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2021 Rule of Law Report - targeted stakeholder

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 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, visits, and stakeholders' contributions collected through a targeted stakeholder consultation[1]. The information is used for the Commission's specific assessments in preparing the Report. Building on the positive experience from the 2020 Report, the Commission is inviting stakeholders to provide written contributions for the preparation of the 2021 Rule of Law Report through the consultation.

The contributions should cover in particular (1) feedback and developments with regard to the points raised in the 2020 Rule of Law Report and (2) any other significant developments since January 2020[2] falling under the 'type of information' defined in the 2020 Report. Contributions also include significant rule of law developments in relation to the COVID-19 pandemic falling under the scope of the 2020 Report.

The input should be short and concise, if possible in English, and summarise information related to one or more areas of law. You are invited to focus on the areas that relate to the scope of work and expertise of your organisation. Existing documents may be referenced with a link (no need to provide the full text). Stakeholders are encouraged to mention relevant documents 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.

Please provide your contribution by 8 March. Should you have any requests for clarifications, you can contact the consultation 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 related to checks and balances. The replies could include aspects set out below under each pillar. This can include both positive developments and best practices:

Legislative developments

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

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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

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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, 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 limited to the most relevant information

Please include, where relevant, information related to measures taken in the context of the COVID-19 pandemic. If there are no changes, it is sufficient to indicate this and the information covered in the 2020 Rule of Law Report.

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

About you

* I am giving my contribution as

Public authority or network of public authorities

* Organisation name

250 character(s) maximum

Chancellor of Justice

21 / 250

* Main Areas of Work

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

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

500 character(s) maximum

<https://www.okv.fi/> The Chancellor of Justice is concurrently with the Parliamentary Ombudsman the Supreme Guardian of the Law and the general ombudsman institution of Finland. Pursuant to the Constitution the Chancellor oversees the legality of the actions of the Government, courts & authorities and all charged with public tasks and shall monitor the implementation of fundamental and human rights in Finland.

417 / 500

Transparency register number * Country of origin 

* First Name

* Surname

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

* Publication of your contribution and privacy settings 

- Anonymous - Only your type of respondent, country of origin and contribution will be published. Organisation name and surname given above will not be published. **To maintain anonymity, please refrain from mentioning 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.
- No publication - Your contribution will not be published. Elements of your contribution may be referred to anonymously in the Commission based on this consultation.

*

I agree with the personal data protection provisions (https://ec.europa.eu/info/sites/info/files/specific_privacy_statement_targeted_stakeholder_consultation_2021_rule_of_law_report.pdf).

Questions on horizontal developments

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

Overview topics for contribution

[overview_topics_for_contribution.pdf \(/eusurvey/files/a9b130f6-72bd-4f4b-884c-e9502670138a/d32556aa-c86e-44\)](#)

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Please provide any relevant information on horizontal developments here

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5000 character(s) maximum

Due to COVID-19 pandemic a state of emergency began on 16 March 2020 ending on 16 June 2020. The whole year has been characterised by exceptional circumstances having a wide impact on the citizens and businesses and on the realisation of fundamental rights. The pandemic has revealed several shortcomings in the legislation including the European Union legislation. For example, the EU law does not contain sufficient rules on the health security measures in the internal transport and movement of persons, and this has both reduced the effectiveness of the health security measures and also reduced legal certainty in the use of rights and freedoms under European Union law concerning free movement of persons within the Union and, in particular, in the Schengen Area. The Chancellor of Justice, who shall also oversee the realisation of the European Union law in Finland, has had to balance the very weighty right to life and health and protection thereof to the European union freedoms solely on the basis of general principles. European Commission guidance has not been based on an up-to-date situation view which has limited the value of the Commission and Council of the European Union recommendations albeit the Union recommendations have served significant role to help interpretation and application of law in this lacunae.

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Questions on developments in Member States

The following four pillars are sub-divided into topics and sub-topics. You are invited to provide concrete information primarily on developments since January 2020, for each of the sub-topics which are relevant for your work. Please reference relevant legislation/documents. Significant developments can include challenges, positive developments, 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 specify "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 selected. 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 be loaded.

