

## EUROPEAN RULE OF LAW MECHANISM: INPUT FROM BELGIUM

### 2024 RULE OF LAW REPORT

#### I. Justice System

##### 1. *Please provide information on measures taken to follow-up on the recommendations received in the 2023 Report regarding the justice system (if applicable)*

A proposition by the executive has been transmitted to the Council of State for an opinion after being negotiated with the three pillars of the Belgian judiciary (the Court of Cassation, the College of Courts and Tribunals and the College of Public Prosecutors). This proposition aims to transfer management powers from the executive branch to the judiciary. These management powers include, among others, the decision-making ability in connection with the allocation of human and financial resources for the justice system.

Depuis le début de la législature, les chiffres du recrutement vont dans la bonne direction. Le nombre net de magistrats dans notre pays a augmenté de 107 unités depuis le début de la législature, soit 81 magistrats assis supplémentaires, 23 magistrats debout et trois magistrats pour la Cour de cassation. Le renforcement de 119 magistrats promis en 2021 est donc presque atteint. Ainsi entre-temps, 95,74 % des cadres légaux pour les magistrats ont été pourvus, contre 92 % exactement en octobre 2020. Les mesures de la charge de travail seront connues pour les cours et les tribunaux et le ministère public respectivement à la fin de 2023 et au printemps 2024. Le statut social des magistrats, qui comprend. Des dispositions en matière de vacances, de congés, de maladie et de fin de carrière, entrera également en vigueur dans le courant de l'année 2024.

The Brussels Public Prosecutor's Office will be strengthened as follows:

- In 2024, the framework will be 100% fulfilled (meaning 140 magistrates, 84 secretaries, 15 experts and 196 assistants and staff)
- From 2025 onwards, it is planned to expand the framework by 5 magistrates
- From 2024, 10 additional prosecutor's lawyers will be recruited to support the magistrates
- From 2024, investments will also be made in court staff

The 2024 budget also includes the decision to grant meal vouchers to judicial staff.

#### A. Independence

##### 2. *Appointment and selection of judges, prosecutors and court presidents (incl. judicial review)*

The addition of a new type of judge and a new type of prosecutor specialised in matters related to the environment is currently up for a vote in the Belgian Chamber of Representatives. The introduction of these specialised judges and prosecutors in the Judicial Code aims to better facilitate the investigation and prosecution of environmental crimes. (Proposition to make justice faster, more human and firmer III, article 19, De Belgische Kamer van volksvertegenwoordigers).

The temporary framework which allows for a higher number of magistrates to work in a certain number of courts and tribunals has been extended. However, discussions are ongoing with

the aim to create a new allocation system of magistrates in courts and tribunals on the basis of their workload measurement.

A ministerial decree has entered into force which expands the materials of the examination on professional competence at the High Council of Justice to also include fiscal law. The examination on professional competence allows for experienced legal practitioners to obtain a certificate allowing them to apply for positions within the magistrature. As such, this enlargement of the materials allows the High Council of Justice to also recruit specialists in fiscal law for the magistrature directly through the examination of professional competence. (Ministerial decree of 13 July 2023 ratifying the programmes of the comparative entrance examination to the judicial traineeship and of the examination on professional competence, Ministerial Decree - 13 July 2023, Justel).

**3. Irremovability of judges; including transfers (incl. as part of judicial map reform), dismissal and retirement regime of judges, court presidents and prosecutors (incl. judicial review)**

A proposal by the executive aims to allow magistrates who have reached the legal age of retirement, to obtain the approval of the King to continue to exercise their functions until another magistrate has been found to fill their place which has been declared vacant after they reached the retired age. However, the maximum age until these magistrates can continue to exercise their functions is seventy-three. (Proposition concerning the digitalisation of the justice system and diverse provisions 1bis, article 91, De Belgische Kamer van volksvertegenwoordigers).

The Judicial Code has been changed with the aim to allow that an indisposed judge with a specific mandate be replaced by an available substitute judge. This would allow retired judges with plenty of experience to be able to replace the judges with a specific mandate who are unavailable for a short period of time. (Proposition to amend article 80 of the Judicial Code, to allow the replacement of certain indisposed judges by substitute judges, article 2, De Belgische Kamer van volksvertegenwoordigers).

