

Targeted stakeholder consultation 2021 Rule of Law Report: topics for input

I. Justice System

A. Independence

1. Appointment and selection of judges, prosecutors and court presidents

Judges

Admission to initial training¹ for judicial magistrates is made via an open competition, which is published in the Official Journal and encompasses distinct methods of selection.

To qualify for the open competition the applicant must:

- Be a Portuguese citizen or a citizen of a Portuguese-speaking State with permanent residence in Portugal who, by law and under conditions of reciprocity, is entitled to perform the duties of a judge or public prosecutor.
- Have a law degree or legally equivalent qualification.
- Fulfil the general requirements for entry into the civil service.

In addition to these general requirements, there are others related to the two distinct manners of qualifying for the competition and the initial training course, i.e. admission based on academic qualifications or admission based on professional experience².

Judicial magistrates are appointed according to the graduation obtained in mandatory training courses at the Centre for Judicial Studies and an internship. They are initially appointed to the district courts and are assigned to local courts of general jurisdiction³.

Court Presidents

There is one President in each District Court, nominated by the Judicial High Council in a commission of service for a period of three years, preceded by a hearing of the judges exercising their functions in the respective district.

The judges of the Supreme Court and the Judges of Appeal Courts elect the President of their Courts respectively from among their peers by secret ballot. The term of office of the Supreme and the Appeal Courts' President is five years and re-election is not permitted⁴.

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

Judicial magistrates are appointed for life and may not be transferred, suspended, promoted, retired, dismissed or otherwise changed in status except in the cases provided for in their Statute⁵.

¹ The admission of Judges is regulated by [Law no. 2/2008 of 14 January](#)

² Applicants are selected by means of:

- Aptitude tests consisting of a written component and successively, though only for applicants seeking “admission based on academic qualifications”, an oral component. Either can eliminate the applicant from the competition.
- Assessment based on the applicant’s curriculum for those seeking “admission based on professional experience”, which can also eliminate the applicant from the competition and which includes:
 - discussion of the applicant’s curriculum and professional experience.
 - discussion of legal topics related to the candidate’s experience.
- Psychological recruitment testing

In order to be considered, applicants must receive a “favourable” classification on the psychological test.

³ Article 42 of [Law no. 21/85, of 30 July](#) (Statute of Judicial Magistrates)

⁴ *Ibid.*, Article 59, 61 and 75

⁵ *Ibid.*, Article 6

Transfers⁶

Judicial magistrates, who, due to appointment, transfer, promotion, end of commission or return to full time service, wish to be assigned to any post, shall apply for a judicial movement by sending their applications to the Judicial High Council (JHC). The foreseeable vacancies and the criteria for filling them are publicized.

There are two types of judicial movements:

- a) Ordinary judicial movement, which is normally carried out in the month of July of each year, with the predictable vacancies being previously advertised;
- b) Extraordinary judicial movement, when required for reasons of discipline or need to fill vacancies, which shall be announced at least 30 days in advance with the publication of foreseeable vacancies.

Judicial movements, as well as the graduation and placement of judicial magistrates at both first instance and higher courts, depend exclusively on the deliberation of the JHC.

Termination of service

The appointment of the Judicial Magistrates ceases upon age limit, excessive leave, retirement due to age or disability, compulsory retirement or dismissal.

Age limit

Judicial magistrates cease their functions on the day they reach the age of seventy (70)⁷.

Excessive leave

Judges benefiting from long-term unpaid leave cease their functions in the day after reaching 15 years of uninterrupted absence and shall be dismissed automatically⁸.

Retirement due to age

Jubilado (emeritus) is a special status, with rights and duties linked to the fact that he or she continues to be a judge, thus enabling his or her pension to be fixed and updated in a manner that is more advantageous than the general public pension scheme.

Judges who retire, for non-disciplinary reasons, at the legally established age and length of service (65 years and 40 years of service), and provided that they have at least 25 years of service in the judiciary, of which the last 5 years must have been uninterruptedly performed in the period prior to retirement, except if the interruption period is motivated by health reasons or if it results from the performance of public functions arising from a service commission, are considered to be emeritus⁹.

Emeritus magistrates continue to be bound by statutory duties and linked to the court of which they were a part, and enjoy the titles, honors, special rights and guarantees corresponding to their category¹⁰. They cannot, for example, exercise any professional activity in such condition.

Judicial magistrates may waive the emeritus' status or it may be withdrawn through disciplinary procedure, being subject in both cases to the general regime of

⁶ Articles 38 and 39 of [Law no. 21/85, of 30 July](#) (Statute of Judicial Magistrates)

⁷ *Ibid.*, Article 70(1)(a)

⁸ *Ibid.*, Article 14(10) and 70(1)(d)

⁹ *Ibid.*, Article 64(1)

¹⁰ *Ibid.*, Article 64(2)

retirement for public administration, not being able to regain that condition¹¹.

Retirement due to disability

Judges, who due to weakness or impairment of physical or intellectual faculties, manifested in the normal exercise of their functions, cannot continue to exercise them without serious inconvenience to justice or to the respective services, shall be retired for disability¹².

Compulsory retirement and dismissal

Judicial magistrates shall be liable to disciplinary action in accordance with their Statute.

The disciplinary penalties of compulsory retirement and dismissal shall apply where the magistrate¹³:

- a. Reveals a definitive incapacity to adapt to the demands of the function;
- b. Reveals a lack of honesty or shows immoral or dishonorable conduct;
- c. Reveals professional unsuitability;
- d. Has been convicted of a crime committed with flagrant and serious abuse of the function or with manifest and serious violation of the duties inherent to it.

The abandonment of a post shall always be punishable by dismissal.

The penalty of compulsory retirement implies the immediate termination of the service and the loss of the rights conferred by the statute, without prejudice to the right to the pension established by law¹⁴.

The penalty of dismissal implies the immediate termination of the service and the loss of the rights conferred by the Statute. The dismissal does not imply the loss of the right to retirement, under the terms and conditions established by law¹⁵.

3. Promotion of judges and prosecutors

According to the hierarchy of courts, there are three categories of judges of the judicial courts: judges of the Supreme Court of Justice, judges of the Courts of Appeal and judges of the Courts of First Instance.