- Austria
- Belgium
- Bulgaria
- Croatia
- Cyprus
- Czechia
- Denmark
- Estonia
- Finland
- France
- Germany
- Greece
- Hungary
- Ireland
- Italy
- Latvia

- Lithuania
- Luxembourg
- Malta
- Netherlands
- Poland
- Portugal
- Romania
- Slovak Republic
- Slovenia
- Spain
- Sweden

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Justice System - Finland

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

0 / 3000

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

3000 character(s) maximum

0 / 3000

Promotion of judges and prosecutors

3000 character(s) maximum

0 / 3000

Allocation of cases in courts

3000 character(s) maximum

0 / 3000

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

3000 character(s) maximum

The Chancellor of Justice and the Parliamentary Ombudsman ensure by their independent legality oversight pursuant to the Constitution the independence of the judiciary. The independence from the Parliament and Government of the Chancellor of Justice is widely respected and rooted in the legal culture and explicitly referred to in the travaux préparatoires of the Constitution of Finland. The Constitutional Annual Report of the Chancellor of Justice to Parliament for 2020 will contain a specific chapter of review of the various mechanisms to protect the independence of the judiciary.

590 / 3000

Accountability of judges and prosecutors, including disciplinary regime and bodies and ethical rules, judicial in
3000 character(s) maximum

The legality oversight of the Chancellor of Justice concerning judiciary and prosecutors have helped in rare problematic situations to clarify doubts on actions raising eventual questions on independence. The Finnish Bar Association made a complaint about a systematically biased attitude of a district court judge and the Deputy Chancellor of Justice transferred the case to the Court of Appeal which exercises also supervision of the lower courts. After action taken by the Court of Appeal there were not any longer needs for action by the Chancellor of Justice (Cases OKV/2017/1/2019 and OKV2367/90/2020). Cases show that the Finnish judiciary and the independence oversight system is also able to deal with eventual suspicions on lacks of independence or biases. The independence of the judiciary is also, protected by the possibility of the judges to announce to Chancellor of Justice eventual problems for independent review.

931 / 3000

Remuneration/bonuses for judges and prosecutors
3000 character(s) maximum

0 / 3000

Independence/autonomy of the prosecution service
3000 character(s) maximum

Hearing of charges for offences in office of prosecutors is prosecuted according to the Act on National Prosecution Authority (32/2019) by the Chancellor of Justice or the Parliamentary Ombudsman. The Chancellor of Justice has agreed with the Parliamentary Ombudsman that the police primarily inform the Chancellor of Justice on the cases in which the hearing of charges for offences in office of prosecutor is requested by citizens or enterprises or in which such hearing is opened for other reasons.

504 / 3000

Independence of the Bar (chamber/association of lawyers) and of lawyers
3000 character(s) maximum

0 / 3000

Significant developments capable of affecting the perception that the general public has of the independence
3000 character(s) maximum

0 / 3000

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Quality of justice

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

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

3000 character(s) maximum

While Finland has a well performing and very independent court system and, while Finland is a highly performing society in terms of rule of in Council of Europe CEPEJ evaluations and in the World Justice Project Rule of Law Index, (<https://worldjusticeproject.org/rule-of-law-index/>) Finland has a generally recognised structural problem of access to justice,, in particular concerning disputes in civil law and commercial law, following the high risks of legal costs. This structural problem is visible in the oversight exercised by the Chancellor of Justice. The problem is not the public sector court fees and less the access to legal aid but more medium income individuals and small enterprises who do not have access to public legal aid and who do not have access to legal security insurances. In civil litigation, the losing party will bear all the legal costs also of the opposing party. The fees of the attorneys can in medium type of civil litigation to be tens of thousands of euro in the first instance court. This is a strong incentive not to bring cases in the general courts. Legal costs and the very weakly controllable risk related to costs in legal proceedings creates an obstacle on the access to justice in Finland. Structural solutions to enable access to courts with reasonable risks

