the Covid-19 pandemic. Initial proposals by the ruling party to hold the elections in May 2020 via a hastily created mail-in voting system or to extend the incumbent president's term by two years raised concerns about free and fair elections. Observers from regional organizations concluded that the campaign was marred by cases of misuse of state resources, xenophobic, homophobic, and antisemitic rhetoric, and reporting by state-owned and pro-government media in favor of sitting president Andrzej Duda, a close ally of the ruling Law and Justice party.

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

Independence of the Ombudsman office

Adam Bodnar's five-year term as Poland's commissioner for human rights ended in September 2020.

Bodnar was a frequent critic of the government's rule of law abuses and attacks on the LGBT community and women's rights and was often targeted due to his work. At time of writing, a battle between civil society and ruling party members for Bodnar's successor was underway. The Council of Europe's Venice Commission, Europe's top constitutional law expert body, in October 2020, expressed concerns about the "risk of paralysis" of the ombudsman's institution.

Source: https://www.venice.coe.int/webforms/events/?id=3012&fbclid=IwAR1Do8YEvjKL1xdcAf7EWsxKhYYZ_yoHCfCYWYAPuEbzmPvTqQIW2nrNZOHs

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

Migration and Asylum

The European Court of Human Rights in July 2020 ruled that Poland had unlawfully refused entry to asylum seekers at the Poland-Belarus border. In March 2020, Poland closed its border with Belarus in response to the Covid-19 pandemic, effectively making it impossible for people to access Polish territory to seek asylum.

Women's and Children's Rights

The Constitutional Tribunal, criticized for its lack of independence and legitimacy, ruled in October 2020 that access to abortion on the ground of "severe and irreversible fetal defect or incurable illness that threatens the fetus' life" was unconstitutional, making it virtually impossible for women to access legal abortion in Poland. The ruling triggered nationwide protests.

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

The government ramped up its attacks on women's and LGBT rights, part of the government's increasing hostile rhetoric against what it refers to as "gender ideology." In August 2020, on the basis of an overly broad blasphemy law, police arrested several LGBT activists for placing rainbow flags on prominent public

monuments. Polish police confirmed that they were investigating three activists for “insulting religious feelings and insulting Warsaw monuments.” One activist, who was also arrested for defacing a truck carrying anti-LGBT slogans in June 2020, spent three weeks in pretrial detention before being released following international pressure. The Council of Europe Commissioner for Human Rights, Council of Europe SOGI (Sexual Orientation and Gender Identity) Unit, and the European Parliament LGBTI Intergroup called on Polish authorities to release the activist immediately. Charges against the activist were pending at time of writing.

Elżbieta Podleśna, LGBT activist and artist, was arrested in May 2019 for possessing posters depicting the Virgin Mary with a rainbow halo, and faced criminal charges for “insulting religious feelings.”

Authorities in one-third of Poland’s cities have identified their localities as “LGBT Ideology Free Zones” although courts attempted in 2019 to curtail the anti-rights campaign. On August 6, 2020, an administrative court in Lublin annulled the anti-LGBT resolution of the Serniki Commune. In March 2020, Polish authorities indicated they were planning to sue a group of LGBT rights activists who had created an “Atlas of Hate,” which mapped anti-LGBT provisions that had been instituted across the country.

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

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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

Judicial authorities kept courts open to hear cases relating to domestic violence and child abuse during lockdown. Calls to the national gender-based violence helpline increased dramatically, with requests for assistance during April 2020 up 61.1 percent compared to the same period the previous year.

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 February 2020, the UN Committee on the Elimination of Discrimination against Women ruled that repeated invasive procedures, which a woman experienced without informed consent during pregnancy and childbirth in 2009, had violated her rights. The committee found that domestic courts had failed to take into account fully the evidence provided by the woman and subjected her to gender stereotypes and discrimination. In addition to reparations to the woman for physical and psychological damage, the committee recommended Spain provide more training about reproductive health and other rights to health workers and judicial and law enforcement personnel, and ensure access to justice in cases of obstetric violence.

Source: <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=25688&LangID=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)

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

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Efficiency of the justice system

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Length of proceedings

3000 character(s) maximum

Other - please specify

3000 character(s) maximum

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.

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Repressive measures

Criminalisation of corruption and related offences.

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Other – please specify

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(Cf. Article 30 of Directive 2018/1808)

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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

Freedom of expression

Judicial authorities continued to prosecute musicians on overbroad offenses of glorifying of terrorism and lèse-majesté (injury to the crown), for lyrics or tweets that appeared to support banned armed groups or that criticized the monarchy.

In June 2020, the Supreme Court sentenced rapper Pablo Hasel to nine months in prison after convicting him of glorification and insulting the king. That month, the Supreme Court also upheld an earlier High Court conviction and 6-month prison sentence of 12 members of the hip hop group La Insurgencia for glorifying terrorism. Spain continued to seek the extradition from Belgium of the rapper Valtònyc, convicted in 2018 of glorifying terrorism, lèse-majesté, and threats to a regional politician.

However, in February 2020, the Constitutional Court overturned a 2017 Supreme Court conviction of musician César Strawberry for glorification and humiliating victims of terrorism in tweets he posted in 2013 and 2014, finding that the ruling violated his right to free expression.

In October 2020, the trial began of a demonstrator for hate crimes and offending Catholic religious sentiment after carrying a giant plastic vulva through Seville's streets to mark International Women's Day in 2013.

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

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

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- 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

Disputed 2017 Catalan Referendum

Spanish authorities continued to press charges against officials and pro-independence activists for their role in the disputed 2017 referendum on Catalan independence, deemed illegal by the Spanish courts. A Barcelona prosecutor filed criminal charges against 30 lower-level officials, civil servants, businesspeople, and journalists for their role in the disputed referendum.

In September 2020, the Supreme Court upheld Catalonia President Quim Torra's 2019 conviction for disobedience for displaying a placard supporting imprisoned pro-independence activists on his office balcony during a pre-election period.

Freedom of Assembly

In October 2020, the European Court of Human Rights ruled that Spain had violated the free assembly rights of a woman left "permanently incapacitated" after being hit with a police truncheon during a peaceful 2014 anti-austerity protest in Valladolid.

Source: <http://hudoc.echr.coe.int/eng?i=001-205185>

Contact

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