The selection procedure for judges to the courts of Appeal¹⁶ is done by means of a curricular competition exclusively for judges of First Instance Courts. The competition has two stages: i) determining the pool of candidates which are eligible for promotion; ii) Jury report.

Graduation is done according to the relative merit of the competitors, taking into account the curriculum evaluation globally by the jury with the following composition: a) President of the jury: the President of the Judicial High Council, who may delegate to the vice president; b) Members: i) If the president does not delegate, the vice president and a member of the Judicial High Council with the rank of Appeal Court Judge, to be chosen by the Council; ii) If the president delegates, two members of the Judicial High Council with the category of Appeal

¹¹ *Ibid.*, Article 64-A(4) and (5)

¹² Article 66(1) of [Law no. 21/85, of 30 July](#) (Statute of Judicial Magistrates)

¹³ *Ibid.*, Article 95(1) and (2)

¹⁴ *Ibid.*, Article 106

¹⁵ *Ibid.*, Article 107

¹⁶ *Ibid.*, Article 46

Court Judges, to be chosen by the Council; iii) Three members of the Judicial High Council, who are not members of the judiciary, to be elected by the Council”.

The selection procedure to become a Supreme Court Judge¹⁷ is open to Appeal Court Judges, Deputy General Prosecutors and legal experts of recognized merit. The graduation is made according to the relative merit of the competitors of each category, taking into account the curriculum evaluation globally, taking into account the following factors: a) Previous service classifications; b) Graduation obtained in qualification competitions or courses for entry into judicial positions; c) University and post-university curriculum; d) Scientific work done; e) Activity developed in the forensic field or in legal education; f) Other factors that make the applicants suitable for the position to be provided.

The candidates publically defend their curriculum before a jury with the following composition¹⁸: a) President of the jury – President of the Supreme Judicial Court, as President of the Judicial High Council; b) Members: i) The Supreme Court Judge with more seniority member of the Judicial High Council; ii) One member of the Public Prosecutor’s High Council, to be elected by that body; iii) One member of the Judicial High Council, non-judge, to be elected by that body; iv) One Law Professor, with the rank of Full Professor; v) One lawyer serving in the High Council of the Portuguese Bar Association, appointed by the Bar under the request of the Judicial High Council.

The jury issues an opinion over each one of the candidates, which is taken in consideration by the Judicial High Council in drafting the final decision on the candidates’ graduation and always justifies the grounds of the decision when disagreeing with the jury’s opinion.

The breakdown of vacancies is as follows:

- a. Three out of five vacancies are filled by judges in the list;
- b. One in five vacancies shall be filled by deputy prosecutors-general;
- c. One in five vacancies is necessarily filled by jurists of recognised merit;

4. Allocation of cases in courts

Allocation of cases

Distribution is the legal procedure used to allocate the judicial service equally and by which the section, instance and court where the case is to be heard or the Judge who is to act as Rapporteur are designated¹⁹.

The operations of distribution and registration shall be entirely carried out by electronic means, which shall guarantee randomness in the result and equality in the distribution of the service.

The listings produced electronically shall have the same value as the books, staves and lists.

The legal representatives may obtain information on the result of the distribution of cases concerning the parties they sponsor by accessing the Ministry of Justice's web page of public access²⁰.

The lack or irregularity of the distribution shall not produce nullity of any act of the proceedings but may be claimed by any interested party or remedied ex officio until the final decision. Disagreements arising from the distribution that may arise among judges of the same district as regards the designation of the court where the proceedings shall take place shall be resolved by

¹⁷ Article 50 of [Law no. 21/85, of 30 July](#) (Statute of Judicial Magistrates)

¹⁸ *Ibid.*, Article 52

¹⁹ Article 203 of [Law No. 41/2013, of 26 June](#) (Code of Civil Procedure)

²⁰ *Ibid.*, Article 204

the President of the Court²¹.

The following are subject to distribution in the first instance courts²²:

- a. Procedural acts implying the beginning of a cause, except if the cause depends on another one already distributed;
- b. Procedural acts coming from another court, with the exception of letters rogatory, warrants, letters or telegrams for simple service, notification or posting of notices.

As a rule, in the courts of first instance, the distribution is made by organic unit since, normally, in each section there is only one judge to receive it. Distribution will be made per magistrate when the section has more than one magistrate.

The computer system shall ensure automatic distribution twice a day, at 9 a.m. and 4 p.m.²³

The Judicial High Council is responsible for altering, suspending, reducing the distribution or consequent redistribution of cases. This presupposes the impossibility of substitution by another judge, and the randomness of the result and equality in the distribution of the service must be guaranteed, ensuring the safeguarding of the principles of the natural judge, legality, the prohibition of recall, independence and impartiality of the courts²⁴.

When publishing the result of the distribution, for all types of cases, it must be mentioned the amendments made, by means of a record made publicly available on the Ministry of Justice's website²⁵.

Reassignment of judges, assignment of cases and accumulation of duties²⁶

The Judicial High Council, on proposal or after hearing the president of the District Court, and with the agreement of the judges, may determine: a) the reassignment of judges, in accordance with the principle of specialization of judges, to another court or bench of the same District; b) The allocation of cases for processing and decision to another judge other than the holder, for the purpose of balancing the procedural burden and the efficiency of services.

The Judicial High Council, on proposal or after hearing the president of the District Court, and with the agreement of the judges, may determine the performance of duties of judicial magistrates in more than one section or court of the same district, in accordance with the principle of specialization, taking into account the needs of the services and the existing case backlog.

The measures referred to in the preceding paragraphs may not cause serious damage to the judge's personal or family life, have the purpose of meeting specific and temporary needs and should be based on general criteria established by the Judicial High Council, following the principles of proportionality, balance of the service and randomness in distribution.

5. 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)

The Judicial High Council is the State organ constitutionally responsible for the appointment,

²¹ *Ibid.*, Article 205

²² *Ibid.*, Article 206

²³ Article 16 of [Decree no. 280/2013, of 26 August](#) (Regulates the electronic proceedings of courts)

²⁴ Article 4 of [Regulation no. 269/2021 of the Judicial High Council](#) (Regulation on the Modification, Reduction or Suspension of the Distribution of Cases)

²⁵ *Ibid.*, article 13

²⁶ Article 45-A of [Law no. 21/85, of 30 July](#) (Statute of Judicial Magistrates)

placement, transfer and promotion of Judges of the Judicial Courts and for the exercise of disciplinary action, being simultaneously an organ of institutional safeguard of the Judges and of their independence.