The situation is aggravated by the fact that low-cost alternative dispute resolution is not developed up to its potential and the few functioning alternative dispute resolution systems are overloaded with cases and the length of the proceedings is relatively high. The Consumer Disputes Board (kuluttajariitalautakunta, <https://www.kuluttajariita.fi/fi/index.html>) has had particular challenges with case handling times but the problem also concerns National Non-Discrimination and Equality Tribunal and Data Protection Ombudsman, both of which being important bodies in the individual's access to justice under equality and non-discrimination law and data protection law. The length of the proceedings is a specific focus theme in the oversight by the Deputy Chancellor of Justice. There is an underlying problem of the lack of sufficient resources but also of lack of sufficient guarantees of de facto independence.

2233 / 3000

Resources of the judiciary (human/financial/material)

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

3000 character(s) maximum

0 / 3000

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

3000 character(s) maximum

0 / 3000

Digitalisation (e.g. use of digital technology, particularly electronic communication tools, within the justice system 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

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Digitalisation remains a challenge in the Finnish court system and this has also been visible in the legality oversight of the Chancellor of Justice. First issue has been reliability of the electronic communication systems in which the sending of file is legally under the responsibility of the sender. Some complaints have been received with the functioning of the recipient systems (for example pending case OKV/1400/10/2020). As indicated in the input from the Government, a major improvement is the taking into use of the HAIPA digital court management system for administrative and special courts, which enables also the sending attorney to check the receipt of electronic filing. The HAIPA and AIPA system in the general courts will be a major step forward in digitalisation but still significant tasks lie ahead. Secondly, in the legality oversight an issue of structured documents and the assistance document management system gives to remove personal data and realise easy delivery public documents to members of the public has appeared. Some technical difficulties in the digital communication of judgments to execution has appeared. The ICT systems in the judiciary should, according to the view of the Chancellor of Justice in the legality oversight, better support the daily work of judges, prosecutors, and the attorneys representing clients. There are some pending own initiative investigations by the Chancellor on the how the structured document management solutions in the ICT in the judiciary could better support efficient and correct application of the law including balancing the protection of personal data in the data protection legislation with the access-to-documents legislation concerning general courts and administrative courts. Thirdly, a Ministry of Justice working group has presented a report on the digital video recording of evidence in district courts and relying in these recording in the appeal courts. Chancellor of Justice saw this positively in his opinion and assessed that this reform will also help to shorten length of the proceedings and lower costs. Chancellor called on to further assess how recording is done and used in practise and that the reform requires specific attention to the hearing of the witnesses and on the substantive procedural lead by the judges in trials, consequently training and sufficient implementation time is required (see opinion OKV2871/21/2020).

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

3000 character(s) maximum

0 / 3000

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

3000 character(s) maximum

0 / 3000

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 in

Length of proceedings

3000 character(s) maximum

There is a wide variation of handling times and the average times are improved by the inclusion of the relatively straight-forward simple cases in the statistics.

In administrative courts the length of the proceedings tend to be long in environmental matters. In administrative courts, contrary to general courts, there is no systematic oversight within the justice system concerning duration of the proceedings and, considering this, the length of the proceedings in administrative courts has been a theme in the legality oversight of the Deputy Chancellor of Justice.

573 / 3000

Other - please specify

3000 character(s) maximum

0 / 3000

Anti-Corruption Framework - Finland

The institutional framework capacity to fight against corruption (prevention and invest

List of relevant authorities (e.g. national agencies, bodies) in charge of prevention detection, investigation and the resources allocated to these (the human, financial, legal, and practical resources as relevant)

3000 character(s) maximum

The Government intends to present a proposal for a new Act on the distribution of tasks between Chancellor of Justice and Parliamentary Ombudsman. In the draft new act a specific tasks to monitor organisation of the work to prevent and fight against corruption would be added to the specific specialisation tasks of the Chancellor of Justice.