**4. Promotion of judges and prosecutors (incl. judicial review)**

No recent developments.

**5. Allocation of cases in courts**

No recent developments.

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

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**7. Accountability of judges and prosecutors, including disciplinary regime and bodies and ethical rules, judicial immunity and criminal/civil (where applicable) liability of judges (incl. judicial review)**

A proposal has been introduced in the Belgian Chamber of Representatives which aims to improve the evaluation systems of magistrates with an approach that is more focused on coaching and feedback. As such, after a first negative evaluation, the magistrate may be required to follow a coaching programme. After a second negative evaluation, the magistrate's file will be transferred to the disciplinary tribunal. The disciplinary tribunal can then impose a remedial programme on the magistrate. Moreover, magistrates will no longer lose part of their remuneration after a negative performance review.

The same proposal also changes the disciplinary system applicable to magistrates. The Judicial Code currently provides no sanction for retired magistrates for offences which have occurred during the performance of their duties. This will be remedied. Moreover, the period of six months in which a case can be brought before the disciplinary court has been extended to a period of twelve months (Proposal containing various provisions relating to the evaluation of magistrates and the disciplinary system, De Belgische Kamer van volksvertegenwoordigers).

**8. Remuneration/bonuses/rewards for judges and prosecutors, including observed changes (significant and targeted increase or decrease over the past year), transparency on the system and access to the information**

A royal decree is in the making to provide compensation and travel expenses to the judges and the assessors of the disciplinary tribunals.

A new law has been approved by the Council of Ministers to provide magistrates with a new system of leave that seeks to balance the welfare of individual magistrates with the continuity of the public judicial system.

That same proposition also aims to improve the system of premiums for the standby duty provided to trainee magistrates, candidate magistrates and magistrates working in the public prosecution service.

**9. Independence/autonomy of the prosecution service**

No recent developments.

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

No recent developments.

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

- The smooth organisation of the mega-trial on the 22 March 2016 terrorist attacks and its successful conclusion (16 September 2023) helped sustain society's trust in justice. The independence of the judiciary became clear and concrete to society on several occasions during the trial. By way of example : The glass boxes in which the defendants had to sit and which, according to the defence lawyers, violated the rights of defence and fair trial had to be removed by order of the president of the assize court. This decision was taken

by the court despite the strong opposition of the executive power and the important investment required from the executive power, both for the installation of the glass boxes and their removal.

Prohibiting the daily naked search of all detained defendants involved in the trial is another defence claim on which the court had to rule. Here too, it has become clear to society that the court makes its decision without external pressure.

- The general case law database for internal use and for the publication of all court decisions (Law of 16 October 2022 on the Central Register of Judicial Decisions – JustJudgment - entry into force on 30 September 2023) enhances trust in the judiciary since transparency is given by the judiciary to the public. This law aims to create a general case law database for internal use (internal section) and for the publication of all court decision (external section – entry into force by the end of March 2024).

The internal section will serve as the authentic source of the judgments and should facilitate the centralised storage of all judicial decisions in dematerialised form (art. 782, § 4, sec, 1° and 2° Judicial code). Journalists can access individual, non-pseudonymised decisions (art. 782, § 4, sec, 7° Judicial code). Access will be subject to authorisation from the management committee and under the conditions determined by this committee.

Public access to justice is achieved and guaranteed by the inclusion of all decision in pseudonymised form in the central register (external section). According to the law, this must be done within a reasonable time (art. 782bis, second paragraph Judicial code).

These legal provisions serve the transparency of and control over the judiciary as part of the constitutionally enshrined public access to justice (art. 782, § 4, sec, 9° Ger.W.). Access to the public section containing pseudonymized decisions is therefore logically free.

- The Belgians courts currently have more than 80 local press magistrates who communicate with the media and society about court decisions. 5 specialised press officers (they are no judges) support communication. The national communication about the work of the courts is taken care of by a judge-national spokesperson, seconded by 2 communication specialists, a webmaster and a social media communication specialist. Transparency of the work of the judiciary and hence increased confidence in the independence of the judiciary is achieved through direct contact with the media, press releases, publication of relevant news on the website and on the social media, such as LinkedIn, X, Instagram, Facebook.