It embodies the autonomous government of the judiciary, enabling individual judges to exercise their functions outside any control of the executive and the legislative powers, and without improper pressure from within the judiciary.

It doesn't belong to the hierarchy of the courts system and cannot as such decide on the merits of the cases.

Members of the JHC are subject to the same guarantees as judicial magistrates.

The JHC is a collegial body composed of the President, which is the President of the Supreme Court of Justice (*ad officio*), two members appointed by the President of the Republic, seven members elected by the Parliament, seven members elected by Judicial Magistrates (one of whom is a Supreme Court Judge who serves as Vice-President, two Judges of the Courts of Appeal and four Judges of Law, one proposed by each Judicial district), in a total of seventeen members.

The Judge Secretary is also considered as a member of the Superior Council of the Judiciary, appointed from among the Judges of Law.

The JHC has collegiate deliberative bodies (Plenary Council, Permanent Council and Administrative Council), collegiate coordinating sections (Court Liaison and Monitoring, Disciplinary and General Affairs, integrated in the Permanent Council) and governing bodies (President, Vice-President and Judge Secretary). It has administrative and financial autonomy, with its own budget, included in the General State Budget.

The JHC shall operate in plenary meetings and in permanent councils.

The Plenary shall be composed of all the members of the Council, with the decisions being taken by the plurality of votes, with the President having the casting vote. The decisions of the Plenary are subject to an appeal before the Supreme Court of Justice.

The Plenary is responsible, among many other functions, for nominating, placing and promoting Judges, as well as assessing their professional merit. Disciplinary action, the appointment of Presiding Judges of District Courts and the issue of opinions on legislative proposals and/or projects are other matters included within the scope of powers of the Plenary Council²⁷.

Powers not delegated to the Plenary of the Council shall be considered tacitly delegated to the respective sections of the Permanent Council, without prejudice to their revocation by the Plenary, except for those relating to the higher courts and their judicial magistrates.

The permanent council shall operate in the following specialized sections

- General affairs section, composed by the Vice President, who shall preside, and two members appointed by the Plenary, one of whom shall be a judicial magistrate elected by his or her peers, and who shall perform full-time duties. The President always has a casting vote and a seat in the general affairs section, and shall preside when present.
- Inspectorate and Disciplinary Affairs Section, composed by the President, who shall preside, the Vice-President (who presides in the President's absence) a member who is an Appeal Court Judge, two members who are First Instance Court Judges, one of the members designated by the President of the Republic, three members from

²⁷ Article 151 of [Law no. 21/85, of 30 July](#) (Statute of Judicial Magistrates)

among those designated by the Parliament and the rapporteur member;

- Section for monitoring and liaison with the judicial courts, composed by the President, who presides, the Vice-President (who presides in the President's absence), four members elected by the plenary, two of whom are judicial magistrates elected by their peers and who perform full-time duties.

The Administrative Council of the SCM is the deliberative body in matters of financial and patrimonial management, which is composed by the President, the Vice-President, the Judge Secretary of the JHC, three members elected annually by the plenary and the Director of the administrative and financial services.

The JHC has a wide role in respect of competences which are interrelated, in order that it can better protect and promote judicial independence and the efficiency of justice. When identifying the functions of the JHC that are crucial for the protection and effective guarantee of independence, the matters concerning recruitment and career organisation, performance of extra-judicial activities, assessment of merit, and discipline and accountability are highlighted²⁸.

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

The evaluation of the judicial magistrates is based on Judicial Inspections which are carried out by the Judicial High Council through experienced Judicial Magistrates appointed on service commission, which are part of the Inspection Service

The evaluation of Portuguese judges is based on two legal diplomas: [the Statute of Judicial Magistrates](#) (SJM), and [the Regulation of Judicial Inspections of the Superior Council of the Judiciary](#) (RJI).

Inspections are intended to provide the Judicial High Council with a perfect knowledge of the state, needs and deficiencies of the services in the courts, as well as knowledge about the performance of the judges of the Judicial Courts and their merit.

In what concerns the evaluation of the merit, the inspections may, as a general rule, be ordinary - in order to assess the performance and the merit of judges and the appropriate classification of the service - or extraordinary - to be performed only when the Judicial High Council considers it necessary to order them and with the scope that, in each case, shall be established.

Both diplomas expressly provide that inspection services should not interfere with the independence of judges, and judicial inspectors are expressly forbidden to assess the "substantial merit of judicial decisions".

In Portugal, the professional merit of its judges is the prevailing criteria for career progression. The classification attributed to each judge within the scope of judicial inspections has an essential value in their professional life since it decides their promotion and their transfer and placement in an aspired position.

According to the SJM, the classification should take into account the way judges perform their duties, taking into account a set of criteria, such as, for example, technical preparation and intellectual capacity; personal and professional integrity and prestige; respect for their duties; volume and management of the service under their charge, among others.

The Judicial Inspection Regulation (JIR) focuses the evaluation criteria of the merit of the judges in three major aspects: human capacity to exercise the profession, adaptation to the court or

²⁸ JHC competences: Article 155 of [Law no. 62/2013, of 26 August](#) (Law of the Organization of the Judicial System) and article 149 of [Law no. 21/85, of 30 July](#) (Statute of Judicial Magistrates)

service and technical preparation, taking into account, among others, certain factors.

The classification to be proposed by the Judicial High Council results from the overall weighting of the inspector's assessments.

The SJM provides that Judges shall be classified, according to their merit, as Very Good, Good with Distinction, Good, Sufficient and Mediocre. The Mediocre classification implies the opening of an enquiry, under the scope of which the suspension of the exercise of functions may be determined.

Discipline

The disciplinary status applicable to judges is provided for in their Statute²⁹.

The competence to promote and decide on disciplinary matters rests with the Judicial High Council for judges of the judicial courts³⁰.

Any citizen who has knowledge of facts committed by judges that may constitute a disciplinary infraction, should report them to the Judicial High Council.

The Judicial High Council may order an inquiry, in order to verify if a breach of the duties of a judicial magistrate as occurred and to determine whether the judge has engaged in any conducts that may constitute a disciplinary offence.

