

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.

* I am giving my contribution as

- ☐ Academic/research institution
- ☐ Business association
- ☐ Civil society organisation/NGO
- ☐ International organisation
- ☐ Judicial association or network
- ☐ Media organisation or association

X Public authority or network of public authorities

☐ Other

If "Other", please specify

* Organisation name

250 character(s) maximum

Oficina Antifrau de Catalunya (Anti-Fraud Office of Catalonia)

* Main Areas of Work

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

If "Other", please specify

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

500 character(s) maximum

The Anti-Fraud Office of Catalonia is a public-law institution created by Law 14/2008, of November 5th that prevents and investigates corruption in the public sector of Catalonia (www.antifrau.cat) . This Law sets up the institution with the objective of preventing and investigating potential cases of fraudulent use or allocation of public funds or any unlawful appropriation arising from acts that involve conflicts of interest.

Transparency register number

Check if your organisation is in the transparency register. It's a voluntary database for organisations seeking to influence EU decision-making

* Country of origin

Please add the country of origin of your organisation

Spain

* First Name

Miguel Ángel

* Surname

Gimeno Jubero

* Email Address of the organisation (this information will not be published)

director@antifrau.cat

* 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.

X 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

5000character(s)maximum

As mentioned in last year's contribution, one of the most positive horizontal development has been the approval of the Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons who report breaches of Union Law.

The mandatory transposition of this instrument into the national Law of EU Member States has lead to the creation of the Network of European Integrity and Whistleblowing Authorities (NEIWA) which currently gathers national and regional authorities from 22 Member States which are likely to act as future competent authorities in the light of the Directive.

The Network has become a forum of exchange of good practices in the protection of whistleblowers prior to the passing of the Directive and a platform to share the current state of EU Member States' transposition.

At a regional level, it can be highlighted the recent approval of the Decree 8/2021, of February 9th on transparency and access to public information.

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.

Spain

Justice System - Spain

Independence

Appointment and selection of judges, prosecutors and court presidents

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

3000 character(s) maximum

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

3000 character(s) maximum

Promotion of judges and prosecutors

3000 character(s) maximum

Allocation of cases in courts

3000 character(s) maximum

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

3000 character(s) maximum

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

3000 character(s) maximum

As indicated in last year's survey, it could be highlighted in this field the activity carried out by the Ethics Judicial Committee. This Committee was created with the approval of judicial ethics and provides guidance on the interpretation of those principles. It is conceived as a guiding tool rather than a disciplinary instrument. Its expert opinion is published in the website of the General Judicial Power (CGPJ) and can be consulted in the following link:
<https://www.poderjudicial.es/cgpj/es/Temas/Comision-de-Etica-Judicial/>

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 - 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

As suggested in last year's survey, it could of interest to learn on anti-corruption strategies and on anti-corruption policies (tackling both preventive and repressive aspects) issued by the different EU Member States so a question or subtopic in this EU Survey could be useful if included.

The references given in this answer are prior to 2019 but are provided in order to show the current institutional landscape in Spain.

At the Spanish level, the main law-enforcement body for investigation of corruption is the Spanish Public Prosecutor's Office against Corruption and Organised crime created in 1995.

Another relevant institution is the National Service for Anti-Fraud which is the responsible body to coordinate actions for protecting the financial interests of the EU in coordination with OLAF.

Regarding public procurement, Law 9/2017, of November 8th, regulating contracts of the public sector, establishes the creation of an Independent Office for Regulation and Supervision of Public Procurement (OIRESCON) which foresees the correct application of the legislation and promotes competition and fights illegalities relating to public procurement. It became operational in 2019 and does not count yet with resources. The Office of Conflicts of Interests is the responsible body for managing and overseeing asset declarations of high public officials and manages the Registry. Other bodies have been also created at national and regional level for guaranteeing the effective access to public information by citizens.

At the level of the different autonomous communities, specialised bodies to prevent and fight corruption have been created, most of them attached to their respective Parliaments; The pioneer institution implementing the mandate of Art.6 and 36 of the United Nations Convention against Corruption was the Anti-Fraud Office of Catalonia created by Law 14/2008, of November 5th which prevents and investigates corruption in the Catalan public sector. The Office has been already collaborating with the above mentioned Spanish institutions. The institution was mentioned in the EU Anti-corruption report as an example of good practice in

a Member State. As for the resources allocated currently to the Anti-Fraud Office of Catalonia, the institution counts 51 members and the annual budget is around 5 million euros (7.5 million inhabitants). The relation of posts can be consulted in the following link:

<https://seuelectronica.antifrau.cat/ca/relacio-de-llocsde-treball.html>.