## **B. Quality of justice**

### ***12. Accessibility of courts (e.g. court/legal fees, legal aid, language)***

- Aide juridique : Comme mentionné dans les rapports précédents, les seuils de revenus applicables pour déterminer l'octroi de l'aide juridique de deuxième ligne totalement ou partiellement gratuite ont été majorés de 200 euros le 1er septembre 2020 (passant de 1026 euros à 1226 euros pour une personne isolée). Cette hausse a été suivie d'une hausse forfaitaire de 100€ chaque 1er septembre et ce jusqu'en 2023 inclus. Le seuil de revenus mensuels sont passés ainsi à 1.526€ au 1er septembre 2023 pour une personne isolée. A partir du 1er septembre 2024, les montants seront indexés chaque année compte tenu de l'évolution de l'indice des prix à la consommation.
- Chambre de règlement à l'amiable : La loi du 19 décembre 2023 portant dispositions diverses en matière civile et judiciaire, publiée au Moniteur belge le 27 décembre 2023, contient des dispositions élargissant la création de chambres de règlement à l'amiable à

la plupart des cours et tribunaux (à l'exception de la matière pénale). En 2014, des chambres de règlement à l'amiable, pratiquant la conciliation avec un magistrat, ont été créées au sein des tribunaux de la famille. Ce projet vise à étendre de telles chambres au sein de la plupart des cours et tribunaux, à l'exception des cours et tribunaux traitant des matières pénales. Ces chambres fonctionnent suivant le principe de la conciliation avec 3 grandes règles spécifiques : principe du dépôt (magistrat de conciliation ne peut plus connaître de l'affaire au contentieux), confidentialité, et possibilité d'apartés avec chacune des parties si elles donnent leur accord. Les magistrats devront suivre une formation spécialisée pour ce faire auprès de l'institut de formation judiciaire.

- Casa Legal : Casa Legal is a not-for-profit association of lawyers in Belgium that aims to offer an alternative way of practising law, especially legal aid, with a multidisciplinary and holistic approach that is better suited to the needs and realities of extremely vulnerable people. So, in addition to the usual services offered by lawyers, Casa legal offers, on the same premises, additional support given by social workers, but also, when needed, by psychologists and other disciplines. Casa legal also promotes alternative dispute resolution methods to avoid lengthy and costly legal proceedings whenever possible and suitable.
- The 'Lawyer Victim Assistance' pilot project is an initiative of the Brussels Bar Associations in cooperation with the Brussels-Capital Ixelles police zone. The aim is to facilitate legal assistance for victims of intra-family violence by offering them an initial free consultation as soon as they have had initial contact with the police. A permanent list of trained lawyers is compiled so that victims do not have to wait more than a week to get a consultation. In this way, we increase the self-reliance of victims of intra-family violence and arm them with the right information. The Minister of Justice and the Secretary of State for Equal Opportunities support this initiative and financially support both the 4-day training courses both in Dutch and French, and the evaluations. The project will be evaluated mid-term in January and a final evaluation will follow after the end of the project in May. The project started on 13 November 2023 in Brussels. We are currently making preparations to launch similar pilot projects in Flanders and Wallonia.

### **13. Resources of the judiciary (human/financial/material)**

Par arrêt de la Cour d'appel de Bruxelles du 6 novembre 2023, l'État belge a été condamné à "publier tous les postes de magistrats et de greffiers vacants à la date de l'arrêt".

### **14. Training of justice professionals (including judges, prosecutors, lawyers, court staff, clerks/trainees)**

Une modification importante en ce qui concerne la formation des magistrats, en l'occurrence l'introduction d'une **formation obligatoire en conciliation et renvoi en médiation** par la loi du 19 décembre 2023 portant dispositions diverses en matière civile et judiciaire (MB du 27 décembre 2023; voir les articles 16-23 de la loi). L'Institut de Formation Judiciaire organisera cette formation en 2024 et 2025.