Also the inspectors, based on the knowledge of the state, needs and deficiencies of the services in the courts, may propose to the JHC the opening of a process of verification, enquiry, investigation, disciplinary procedure or extraordinary inspection.

Once an inquiry has been initiated, a judicial inspector (who is always a Judge) analyses it and reports on its merits and proposes the opening of a disciplinary proceeding or the closing of the case. The report is submitted to the disciplinary section of the Permanent Council, in the case for first instance judges, or to the Plenary, in the case of High Court judges. The HCJ can either dismiss the complaint or decide to initiate a disciplinary procedure.

Disciplinary proceedings are the means of effecting disciplinary responsibility. It is always written, ensuring the hearing with the possibility of defense of the accused³¹. Once a disciplinary procedure is initiated, the following steps shall be the investigation, the accusation, the contradictory, the final report, and the final decision.

When, in disciplinary proceedings, the existence of a criminal offence is verified, the inspector shall immediately inform the Judicial High Council and the Public Prosecutor's Office of such fact. After an order validating the constitution of a magistrate as a defendant, the competent judicial authority shall immediately inform the Judicial High Council³².

Acts, even if merely culpable, committed by members of the judiciary in violation of the principles and duties preserved in their Statute, and any other acts committed by them which, due to their nature and repercussions, prove to be incompatible with the requirements of independence, impartiality and dignity indispensable for the exercise of their functions, shall constitute a disciplinary offense³³.

Disciplinary offences committed by judicial magistrates shall be classified as very serious, serious or minor, depending on the circumstances of each case³⁴.

In the choice and measure of the disciplinary sanction to be applied, the decision making body it

²⁹ Articles 81 to 135 of [Law no. 21/85, of 30 July](#) (Statute of Judicial Magistrates)

³⁰ *Ibid.*, Article 110

³¹ *Ibid.*, Article 109(1)(2)

³² *Ibid.*, Article 83(2)

³³ *Ibid.*, Article 82

³⁴ *Ibid.*, Article 83-F

shall take into account all the circumstances which, not being contemplated in the type of infraction committed, argue for or against the defendant, namely³⁵:

- The degree of unlawfulness of the facts, the manner of execution, the seriousness of their consequences and the degree of violation of the duties imposed;
- The intensity and degree of guilt and the purposes for which the infraction was committed
- The personal conditions of the accused person, his or her economic situation and conduct before and after the commission of the offence.

Judicial magistrates shall be subject to the following penalties: warning; fine; transfer; suspension from service; compulsory retirement and dismissal³⁶.

Own forum³⁷

Judicial magistrates are entitled to their own forum. The competent court for the investigation, prosecution and trial of judicial magistrates for a criminal offence shall be the one of the category immediately above of the court in which the magistrate is posted. Supreme Court judges are subject to this very court.

Guarantees of criminal procedure³⁸

Judicial magistrates may not be detained except by a judge's order for the purposes provided for in the Code of Criminal Procedure, unless in flagrante delicto for a crime punishable by a maximum prison sentence of more than three years.

Judicial magistrates may not be subject to coercive measures involving deprivation of liberty before an order is issued that designates a day for trial in relation to the indictment against them, except for a felony punishable with a maximum prison sentence of more than five years.

In the event of detention, the judicial magistrate is immediately presented to the competent judicial authority, which must inform, in the most expeditious manner, the Judicial High Council of the detention and of the decision applying the coercive measure.

The fulfilment of preventive detention and custodial sentences by judicial magistrates takes place in a common prison establishment, in a regime of separation from the rest of the detainees or prisoners.

The search in the personal or professional domicile of any judicial magistrate is, under penalty of nullity, chaired by the competent judicial magistrate, who in advance notifies the Judicial High Council, so that a member delegated by the Council may be present.

7. Remuneration/bonuses for judges and prosecutors

The remuneration system of the Judicial Magistrates is exclusive, of one's own and composed of a base remuneration and a set of supplements expressly provided for in their Statute³⁹ (e.g., emergency service, meals, settlement in the autonomous regions, moving expenses or daily allowances, among others).

It must be adjusted to the dignity of their sovereign functions and to the responsibility of those who exercise them, in order to guarantee the conditions of independence of the judicial power. Its components cannot be reduced, except in exceptional and transitory situations.

³⁵ Article 84 of [Law no. 21/85, of 30 July](#) (Statute of Judicial Magistrates)

³⁶ *Ibid.*, Article 91

³⁷ *Ibid.*, Article 19

³⁸ *Ibid.*, Article 20

³⁹ *Ibid.*, Articles 22 to 30-C

No allowance of any kind may be granted which does not fall within the remuneration components referred to.

The annual base remuneration is paid in 14 monthly instalments, of which 12 correspond to the monthly remuneration, including that for the holiday period, and the others to a Christmas allowance, paid in November of each year, equal to the remuneration earned in that month, and a holiday allowance, paid in June of each year, equal to the remuneration earned in that month.

A flat-rate supplement is paid to all judges under the same conditions.

The gross annual salary of judges at the beginning of their careers, and at the highest instance, is of € 47.879 and € 105.345, respectively.

The President of the Supreme Court of Justice, the Vice-President of the Judicial High Council, the Vice-Presidents of the Supreme Court of Justice, the Presidents of the Courts of Appeal and the Presidents of the District Courts are entitled to an amount corresponding to 20 %, the first, and 10 %, the others, of the base remuneration, by way of representation expenses. The Judge Secretary of the Judicial High Council is also entitled to representation costs.

Accumulation of duties

The increase of the judge's workload can only be remunerated if it results from the accumulation of duties.

It is an exceptional and temporary mechanism aimed, for example, to replace judges temporarily unable to perform their duties (due to illness or maternity leave), or to assist judges with a high volume of cases and/or entries or with low productivity for relevant reasons (e.g. courts or judges where the workload is clearly greater than what a judge would rationally be required to do or where the judge's normal working capacity is affected for health reasons).

For performing duties in an accumulation or substitution regime that lasts for a period exceeding 30 consecutive days or 90 days interpolated in the same judicial year, remuneration shall be due, in an amount to be established by the Judicial High Council, according to the degree of achievement of the objectives established for each accumulation, within the limits of one fifth and the totality of the remuneration due to the judicial magistrate placed in the court or section in question⁴⁰.