Later on, further control and prevention institutions followed that model. There are other existing authorities in Valencia, Balearic Islands, etc. These authorities have established a stable network to share anti-corruption policies: <https://www.antifrau.cat/es/1274-las-agencias-anticorrupcion-existentes-en-espana-crean-una-redestable-para-compartir-politicas-anticorrupcion.html>

Prevention

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

3000character(s) maximum

Incompatibilities of public officials are foreseen in several regulations.

However, it must be highlighted that the operation of the current system of incompatibilities is based on the individual responsibility of public servants, who are obliged to apply for authorization to perform a compatible activity. Therefore, if the later do not fulfil this obligation, the system remains entirely dependent on the efficiency of the control mechanisms.

In this regard, the Anti-Fraud Office has ascertained that the absence of an application for a secondary activity is one of the most frequent breach and, at the same time, one of the most difficult to detect for internal and external control bodies. There is no specific mechanism for incompatibilities of MPs or elected public officials.

In conclusion, the mechanism has become just a formality to obtain permission rather than a process of assessment and appraisal prior to the authorizing decision. Some recommendations have been issued in this regard by the Anti-Fraud Office of Catalonia in his report on managing conflicts of interests in the public sector of Catalonia published in 2016 (such as proactive role of immediate superiors of identifying and managing conflicts of interests, access to tax information, request of accreditation of the compatibility by the second employer, etc.). The report can be consulted in the following link: <https://www.parlament.cat/document/cataleg/236205.pdf>

Regarding the control of interests after leaving public office (revolving doors) some limitations and prohibitions are in place on the exercise of private activities after termination of employment or end of office of senior officials, elected representatives and senior managers of local authorities (mainly 2 years of cool-off-period). However, some significant weaknesses can be found with respect to affected group by the limitations and the terminological accuracy of the prohibitions and therefore their control (broad terminology so it is unknown or let to interpretation if the activity is permitted or not) . A survey was carried out by the Anti-Fraud Office of Catalonia in the region, in order to check the compliance with the regulation restricting activities in the two years after leaving office that affects elected representatives and local authority senior managers, the survey asked the town and city councils, firstly, how many files on declarations regarding the initiation of private activities were processed in 2011-2015, and, secondly, if they paid any financial compensation for the two years following the end of office to the local elected officials who, as a result of the incompatibility regulation, could not pursue their professional activity nor received financial compensation for other activities.

None of the 329 councils responding to the survey had processed any files for declarations regarding the initiation of activities after leaving office nor paid any financial compensation for the inability to pursue a professional activity.

This result is consistent with the inadequacy of the regulation governing the control to be carried out by the Office of Conflicts of Interests on the local elected representatives. More information on the surveys carried out by the Anti-Fraud Office regarding management of conflict of interests can be consulted in the above mentioned report.

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

3000character(s) maximum

Regarding transparency, since the approval of the Spanish law on transparency in 2013 and the Catalan Law 19/2014, of December 29th and the recent approval of the Decree 8/2021, of February 9th, some remarks can be noted:

- Some of the independent supervisory authorities have not been renovated regarding its members and are lacking resources, receiving complaints involving entities obliged to disclose information by the Law.
- During the COVID-19 crisis, it has been noted that the Spanish Administration and others opted to suspend the exercise of the right of access to information under the umbrella of State emergency regulations.

Regarding asset disclosures, this requirement is foreseen in several regulations. The obligation to declare interests mainly affects elected representatives and political appointees and excludes the vast majority of public employees. Currently public employees have no obligation to submit declarations of interests. In the above mentioned study carried out by the Anti-Fraud Office of Catalonia it was found that only those in political appointments are obliged to declare interests, whereas other public servants are not. The time of submission is inconsistent across the groups and certain interests do not have to be declared. Regarding lobbying, the risk of undue influence in public policy (capture) is not foreign to any country. Catalonia has been pioneer within Spain to approach a regulation on lobbying initially through the above mentioned Law on transparency, access to public information and good governance. Recommendations have been issued regarding this regulation in the sense that a real publicity of public agendas and the activity of lobby must be ensured. Also the agenda must include any contact (meetings, phone calls, etc.), as well as provide publicity on the public funds received by lobbies as well as disclose the personnel at their service (if former civil servants are currently working for them). Public decision tracing should also be necessary, including contacts with lobbies.