### **15. Digitalisation (e.g. use of digital technology, particularly electronic communication tools, within the justice system and with court users, procedural rules, access to judgments online)**

À la fin de l'année 2023, plusieurs projets de loi ont été déposés à la Chambre des représentants en matière de digitalisation :

- Le projet de loi portant dispositions en matière de digitalisation de la justice et dispositions diverses I a été adopté par la Chambre des représentants. Il contient notamment un cadre légal pour les systèmes de gestion des dossiers judiciaires de la Justice, ainsi qu'un cadre légal pour la gestion des banques de données et systèmes informatiques internes à la Justice, et règle la responsabilité de traitement pour les traitements via ses outils informatiques (loi du 19 décembre 2023 portant dispositions en matière de digitalisation de la justice et dispositions diverses I, publiée au Moniteur belge le 29 décembre 2023).
- Le projet de loi portant organisation des audiences par vidéoconférence dans le cadre des procédures judiciaires a été déposé à la Chambre des représentants et est en cours d'examen par la Commission justice. Ce projet organise la possibilité pour les personnes devant participer à une audience, de le faire par vidéoconférence, à la fois en matière civile et pénale.
- Le projet de loi portant dispositions en matière de digitalisation de la justice et dispositions diverses Ibis est déposé à la Chambre des représentants et en cours d'examen par la Commission justice. Il contient notamment des dispositions visant à actualiser et élargir la communication électronique dans le contexte judiciaire (notifications, communications et dépôts), par exemple en prévoyant une alternative électronique pour le pli judiciaire.

Par ailleurs, plusieurs lois et arrêtés royaux ont été promulgués en 2023 :

- La loi du 31 juillet 2023 visant à rendre la justice plus humaine, plus rapide et plus ferme IV (chapitre 14) organise un assouplissement temporaire pour la signature électronique par les membres ou entités du pouvoir judiciaire. Cette loi a été publiée au Moniteur belge le 9 août 2023.
- L'arrêté royal du 21 mai 2023 déterminant les données à caractère personnel reprises dans la liste électronique des membres de l'ordre judiciaire visée à l'article 315ter du Code judiciaire, déterminant certaines règles complémentaires relatives à l'accès aux données reprises dans la liste et à la protection de ces données, et concernant la procédure de vérification de la qualité du signataire d'un acte authentique émanant de l'ordre judiciaire a été publié au Moniteur belge le 19 septembre 2023.
- L'arrêté royal du 28 septembre 2023 fixant les modalités de composition et de fonctionnement du comité de gestion du Registre central pour les décisions de l'ordre judiciaire a été publié au Moniteur belge le 6 octobre 2023.
- L'arrêté royal du 11 octobre 2023 organisant le fonctionnement du registre central des règlements collectifs de dettes et portant exécution de l'article 53 de la loi du 5 mai 2019 portant dispositions diverses en matière d'informatisation de la Justice, de modernisation du statut des juges consulaires et relativement à la banque des actes notariés a été publié le 26 octobre 2023 au Moniteur belge. On the 2nd of November 2023 this royal decree implementing a large range of technical and procedural modificative provisions on the procedure of collective debt settlement as well as the access rights for the digital platform entered into force. From this day on, a digital procedure for collective debt settlement by using the digital platform called JustRestart, is the default procedure for professionals. JustRestart aims at a further digitalisation in the justice area, but does not exclude the possibility to proceed in a traditional way. This exception is seen as an important one,

when taking into account the differences between civilians when it comes to levels of digitalisation and access to digital tools.

- L'arrêté royal du 11 octobre 2023 fixant les conditions techniques auxquelles le jugement établi sous forme dématérialisée et la copie dématérialisée de la minute du jugement établi sous forme non-dématérialisée doivent satisfaire en vue de leur enregistrement dans le Registre central pour les décisions de l'Ordre judiciaire, visé à l'article 782, § 4, du Code judiciaire a été publié au Moniteur belge le 20 octobre 2023.

#### **16. 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)**

The main IT-assessment tools are the case management systems (CMS) that follow the lifecycle of a judicial case. It's the ambition to replace all the legacy case management systems (11) into a new CMS JustCase. In 2024 the entities Cassation, Court of penal executions and the Juvenil Court should start working with the new CMS JustCase.