8. Independence/autonomy of the prosecution service

Nothing to report

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

Nothing to report

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

Negative attitudes and criticism against the judiciary have been a tendency in the media space over the years.

The availability of numerous national and international reports, with indicators related to the independence, quality and efficiency of justice over recent years have publicly revealed

⁴⁰ Article 29 of [Law no. 21/85, of 30 July](#) (Statute of Judicial Magistrates)

data that shows that, although there are still shortcomings in relation to each of these topics, there has been a positive evolution, demonstrating that citizens' perception of justice is aligned with the idea that there is functional equilibrium.

Nevertheless, and in what concerns the activity of the Judicial Courts, the major and most recent criticisms are felt in two main areas.

On one hand, the judicial system struggles with very serious and profound problems, specifically in cases of special complexity. The resolution of particularly complex cases constitutes the most difficult equation to solve that affects the image of justice, and the Portuguese justice system has a structural problem in its capacity to respond to this reality.

At the same time these processes have an increased media interest in view of the matters at stake, the parties involved and the impact that the facts under discussion have on society in general.

Criminality, especially of an economic-financial nature, is associated with elaborate mechanisms of concealment, which require the intervention of several jurisdictions or bodies, not always with adequate levels of cooperation. The national legal and organisational system contributes to these complex processes becoming huge structures of facts and evidence, and their conclusion will always take several years, a situation that could be halted with a change in the legal framework and the functional structure supporting judges.

An example of this is the “*Operação Marquês*” case:

“*Operação Marquês*” is a judicial process that began in 2013, which has 28 defendants (19 individuals and 9 legal entities), including a former prime minister. It is a mega process, with more than a hundred volumes, and it is the first time in Portugal that a prime minister has been detained and accused of corruption.

In October 2017, the Public Prosecution charged the 28 defendants for a total of 189 crimes. The former prime minister was formally charged with 31 crimes (passive corruption of a holder of political office, money laundering, forgery of a document and qualified tax fraud). The facts under investigation took place between 2006 and 2015.

In September 2018, an investigating judge (judge in charge of preliminary enquiries) was selected by lot to decide whether or not the case would proceed to trial.

On 09 April 2021 the investigating judge pronounced the (pre-trial) decision on the case, dropping all the corruption charges for lack of evidence and prescription of crimes. Only 17 of the 189 crimes in the indictment remain in the case. Of the 28 defendants charged, only 5 will go to trial, and the former prime minister will answer for three crimes of money laundering and three of forgery of documents. The Public Prosecution can appeal the decision to the Lisbon Court of Appeal.

“*Operação Marquês*” case contains more than 53,000 pages and 13.5 million computer files.

There have been numerous and strong reactions from political actors and civil society in general targeting, above all, the credibility of the justice system.

It will always be very difficult to avoid negative attitudes and criticism against the judiciary in such situations, while the system hasn't been able to deal with these realities adequately.

On the other hand, allegations of breaches in the system and interference with the random allocation of cases surfaced in the beginning of 2020, when appeal judges were indicted in a case of high-level corruption, influence peddling and money laundering.

The Judicial High Council has applied severe disciplinary sanctions to two of the judges involved (resignation and compulsory retirement), and led an investigation regarding probable irregularities in the allocation of cases, having detected anomalies in three cases at the Lisbon Court of Appeal, resulting in strong indications of abuse of power.

On Mars, 2020 the Plenary of the JHC unanimously decided to initiate disciplinary proceedings against 3 appeal Court Judges, including the current presiding judge and the former presiding judge of that court.

The JHC addressed the situation publicly, highlighting the seriousness of these allegations and the possible damages it may entail for citizens' and companies' perception of justice.

B. Quality of justice

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

The costs and expenses involved in court proceedings consist of⁴¹:

- i. court fees (*taxa de justiça*);
- ii. case-related expenses (*encargos*);
- iii. costs of the parties (*custas de parte*).

Accordingly:

i. Court fees must be paid by each of the parties involved for the respective legal proceedings to be launched. Court costs are calculated in accordance with the value or complexity of the claim. Court fees are expressed in units of account (*unidades de conta – UC*)⁴². Until the end of 2021, the value of 1 (one) unit of account is set at €102.00.

ii. Case-related expenses are those incurred as a result of the court proceedings (such as payments to experts, interpreting services, etc.) when requested by the parties or ordered by the judge⁴³

iii. Costs of the parties are the amounts spent by each of the parties in dealing with the court case, a sum which they are repaid if the opposing party loses the case (e.g., expenses with fees paid to an attorney or with court-appointed enforcement agents)⁴⁴.

Legal protection is available in two forms⁴⁵:

- i. legal advice
- ii. legal aid.

Accordingly:

i. Legal advice consists of technical clarification on the law applicable to specific issues or cases and may be provided by lawyers⁴⁶.

ii. Legal aid exists in the following forms⁴⁷:

- exemption from court fees and other case-related expenses;
- the appointment of legal counsel (such as lawyers and solicitors) and payment of their

⁴¹ Article 529 of [Law no. 41/2013, of 26 June](#) (Civil Procedure Code)

⁴² Article 5 of [Decree-Law 34/2008, of 26 February](#) (Court Costs Regulation)

⁴³ Article 16 of [Decree-Law No. 34/2008, of 26 February](#) (Court Costs Regulation)

⁴⁴ *Ibid.*, Article 26

⁴⁵ Article 6 of [Law No. 34/2004 of 29 July](#) (Access to the Law and the Courts)

⁴⁶ *Ibid.*, Articles 14 and 15

⁴⁷ *Ibid.*, Articles 16

- fees and other expenses (such as travel costs);
- payment of the fees of court-appointed legal counsel (such as a lawyer in criminal proceedings);
- payment of court fees and other case-related expenses in instalments;
- appointment of legal counsel and payment of the relevant fees and expenses in instalments;
- payment of the fees and expenses due to court-appointed legal counsel in instalments;
- the attribution of a court-appointed enforcement agent and payment of the corresponding fees (such as for the serving of a summons, for the measures needed to carry out the seizure of assets, and other enforcement procedures).

The Code of Civil Procedure⁴⁸ set out the cases in which it is compulsory to appoint counsel and that vary according to the nature of the proceedings. Apart from such cases, as a rule, individuals can represent themselves in proceedings.