342 / 3000

Prevention

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

3000 character(s) maximum

The Chancellor of Justice has recommended legislation concerning revolving doors of the ministers in his decision OKV/327/1/2019, and welcomes the preparation of the legislation concerning revolving doors of the ministers. On the basis of the observations following complaint OKV/149/10/2020 concerning implementation of a contract of restriction of engagements under section 44a of the Act on Public Officials in Central Government the prolongation of the restriction period up to 12 months is to be welcomed if the law project under preparation is adopted. This would further improve public trust to the integrity of public service.

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

3000 character(s) maximum

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Rules on preventing conflict of interests in the public sector.

3000 character(s) maximum

0 / 3000

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

3000 character(s) maximum

0 / 3000

List the sectors with high-risks of corruption in your Member State and list the relevant measures taken/envisaged in these sectors. (e.g. public procurement, healthcare, other).

3000 character(s) maximum

0 / 3000

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

3000 character(s) maximum

0 / 3000

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

3000 character(s) maximum

0 / 3000

Repressive measures

Criminalisation of corruption and related offences.

3000 character(s) maximum

0 / 3000

Data on investigation and application of sanctions for corruption offences (including for legal persons and high-profile individuals), including as regards the implementation of EU funds

3000 character(s) maximum
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Potential obstacles to investigation and prosecution of high-level and complex corruption cases(e.g. political in
3000 character(s) maximum

0 / 3000

Other – please specify
3000 character(s) maximum

0 / 3000

Media Pluralism - Finland

Media authorities and bodies

(Cf. Article 30 of Directive 2018/1808)

Independence, enforcement powers and adequacy of resources of media regulatory authorities and bodies.
3000 character(s) maximum

0 / 3000

Conditions and procedures for the appointment and dismissal of the head / members of the collegiate body of
3000 character(s) maximum

0 / 3000

Existence and functions of media councils or other self-regulatory bodies
3000 character(s) maximum

0 / 3000

Transparency of media ownership and government interference

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The transparent allocation of state advertising (including any rules regulating the matter); other safeguards ag
3000 character(s) maximum

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0 / 3000

Rules governing transparency of media ownership and public availability of media ownership information
3000 character(s) maximum

0 / 3000

Framework for journalists' protection

Rules and practices guaranteeing journalist's independence and safety
3000 character(s) maximum

0 / 3000

Law enforcement capacity to ensure journalists' safety and to investigate attacks on journalists
3000 character(s) maximum

0 / 3000

Access to information and public documents
3000 character(s) maximum

0 / 3000

Lawsuits and convictions against journalists (incl. defamation cases) and safeguards against abuse
3000 character(s) maximum

0 / 3000

Other - please specify
3000 character(s) maximum

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Other institutional issues related to checks and balances - Finland

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The process for preparing and enacting laws

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

3000 character(s) maximum

The Chancellor of Justice systematically oversees the carrying out of public consultations in the legislative procedure and the appropriate stating of the results thereof in the Government Proposals and explanatory memorandums to Government Decrees, or that passing a proposal or a decree without consultation is justified by reasons. The Chancellor of Justice pays attention to the impact assessments as one of the elements in the prior (constitutionality) review of the legislative proposals and review of the proper procedure.

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Rules and use of fast-track procedures and emergency procedures (for example, the percentage of decisions procedure compared to the total number of adopted decisions).

3000 character(s) maximum

During Parliamentary year 2020 there were 99 Government Proposals related to Covid-19 pandemic out of total of 265 Government Proposals. Many of the Covid-19 related proposals had reduced consultation times and were expected to be handled quickly by the Parliament. In addition 19 emergency decrees of the Government were submitted for approval to the Parliament under the Emergency Powers Act. Prior constitutionality review of these emergency decrees was a significant additional work for the Chancellor of Justice during 2020.

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Regime for constitutional review of laws.