In the development of JustCase CMS the need to capture reliable statistics have been taken into account. Statistic experts from the support service of the College Hoven en Rechtbanken are involved in the development of JustCase CMS. We expect that JustCase CMS can offer us dashboard that gives us information on the lifecycle of judicial cases and corresponding statistics.

The project JustCase can be situated within the framework of the Digital Transformation Plan (EU).

Online consultation is possible for some type of cases via the application JustOnWeb. External parties can place a request to consult a judicial case. Just On Web keeps statistics on the number of requests (lawyers / civilians + approved/denied).

#### **17. Geographical distribution and number of courts/jurisdictions ("judicial map") and their specialisation, in particular specific courts or chambers within courts to deal with fraud and corruption cases.**

Le projet de loi visant à rendre la justice plus humaine, plus rapide et plus ferme III (appelé MSS3)(<https://www.dekamer.be/kvvcr/showpage.cfm?section=/none&leftmenu=no&language=nl&cfm=/site/wwwcfm/flwb/flwbn.cfm?lang=N&legislat=55&dossierID=3322>)

actuellement en discussion au Parlement, prévoit la mise en œuvre structurelle du projet pilote évalué positivement des chambres de traitement de la toxicomanie comme le prévoient également les plans stratégiques du ministre de la Justice. Le projet prévoit l'introduction de la possibilité d'imposer un trajet restauratif pour le tribunal correctionnel et la Cour d'appel (articles 190sexies et 209bis du Code d'instruction criminelle).

Dans la mesure où une chambre spécialisée a été mise en place à cet effet au sein du tribunal, les affaires dans lesquelles il existe une problématique de dépendance, d'agressivité ou psychosociale et pour lesquelles un trajet restauratif est envisagé en application de ces articles légaux sont traités par cette chambre.

Les modalités de suivi et de rapport sont fixées dans un protocole avec le parquet, le barreau local et les services chargés du suivi. La procédure se déroule en trois phases. Il y a tout d'abord une audience d'introduction après une citation (en général par le parquet) ou après un

renvoi par une autre chambre. Viennent ensuite la ou des audiences de suivi et enfin l'audience de clôture. Un trajet restauratif est élaboré par le service compétent des communautés, en collaboration avec le prévenu. Les mêmes services accompagnent le prévenu en ce qui concerne le respect du trajet restauratif. La durée du suivi est limitée à un an, délai qui peut être prolongé pour une durée maximale de six mois. Au plus tard dix-huit mois après le début du trajet restauratif, il est procédé à l'examen de l'affaire au fond. Lors du prononcé, le tribunal tient compte du trajet restauratif suivi et le mentionne dans le jugement.

## **C. Efficiency of the justice system**

### **18. Length of proceedings**

La durée des procédures fait l'objet d'une attention de la part des autorités compétents depuis plusieurs années.

Un travail a été entrepris par le Collège des cours et tribunaux afin de mieux définir les besoins réels et y répondre plus efficacement. Ceci permettra de rendre l'organisation judiciaire plus efficace. Notamment, le Collège coordonne une mesure de la charge de travail des magistrats et des greffiers des cours et tribunaux pour déterminer les besoins en « équivalent temps plein » des cours et tribunaux en fonction de la charge de travail réelle et ainsi par la suite répartir les moyens humains et matériels de manière optimale. En outre, le Collège des cours et tribunaux établit un inventaire des délais de traitement et de l'arriéré pour toutes les juridictions afin d'identifier les risques. Pour cela, il a également mené un travail pour améliorer la qualité des statistiques. A cet égard, le service statistique a entamé en octobre 2022 un grand nettoyage du nombre d'affaires pendantes en invitant les entités à vérifier celles encore ouvertes dans les bases de données internes du Collège (projet "Cleaning stock"). A l'exception des cours, l'ensemble des entités est concerné par ce projet (comme elles sont déjà impliquées dans le projet parallèle du Collège portant sur la définition de la notion d'arriéré judiciaire). Ce travail devrait se terminer fin 2023. Afin d'accompagner cette vérification, le service statistique a également développé des tableaux de bord pour chaque type d'entité. Cet outil de monitoring contient déjà un certain nombre de données utiles aux comités de direction, telles que le nombre de nouvelles affaires et d'affaires clôturées. En œuvrant pour une meilleure organisation, le Collège œuvre pour une facilité de gestion et donc pour une réduction des durées de procédure.