Procedural documents that must be submitted in writing by the parties shall be sent to the court electronically through the procedural management application for the Judicial Courts (CITIUS). For cases that do not require a legal representative, and where the party has no lawyer, the procedural documents shall be submitted to the court by delivery to the court office, by registered delivery post or by fax⁴⁹.

Portuguese language shall be used in all court documents. Where a foreign national who cannot speak Portuguese has to give evidence in the Portuguese courts, an interpreter shall be appointed for them, when necessary, in order to facilitate communication, under oath. For documents written in a foreign language that require translation, the court, of its own motion or at the request of one of the parties, shall order the person submitting them to attach a translation.⁵⁰

12. Resources of the judiciary (human/financial/material)

Human resources

At the end of 2020, there were a total of 1,978 judges from the Judiciary (judicial magistrates)⁵¹. Of these, 1,820 (including probationary judges) were in active service (1,360 judges of 1st instance, 405 judges of the Courts of Appeal and 55 judges of the Supreme Court of Justice)⁵². The remaining judges were in service commission (47), unpaid leave (7) or suspended (3).

Data on human resources related to public prosecutors and justice officials should be collected from the Prosecutor-General Office (PGO) and the Directorate-General of the Administration of Justice (DGAJ - Ministry of Justice) respectively.

Financial and material

The Judicial High Council (JHC) has administrative and financial autonomy, with its own budget, included in the General State Expenditures (State Budget). It is intended to support the expenses with its members, with the magistrates and staff assigned to its services, with the judicial magistrates assigned to the courts of first instance, with the judicial magistrates

⁴⁸ Articles 40 and 58 of [Law no. 41/2013, of 26 June](#) (Civil Procedure Code)

⁴⁹ *Ibid.*, Articles 144

⁵⁰ *Ibid.*, Articles 133 and 134

⁵¹ resulting in a ratio of 19.2 judges per [100,000 inhabitants](#)

⁵² resulting in a ratio of 17.7 active judges per [100,000 inhabitants](#)

assigned as auxiliaries to the courts of Appeal and other current and capital expenditure necessary for the exercise of its powers.

Of the total foreseen for the 2020 budget (roughly €153 million), 95% is allocated to personnel expenditure.

The Superior Courts of the Judiciary (Supreme Court of Justice and Courts of Appeal) have their own budget intended to cover the costs related to the judges and staff assigned to them, as well as other current and capital expenses necessary for the exercise of their competences. The budget of the Superior Courts is financed by their own revenues, by funds from the State Budget and from the coffers managed by the Institute for the Financial and Property Management of Justice.

The Ministry of Justice, through its bodies, provides financial, technological, expert and human resources support to the Judicial Courts, in articulation with the Management Councils of the Courts, and in the cases under the dependence of Judges and Magistrates of the Public Prosecution Service.

Budget management between the courts is ensured by the executive branch of the State.

The Law⁵³ establishes management boards (*Conselhos de Gestão*), headed by the Judge President of the Court which includes the Public Prosecutor Coordinator of the court and the Judicial Administrator⁵⁴. The management board approves a draft budget for the district court, based on the allocation previously established by the Ministry of Justice⁵⁵ who gives the final approval, monitors its execution and approves, within certain limitations, changes to the staff map.

The Directorate-General of the Administration of Justice supports the courts, collaborates in the definition of their organization and management model, proposes measures for their modernization and rationalization, and ensures the payment of salaries and the management and training of court staff.

It also ensures the contracting of the goods and services necessary for the functioning of the courts, planning their needs in terms of facilities and participating in their construction, remodeling or conservation works in collaboration with the Institute of Financial Management and Justice Equipment.

The Institute of Financial Management and Justice Equipment (IGFEJ, I. P.), has the mission of managing the courts' patrimony, infrastructures and technological resources, as well as proposing the design, implementation and evaluation of IT plans and projects, in coordination with the JHC and PGO.

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

The main mission of the Centre for Judicial Studies (CJS) is to train judges and public prosecutors. Thus, the CJS is responsible for the initial and ongoing training of judges and public prosecutors for courts of law and for administrative and tax courts.

Admission to initial training for judges and public prosecutors is via an open competition, which is published in the official journal. The objective of the open competition is to fill vacancies in the judiciary and the Public Prosecution Service or to fill vacancies in Administrative and Tax Courts.

⁵³ [Law no. 62/2013, of 26 August](#) (Law of the Organization of the Judicial System)

⁵⁴ *Ibid.*, Article 104(2) - The Judge President can only appoint to the position one of the five candidates previously selected by the Ministry of Justice.

⁵⁵ *Ibid.*, Article 108(2)(b)

The aim of ongoing training is to enhance the expertise and skills judges and public prosecutors need, throughout their careers, with regard to their professional performance and personal development by promoting:

- the updating, deepening and specializing of technical and legal knowledge;
- the development of technical and legal knowledge in matters concerning European and international judicial cooperation;
- a better understanding of the realities of modern life, from a multidisciplinary perspective;
- a greater awareness of new realities, with emphasis on judicial practices;
- further analysis of the social function of judges and public prosecutors and their role within the constitutional system;
- an understanding of the media phenomenon, within the context of the information society;
- the study of topics and issues concerning professional ethics and deontology, so as to permit the sharing and exchange of individual experiences among the different actors who interact in the administration of justice and effective personal and inter-institutional relations;
- a judicial culture of good practice.

The Judicial High Council participates in the planning of continuous training activities of the judicial magistrates with CEJ, both in the phase of prior consultation as to their subject matter, and in their execution, which begins with the enrolment and admission of the Judges.

The Training Centre of the Directorate-General of the Administration of Justice (DGAJ) plans and organises training activities for the staff of the DGAJ, the judicial officers and court staff under the general system. The training courses are aimed at continuing training and the training required for competition procedures.

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

For more than a decade that Portugal has an IT system that supports the electronic management of court proceedings. The CITIUS project encompasses a set of electronic platforms that make it possible to carry out most of the acts in judicial proceedings electronically.

These applications enable all the documents submitted by the parties, sentences, orders and court rulings issued by the judges to be submitted and filed electronically and, therefore, also enable the notification of the parties' lawyers and facilitate the up-to-date consultation of the progress of the proceedings by all the intervening parties (including the parties themselves, who can now directly access the proceedings).