Finally, the recently approved Decree on transparency approved in Catalonia established that agenda's of high-ranking officials shall be published regarding the contacts and the meetings maintained with lobbies; this information must contain the date of the meeting, the name of the lobby, the persons who acts on its behalf and the object of the meeting in a precise manner so that it allows for the knowledge of its main content.

Rules on preventing conflict of interests in the public sector.

3000character(s) maximum

As mentioned before, in this regard, the Anti-Fraud Office of Catalonia published a report in 2016, unique within its category in Spain, on the management of conflicts of interest in the public sector of Catalonia. In this report, several detection and management tools were presented through a Toolkit and some recommendations were addressed to the relevant authorities, regardless of their regulatory or executive nature, in order to carry out a comprehensive review of the system for managing conflicts of interest, taking as a starting point a risk analysis for each group of public servants in the bodies and organisations which make up the Catalan public sector. Since its publication, in the past years, there has been no improvement or implementation of the recommendations issued in that report. The publication (in English) can be consulted in the following link: <https://www.parlament.cat/document/cataleg/236205.pdf>

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

3000character(s) maximum

Before the entry into force of the Directive 2019/1937 of the European Parliament and of the Council, of 23 of October 2019, on the protection of persons who report breaches of Union law, Spain had scarce sectorial regulation on protection of whistleblowers.

At the Anti-Fraud Office of Catalonia, art. 24 of its Internal Regulations (2009) establishes that together with the reservation of identity referred to under section 24, the Anti-Fraud Office has to provide assistance and advice to persons who complain or report in good faith and that if the whistleblower has been directly or indirectly subject to acts of reprisals, then the director of the Office has to seek or exercise before the competent authorities the required corrective or re-establishment measures, a record of which must in any case be left in the annual report. In case of a bad faith complainant, the Anti-Fraud Office may if appropriate hold that person duly responsible.

The Office also counts with an anonymous exchange system with the reporting person. A series of publications and sessions have been organised by the Anti-Fraud Office of Catalonia to raise awareness among citizens as well as among public sector entities which will have to implement channels in the timeframe given by the EU Directive. Publications can be consulted at: <https://www.antifrau.cat/ca/prevencio/arees-d-estudi/proteccio-dels-alertadors.html>

The Office has also participated in several European working groups on this topic (European Partners against Corruption -EPAC/EACN) and NEIWA (Network of European Integrity and Whistleblowing authorities).

A Draft law on protection of reporting persons was being processed before the end of the legislature being in the Catalan Parliament. The initiative was published in the Official Gazette of the Parliament of Catalonia on the 5th of July 2018 and this initiative allocates the role of the competent authority to the Anti-Fraud Office of Catalonia. At the Spanish level, a public consultation has been issued by the Ministry of Justice which can be consulted in the following link:

<https://www.mjusticia.gob.es/es/AreaTematica/ActividadLegislativa/Documents/Consulta%20Publica%20Whistleblowers%205%20ENE%2021.pdf>

It is yet to be seen how the transposition will be made and the interpretation that will be given by Courts in application of the transposed legislation.

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).

During the experience gathered by the Anti-Fraud Office of Catalonia during its 10 years of existence, the institution has identified the risk-areas more exposed to corruption, fraud and to other irregularities. In this

sense, the areas that have been the object of an investigation by the Investigations' department of the Office

in the last 5 years respond to the following percentage rates:

public procurement (36%), conflicts of interests and incompatibilities (21%), urban planning (12%), subsidies (5%) and others (9%). Therefore, adopting a methodology based on risk analysis and key factors

can help to better understand the dynamics of each risk area and adopting, upon evaluation, those preventive measures tending to avoid risk from happening as well as making a planification of those contingent actions for when the damage cannot be avoided and revert it, or at least mitigate its consequences.

The Anti-Fraud Office of Catalonia has undertaken a project on risks for integrity in public procurement which counts with two phases:

In the first phase, the Anti-Fraud Office is carrying actions in detection and analysis which will result in the diagnosis of the main risks in public procurement in the public sector of Catalonia;

In the second phase, the institution, based on the results of the initial phase the institution has issued an interactive guide to manage integrity risks in public procurement (May 11th, 2020) based in a research that identified inherent risks in public procurement in Catalan bodies and an exhaustive list of almost 80 factors that create, enhance and perpetuate those risks (organisational factors, personal factors, procedural factors, leadership and cultural factors).