Une proposition de loi du 8 mars 2023 en matière de responsabilité extracontractuelle a pour objet de préciser les concepts de faute, de dommage et de lien causal principalement en codifiant la jurisprudence établie dans les matières des articles 1382 à 1386bis du code civil. Elle énumère notamment les critères pour déterminer l'existence d'une faute, parmi lesquels il a été introduit les principes de bonne administration et de bonne organisation. L'introduction de ces concepts pourrait dès lors permettre, le cas échéant, de renforcer l'effectivité du recours indemnitaire face au problème des longues durées de procédure.

(Voir point 12) La loi du 19 décembre 2023 portant diverses dispositions en matières civiles et judiciaires<sup>1</sup> a entre autres, pour objet la création de chambres de règlement à l'amiable au sein des cours et tribunaux traitant des matières civiles, commerciales, et sociales. Concrètement, les justiciables pourront saisir ces chambres pour tenter de résoudre leur litige à l'amiable lors d'une audience de conciliation guidée par un magistrat de carrière. Le

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<sup>1</sup> Projet de loi portant dispositions diverses en matière civile et judiciaire, Doc., Ch., 2022-2023, n° 3552/1.



renforcement des mesures alternatives de règlement des litiges participe au désengorgement des cours et tribunaux.

### **Other – please specify**

La Belgique a obtenu de bons résultats dans les rapports d'évaluation du GRECO concernant le quatrième cycle (prévention de la corruption des parlementaires, des juges et des procureurs) en ce qui concerne le pouvoir judiciaire.

Depuis la publication du dernier rapport d'évaluation du GRECO (troisième rapport de conformité intérimaire du 17 juin 2022), il y a que 2 recommandations qui n'ont pas été transposées en ce qui concerne le pouvoir judiciaire.

Vous trouverez ci-dessous les deux recommandations, suivies de l'état des lieux en septembre 2023

- **Recommandation xii.** Le GRECO avait recommandé de procéder en temps opportun à une évaluation des modalités de distribution des affaires entre les juges. Etat des lieux septembre 2023 :
  - o Le Conseil supérieur de la Justice signale que les informations recueillies auprès des cours d'appel font état d'une harmonisation suffisante des pratiques en matière d'attribution des affaires à des chambres à conseiller unique, ce que confirment les chiffres. Il n'y a donc pas lieu d'évaluer les modalités de distribution des affaires.
  - o Plus généralement, les modalités d'attribution existantes des affaires entre les magistrats au sein des cours et tribunaux ne sont pas perçues comme problématiques dans le contrôle de l'organisation judiciaire, compte tenu de l'analyse du risque (mineur) de déviance et de l'efficacité pratique avérée de leur mise en œuvre.
- **Recommandation xiv.** Le GRECO avait recommandé que le Conseil Supérieur de la Justice mette en place un rapport périodique d'ensemble sur le fonctionnement des tribunaux et services du ministère public et développe en parallèle ses activités d'audit et d'enquête. Etat des lieux septembre 2023 :
  - o L'Assemblée générale du Conseil supérieur de la Justice a adopté, lors de sa réunion du 23 novembre 2022, le rapport consolidé des mesures prises par les entités judiciaires en vue du maintien de la discipline durant l'année 2021.
  - o Comme prévu par l'article 340, §3, alinéa 5, du Code judiciaire, le rapport a été rendu public via une publication sur le site du CSJ:  
<https://csj.be/admin/storage/hrj/20221123-rapport-consolide-discipline-2021.pdf> (version française) et <https://hrj.be/admin/storage/hrj/20221123-geconsolideerd-verslag-tucht-2021.pdf> (version NL).
  - o L'adoption et la publication de pareil rapport seront annuellement réitérés sur la base des informations contenues dans les rapports de fonctionnement des entités judiciaires (cours, tribunaux et parquets) ainsi que de celles apparaissant dans les rapports d'activité des juridictions disciplinaires.
  - o L'approbation du rapport consolidé pour l'année 2022 se trouve ainsi à l'ordre du jour de l'assemblée générale du Conseil supérieur de la Justice d'octobre 2023.
  - o En ce qui concerne les juridictions disciplinaires, la loi du 26 décembre 2022 – portant des dispositions diverses en matière d'organisation judiciaire II ( Moniteur belge 12.01.2023) – a prévu et aménagé certaines mesures organisationnelles de