3000 character(s) maximum

The Constitutional Law Committee of the Parliament has the primacy in the interpretation of the Constitution of Finland and reviews the constitutionality of laws prior to their adoption. The Chancellor of Justice performs a prior constitutional review of Government Proposals before they are submitted to the Parliament. There are no significant new developments since the previous report except that the Constitutional Law Committee of the Parliament stated in Report PeVM 16/2020 vp that the deepened prior review of constitutionality of draft Government Proposals by the Chancellor of Justice is a good enhancement of the prior constitutionality review.

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COVID-19: provide update on significant developments with regard to emergency regimes in the context of th

- judicial review (including constitutional review) of emergency regimes and measures in the context of C
- oversight by Parliament of emergency regimes and measures in the context of COVID-19 pandemic
- measures taken to ensure the continued activity of Parliament (including possible best practices)

3000 character(s) maximum

Concerning Emergency Powers Act the Chancellor of Justice issued 18 September 2020 an opinion to the Constitutional Law Committee (<https://www.eduskunta.fi/FI/vaski/JulkaisuMetatieto/Documents/EDK-2020-AK-315158.pdf>) concerning problems in the Parliament's access to information and concerning difficulties in the emergency procedures during COVID-19 pandemic; the opinion was part of the preparation of the Constitutional Law Committee's wide review on the realisation of the Parliament's constitutional right of information (see Constitutional Law Committee Opinion PeVL 30/2020, https://www.eduskunta.fi/FI/vaski/Lausunto/Sivut/PeVL_30+2020.aspx). The opinion stated that the Government has some structural weaknesses, which have an impact on the Parliament's possibilities to received information it needs to exercise its functions as the supreme organ of the state and as legislator; these weaknesses include co-operation between several ministries to include sufficiently comprehensive information with multiple perspectives. The Government services lacked knowledge and experience on the application Emergency Powers Act and the information provided to Parliament for the assessment of the strict necessity of the emergency measures was not always sufficiently detailed. Additionally, during Covid-19 pandemic hearing and stakeholder consultations have been shortened, or, exceptionally, some legislative proposals have been submitted without consultation, which as such is not illegal but tends to reduce the quality of proposals and

1559 / 3000

Independent authorities

Independence, capacity and powers of national human rights institutions ('NHRIs'), of ombudsman institutions different from NHRIs and of supreme audit institutions

Cf. the website of the European Court of Auditors: <https://www.eca.europa.eu/en/Pages/SupremeAuditInstitutions.aspx#>

3000 character(s) maximum

Proposal for a new Act of Parliament concerning distribution of tasks between the Chancellor of Justice and Parliamentary Ombudsman, who both are concurrently according to the Constitution of Finland supreme overseers of legality and both have similar constitutional duty to monitor implementation of fundamental rights and human rights in Finland, is drafted and expected to be submitted to the Parliament in Spring 2021. The proposal for new act has been drafted in good collaboration with the Chancellor of Justice and Parliamentary Ombudsman.

The new act would take into consideration the tasks deriving directly from the Constitution and international treaties as well as the actual fields of specialization and would improve the effectiveness of supreme legality oversight. From the Chancellor of Justice perspective the new act would strengthen capacity to act on some important emerging topics on the rule of law such as the automation of public administration and general development and maintenance of the automated systems, fundamental right to environment and biodiversity and the realisation of the principle of sustainable development, structural measures against corruption and organisation of the prevention and detection of corruption as well as issues of competition, state aid and public procurement, all of which would be referred to as specific specialization areas of the Chancellor of Justice in addition to the legality oversight of the Government.

The central government budget for 2021 provided additional resources for the Chancellor of Justice to deal with increasing workload.

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Accessibility and judicial review of administrative decisions

Transparency of administrative decisions and sanctions (incl. their publication and rules on collection of relative suspensive effect)

3000 character(s) maximum

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

3000 character(s) maximum

0 / 3000

The enabling framework for civil society

Measures regarding the framework for civil society organisations (e.g. access to funding, registration rules, m perception of civil society organisations, etc.)

3000 character(s) maximum

0 / 3000

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 informa

3000 character(s) maximum

0 / 3000

Other - please specify

3000 character(s) maximum

0 / 3000

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