This project and the outputs obtained to date can be consulted in the following link:

<https://www.antifrau.cat/ca/documents-treball.html> . A raising-awareness session of the project will take place in the upcoming OECD Integrity Forum 2021.

An interactive guide of this project will be soon published in the Office's website <https://www.antifrau.cat/> (resources)

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

3000 character(s) maximum

The Anti-Fraud Office of Catalonia issued in April 2020 a set of reminders, recommendations and resources to promote integrity under the title "Risks prevention in the exercise of public authority during COVID-19 crisis". The recommendations aimed to increase this trust reinforcing the ethical commitment, transparency, control and at a later stage, the assessment and accountability of public entities during this crisis. The recommendations were addressed (and still are) to public authorities to explain already in real time what do they do, for what reasons and how do they do it. They aim to support internal and external control bodies so that they can carry out their roles in better conditions and in a more coordinated manner. And eventually, when the emergency sees its end, they encourage the public sector to commit carrying out an independent assessment on how the COVID-19 crisis has been managed.

The document can be access in the following link:

<https://www.antifrau.cat/sites/default/files/Documents/Quefem/Recomendations-risks-prevention-exercise-public-authority-during-COVID-19-crisis.pdf>

The document has been presented in several international forums, such as in the OLAF workshop in 2020 EURegioWeek.

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

3000 character(s) maximum

In line with the suggestion made above regarding the need of public policies contemplating a comprehensive strategy to fight and prevent corruption, the Anti-Fraud Office issued a set of 45 recommendations to the Catalan Government on 15 different areas (transparency and access to public information, institutional integrity, control bodies, conflicts of interest, civil service, public procurement, subsidies, town-planning, political parties, judiciary, media, lobbying, whistleblower protection, education and implication of civil society).

The recommendations proposed to the governmental strategy in a recently published document:

<https://www.antifrau.cat/ca/antifrau-ha-elaborat-document-recomanacions-formi-part-estrategia-lluita-contracorrupcio-catalunya.html>

The table with the specific 45 measures can be found here:

<https://www.antifrau.cat/sites/default/files/Documents/Quefem/45-recomanacions-oficina-antifrau-politica-integritat-catalunya.pdf>

Finally, a reference must be made to a pioneer measure in Spain with the implementation of a perception Barometer, which aims to capture the perception of corruption; with the obtained data, it is possible to finetune on the adoption of preventive policies.

The perception Barometer can be consulted in the following link:

<https://www.antifrau.cat/ca/barometre-2020> The study gathers the data on perception of corruption in Catalonia, on transparency levels and integrity in Catalan public administrations and on attitudes and citizenship behaviours.

Repressive measures

Criminalisation of corruption and related offences.

3000 character(s) maximum

The Spanish criminal code foresees in its Title XIX crimes against public administration where crimes such as bribery, embezzlement, frauds, negotiations and activities forbidden to civil servants and abuses in the exercise of their functions.

In general, the legal interest protected is the public administration in its internal organisation and its relation with citizens. Title XIII of the Code regulates the illegal financing of political parties (article 304) illegal private financing, illegal association with the aim of illegal financing of political parties also, crimes related to corruption such as crimes relating to town Planning and spatial Planning. Money laundering is also foreseen, corruption in the private sector in article 286 bis (the legal interest protected is competition) such as payment to obtain competitive advantages in the private sector or the corruption of a foreign public official. Also corruption in International economical transactions, corruption in sports.

It must be noted that, in the case of commission of a crime by a legal person, to count with a compliance programme may be considered as an exculpatory element of the responsibility.

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

Some relevant statistics can be found in the National Statistics Institute (INE) regarding convictions by the type of crime; however data in investigation and sanctions for corruption offences is not gathered centrally or regionally and the consultation must be made directly to external control bodies (via website or annual report) to obtain some data on the number of reports, sanctions, etc.

The National Service of Anti-Fraud Coordination also counts with their own data base with relevant legislation and reports.

This service can receive reports in the misuse of EU funds regarding projects and operations financed by the European Union.

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

A modification is undergoing regarding the Spanish Criminal Procedural Code. However the entry into force of this new legislation is not foreseen in the short term.