The proceedings, including the practice of written acts, are carried out in the information system of support to the activity of the courts⁵⁶.

Communications between courts or enforcement agents and public entities and other legal persons, which assist the courts in judicial proceedings, may be made electronically through interoperability between the information system supporting the activity of the courts and

⁵⁶ Articles 132 of [Law no. 41/2013, of 26 June](#) (Civil Procedure Code)

the information systems of these entities.

The process may have a physical support, but only "for the purpose of supporting its processing". The judge is given the possibility of requiring that the pieces and/or original documents be submitted on paper when, for example, he doubts the authenticity or genuineness of the pieces or documents or when it is necessary to examine the handwriting or signature of the documents⁵⁷.

Apart from an already advanced state of dematerialisation, other measures have been adopted that have made it possible to mitigate the consequences that confinement and social distance have brought or could have brought to the Justice system, by making it possible to dematerialise services, provide professionals with tools that allow them to work from home and increase transparency.

The main digital tools of judicial organization adopted were:

- All the documents of the parties are sent to the courts by electronic means, through the electronic case management system (CTIUS).
- Virtual court rooms in all courts (First Instance, Appeal Courts and Supreme Court of Justice) allowing hearings to be held remotely;
- Digital signature of sentences through the electronic case management system;
- Telework is mandatory whenever the nature of the work allows it.
- Access through VPN (Virtual Private Network) to the case management system for judges and court staff. Judges keep doing their normal work from home where they have access to the case management system. They remain available to go to Court whenever it is necessary. The same happens with court staff.
- Any procedural acts are permitted through tele/videoconference.
- The use of email instead of telephone is recommended to seek information from Courts.
- Transfers of files from a court to another is made by electronic means; also the notification of judicial documents to the parties.

15. 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)

District Courts Annual Reports

The Presiding Judges of the District Courts submit to the Judicial High Council (JHC) an annual report on the status of the courts⁵⁸. In those reports, a balance and evaluation of the activity of each Judicial Court is made⁵⁹.

The elaboration of the final document results from the junction of the reports of each district court, with the synthesis of the data considered essential, such as:

- The amount of the annual budget of each district court;
- The analysis of Human Resources;

⁵⁷ Article 144 of [Law no. 41/2013, of 26 June](#) (Civil Procedure Code)

⁵⁸ Articles 94 (6) (a) and 110 (1) (a) of [Law no. 62/2013, of 26 August](#) (Law of the Organization of the Judicial System)

⁵⁹ The reports are publicly available every year, in the JHC website (<https://www.csm.org.pt/>).

- The identification of the established goals and the assessment of their fulfilment;
- The procedural movement;
- Identification of the most urging needs in terms of facilities and equipment;
- The proposals presented by the Presiding Judge to face the problems identified.

Monitoring - Evaluation and Results

The JHC performs a four-monthly monitoring (Jan-Apr/May-Aug/Sept-Dec) of the functioning of the first instance judicial courts, initiated in accordance with its deliberation of 29 September 2015⁶⁰.

Thus, in each four-month period, data is collected in relation to cases awaiting a judge's act, the scheduling of cases, cases that had been concluded by decision of merit or for other reasons, data in relation to the steps taken and postponements, as well as statistical data in relation to cases lodged and concluded and the official and secretariat pendency, all by reference to the judge's position and not to each judge.

Such data is collected by the court services filling in a grid specifically created for this purpose, currently inserted in the IUDEX IT system. Subsequently, monitoring reports are prepared for each judicial district, and a comparative analysis is made of all the judge positions based on a previously defined categorization of jurisdictions, available at all times for consultation by the district courts.

The analysis of the monitoring grids enables the identification of constraints that are reported to the members of the JHC responsible for the respective territorial areas, who are responsible for adopting the management measures deemed appropriate.

The JHC analyses the data in relation to the case units of the judicial courts of first instance and, if necessary, considers articulated action with the Presiding Judge or with the General Directorate of the Administration of Justice (DGAJ) to resolve the constraints.

The collected data, transmitted by the judicial secretariats, under the guidance of the Presiding Judge and after knowledge and intervention of the Judges exercising their functions in the courts, aim to give an image of the organic units and respective procedural movement. This image serves, however, as a criterion for decision in the management intervention.

The JHC, within its attributions to follow-up the judicial courts, in monitoring and statistics, prepares several documents demonstrating the work of judges in the courts during the year, in order to demonstrate the statistical evolution, with entries and completions, resolution rate and proceedings carried out and postponed.

Concerning the management tools made available by the General Directorate of Justice Policy (DGPJ)⁶¹, the JHC requests the provision of statistical data on cases opened and closed for a longer period of time, including the three-year period.

⁶⁰ The monitoring related to the year 2020 includes periods of calamity and emergency, with the entry into force of legislative measures to suspend substantive and procedural deadlines. The monitoring conducted by the JHC presents in more detail the postponements of judicial proceedings, whether as a result of the application of the legislative measures indicated, or due to the impossibility of attendance of the procedural actors to the proceedings, or due to the inadequacy of the physical spaces of the courtrooms to perform the scheduled proceedings in healthy and safe conditions.

⁶¹ With respect to monitoring and evaluation, there is a "Court Management Indicators System" (SIG-T in the Portuguese acronym) aimed at measuring the performance of the justice sector. The indicators, which are intended to measure efficiency, effectiveness and quality of the courts, consist of: clearance rate; disposition time; pending cases awaiting final decision; pending cases after final decision; percentage of pending cases with duration above the reference value; average duration of pending cases; average duration of completed cases.

16. *Geographical distribution and number of courts/jurisdictions (“judicial map”) and their specialization*

Apart from the Constitutional Court (*Tribunal Constitucional*), which is specifically competent to administer justice on legal-constitutional issues, the following categories of court exist in Portugal:

- The Supreme Court of Justice (*Supremo Tribunal de Justiça*) and the judicial courts of first and second instance;
- The Supreme Administrative Court (*Supremo Tribunal Administrativo*) and the other administrative and fiscal courts;
- The Court of Auditors (*Tribunal de Contas*).

Maritime and Arbitration Courts and Justices of the Peace are also possible.

The law sets out the cases and ways in which the above-mentioned courts may constitute, separately or jointly, a conflict court (*Tribunal dos Conflitos* - court dealing with conflicts of jurisdiction).