Media Pluralism - Spain

Media authorities and bodies

(Cf. Article 30 of Directive 2018/1808)

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

3000character(s) maximum

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

3000character(s) maximum

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

3000character(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

3000character(s) maximum

The Anti-Fraud Office of Catalonia provided support for a research in the field of public financing of media in Catalonia which was carried by the Lab on journalism and communication by plural citizenship in the Autonomous University of Barcelona. The study among other conclusions determines the lack of financial health of the analysed media which present a total debt of more than 50%. It also verifies the high level of public financing received (as institutional publicity, subsidies, memberships or contracts). On the other hand, the research also highlights the low level of transparency of public institutions. This fact challenges the knowledge of the granting criteria for institutional publicity and subsidies. The study "The public financing of the media in Catalonia can be consulted in the following link: <https://www.antifrau.cat/sites/default/files/financament-public-mitjans-comunicacio-catalunya.pdf>

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

3000character(s) maximum

Framework for journalists' protection

Rules and practices guaranteeing journalist's independence and safety

3000character(s) maximum

The provisions for the Directive on protection of persons reporting breaches of EU Law could also apply to investigative journalists, above all protection measures against reprisals.

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

3000character(s) maximum

Access to information and public documents

3000character(s) maximum

Lawsuits against journalists (incl. defamation)

3000character(s) maximum

Other - please specify

3000character(s) maximum

Other institutional issues related to checks and balances - Spain

The process for preparing and enacting laws

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

3000character(s) maximum

New provisions have been approved at a regional level via the Decree 8/2021, of February 9th regarding the regulation procedures in process of elaboration; as an example, we describe some of the new provisions in this regard:

- During all the regulatory procedure the current status of the regulation must be stated.
- In case of a previous public consultation, the previous assessment, the contributions received and the assessment document of this contribution must be published.
- The initial text of the regulation, the reports and the preliminary legal report.
- If reports are requested they must be published together with the text proposal object of the report, the issued reports and the assessment document.
- It must be specially published the information regarding the participation in the regulatory elaboration procedure of the persons who have the condition of group of interests or lobbies, if appropriate, in order to know the identity of the interest group, the date of their participation, the contact or influence and the description of their contributions to the text of the legislation and its assessment.

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)

3000character(s) maximum

Regime for constitutional review of laws.

3000character(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)

3000character(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#>

3000character(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)

3000character(s) maximum

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

3000character(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.)

Regarding the implication of civil society in the fight against corruption, a strategy to fight against corruption must involve civil society as a whole, according the mandate of the United Nations Convention against Corruption. Civil society has a key role as an added mechanism to institutionalised controls and its participation in the definition and execution of public policies related to the fight against corruption must be guaranteed. The Anti-Fraud Office of Catalonia has recommended an agreement derived from an open, critic and participative process based in the cooperation of several elements of society, judicial and control institutions, political parties, economic and social operators, media and civil society. This process should end with the configuration of a contract of all society in the fostering of ethical conduct, transparency and the defense of the general interest. In this line, the document of the Social Agreement or Pact against corruption formalised in the Parliament of Catalonia on the 9.12.2015 already stated this idea.

This recommendation is included in the recommendations issued by the Anti-Fraud Office of Catalonia towards an integrity policy in Catalonia:

<https://www.antifrau.cat/sites/default/files/Documents/Quefem/Propostes-oficina-antifrau-politica-integritat-catalunya.pdf>

Furthermore, the Parliament of Catalonia has hosted the 1rst. Summit against Corruption which concluded with a working plan to implement measures to fight structural causes. This Summit was fostered by civil society with the support of the Anti-Fraud Office of Catalonia.

Among the approved measures, there was the need to create a new law on financing of political parties, a new electoral law and to review the criteria of public procurement and the incompatibility regime of public officials. An executive Commission which also counts with two representatives of parliamentary groups, has been created to follow-up on the summit results. The Summit, organised by the Citizens Observatory against Corruption counted with the participation of the most relevant stakeholders in the fight against Corruption in Catalonia (Government representatives, parliamentarian groups, control bodies (among them the Anti-Fraud Office of Catalonia), trade unions, professional associations and entities who signed the above mentioned agreement.

In the following link more information on this initiative can be consulted:

https://www.parlament.cat/web/actualitat/noticies/index.html?p_id=270390121

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