Without prejudice to the provisions regarding military courts (*Tribunais Militares*), which may be created during states of war, courts with exclusive competence to rule on certain categories of crime are prohibited.

Judicial Courts

Supreme Court of Justice

The Supreme Court of Justice is the highest body in the hierarchy of the judicial courts, without prejudice to the competence of the Constitutional Court. It is made up of civil, criminal and social sections.

It is located in Lisbon and has jurisdiction over the entire Portuguese territory.

The Supreme Court of Justice operates under the direction of a President (presiding judge), and sits as a full bench (consisting of all the judges who attend in the different sections), in specialised divisions and in sections.

The Supreme Court of Justice only deals with matters of law, except in the cases of legally enshrined exceptions.

Courts of Appeal

The Courts of Appeal (*Tribunais da Relação*) are, as a rule, courts of second instance.

Courts of Appeal currently sit in *Lisboa, Porto, Coimbra, Évora* and *Guimarães*. They are presided over by a President (presiding judge) when sitting both in full bench and by section.

The Courts of Appeal have Civil, Criminal, Social, Family and Minors, Business, Intellectual Property and Competition, Regulation and Supervision sections. With the exception of the Civil and Criminal sections, the existence of the others will depend on the quantity or complexity of the work that is needed. They are set up by order of the Judicial High Council on a proposal of the President of the respective Court of Appeal.

Courts of First Instance

The Courts of First Instance are, as a rule, district courts (*tribunais de comarca*). There are

23 district courts⁶². Each of these courts has jurisdiction in a certain area of the Portuguese territory (a district). They exercise jurisdiction in all matters that are not assigned to other courts. District Courts are of both general and specialised competence.

District Courts are divided into benches of specialised or general competence, as well as local 'satellite' benches. Benches are named in accordance with the type of proceeding they deal with and the name of the municipality in which they are located.

Benches of specialized competence are:

- Civil Central
- Civil Local
- Criminal Central
- Criminal Local
- Petty Criminal Instance
- Criminal instruction
- Family and minors
- Labour
- Commercial
- Enforcement

There are also courts with specialized jurisdiction and extended territorial jurisdiction:

- the Intellectual Property Court
- the Competition, Regulation and Supervision court
- the Maritime court
- the Penalties Enforcement Court
- the Central Criminal Investigation Court

These specialized jurisdiction courts have broad territorial jurisdiction (jurisdiction wider than the district where they are based) and only judge cases in certain matters (regardless of the applicable form of process).

C. Efficiency of the justice system

17. Length of proceedings

The management measures of the Judicial High Council (JHC) with regard to the courts of first and second instance stem from the fundamental strategic option focused on always improving the quality of justice in terms of several evaluation standards, namely access to law, independent and impartial court, equitable and fair trial, predictability of decisions and decisions within a reasonable time.

The right of citizens to delivery of decisions within a reasonable time, as defined by article 6 of the European Convention on Human Rights and under the terms of the jurisprudence drawn up by the European Court of Human Rights, has been the central concern of the management of the Judicial High Council, aware that the main problem of the justice system lies mainly in this

⁶² The list of first instance judicial courts is available in <https://www.citius.mj.pt/portal/ContactosTribunais.aspx>.

dimension, justifying the emphasis placed on the reasonableness of the time limits of the decisions, which is not to be confused with celerity and always implies that the necessary time can be taken for each decision.

In this context, priority has been given to action aimed at reducing the duration of cases by speeding up the respective processing, through good practices of procedural management that avoid useless delays or erratic processing, while never shortening the time necessary for a considered decision, even if exceeding the deadlines for the delivery of decisions, when this is justified.

During the last year, there has been an increase in efficiency and a reduction both in the duration of the judicial proceedings themselves and in the number of pending cases in the courts⁶³.

⁶³ Data provided in the JHC annual report available for consultation at <https://www.csm.org.pt/relatorios-anuais/>

Other – please specify

II. Anti-corruption framework

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

18. *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), e.g. in table format.*

B. Prevention

19. *Integrity framework including incompatibility rules (e.g.: revolving doors)*
20. *General transparency of public decision-making (including public access to information such as lobbying, asset disclosure rules and transparency of political party financing)*
21. *Rules on preventing conflict of interests in the public sector*
22. *Measures in place to ensure whistleblower protection and encourage reporting of corruption*
23. *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).*
24. *Measures taken to address corruption risks in the context of the COVID-19 pandemic.*
25. *Any other relevant measures to prevent corruption in public and private sector*

C. Repressive measures

26. *Criminalisation of corruption and related offences*
27. *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 to the implementation of EU funds.*
28. *Potential obstacles to investigation and prosecution of high-level and complex corruption cases (e.g. political immunity regulation)*

Other – please specify

III. Media pluralism

A. Media authorities and bodies

29. *Independence, enforcement powers and adequacy of resources of media regulatory authorities and bodies*
 30. *Conditions and procedures for the appointment and dismissal of the head / members of the collegiate body of media regulatory authorities and bodies*
 31. *Existence and functions of media councils or other self-regulatory bodies*
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B. Transparency of media ownership and government interference

- 32. *The transparent allocation of state advertising (including any rules regulating the matter); other safeguards against state / political interference*
- 33. *Rules governing transparency of media ownership and public availability of media ownership information*

C. Framework for journalists' protection

- 34. *Rules and practices guaranteeing journalist's independence and safety*
- 35. *Law enforcement capacity to ensure journalists' safety and to investigate attacks on journalists*
- 36. *Access to information and public documents*
- 37. *Lawsuits and convictions against journalists (incl. defamation cases) and safeguards against abuse*

Other – please specify

IV. Other institutional issues related to checks and balances

A. The process for preparing and enacting laws

- 38. *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*
- 39. *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)*
- 40. *Regime for constitutional review of laws*
- 41. *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)*

B. Independent authorities

- 42. *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 institutions⁷*

C. Accessibility and judicial review of administrative decisions

- 43. *Transparency of administrative decisions and sanctions (incl. their publication and rules on collection of related data) and judicial review (incl. scope, suspensive effect)*
- 44. *Implementation by the public administration and State institutions of final court decisions*

D. The enabling framework for civil society

45. 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.)

E. Initiatives to foster a rule of law culture

46. 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.)

Other – please specify