façon à garantir l'effectivité et la continuité de leur fonctionnement, à savoir le mécanisme de remplacement du représentant du barreau ( art. 59 et 60 ), l'extension de la durée des mandats ( art. 61 ) et la possibilité d'accorder une compensation ( art. 62 ).

- Un avant-projet de loi portant des dispositions diverses relatives à l'évaluation des magistrats et à la discipline est actuellement à l'examen. Il prévoit notamment que le ministère public auprès des juridictions disciplinaires fera annuellement rapport au Conseil supérieur de la Justice de l'exercice de la compétence de saisine du tribunal (d'appel) disciplinaire et d'enquête que cet avant-projet lui attribue.

## **II. Anti-corruption framework**

Where previous specific reports, published in the framework of the review under the UN Convention against Corruption, of GRECO, and of the OECD address the issues below, please make a reference to the points you wish to bring to the Commission's attention in these documents, indicating any relevant updates, changes or measures introduced that have occurred since these documents were published.

### **19. Please provide information on measures taken to follow-up on the recommendations received in the 2023 Report regarding the anti-corruption framework (if applicable)**

The Report of 2023 mentions that *"Significant progress has been made as regards the **Code of Conduct** for federal public office holders, which is to be extended to all members of ministerial private offices, although integrity policy for Ministers, their private offices as well as members of Parliament continues to have gaps."*

In the meantime, the proposal has been voted in Parliament. It concerns the law of 17 July 2023: *"la loi du 17 juillet 2023 modifiant la loi du 6 janvier 2014 portant création d'une Commission fédérale de déontologie et contenant le Code de déontologie des mandataires publics"*.

The law has been published in the Belgian Official Gazette on September 15<sup>th</sup> 2023. Thanks to the law, the scope of the existing deontological code for public mandate holders was extended to members of ministerial private offices.

By Royal decree of August 30<sup>th</sup> 2023, it was also further decided that staff members of autonomous public companies listed on the stock exchange may no longer be seconded to a ministerial private office.

In 2023, advanced work took also place on the new regulatory framework for the **lobbying register**. In order to follow up on the recommendations of GRECO and the Government agreement, a draft text has been prepared whose scope is specifically aimed at members of the federal executive. It aims to strengthen transparency in relations between members of government and interest representatives. This will allow every citizen to follow the activities of interest representatives vis-à-vis government members. Discussions are currently taking place on the draft texts on which the Council of Ministers will soon take a position. As we further develop the draft regulatory framework for the government, we will of course also continue to engage with Parliament. Even if the executive and legislature each regulate their own work in their own way, we should strive to put in place a coherent framework for interest representatives.

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

**20. List any changes as regards relevant authorities (e.g. national agencies, bodies) in charge of prevention, detection, investigation and prosecution of corruption and the resources allocated to each of these authorities (the human, financial, legal, and technical resources as relevant), including the cooperation among domestic and with foreign authorities. Indicate any relevant measures taken to effectively and timely cooperate with OLAF and EPPO.**

On 22 December 2023, the Concertation Committee adopted a cooperation agreement between the Federal State, the Communities and the Regions defining the tasks of the anti-fraud coordination service (AFCOS) as referred to in Article 12a of regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999.

**21. Safeguards for the functional independence of the authorities tasked with the prevention and detection of corruption.**

No recent developments.

**22. Information on the implementation of measures foreseen in the strategic anti-corruption framework (if applicable). If available, please provide relevant objectives and indicators.**

No recent developments.

**B. Prevention**

**23. Measures to enhance integrity in the public sector and their application (including as regards incompatibility rules, revolving doors, codes of conduct, ethics training).**

See also the answer to question 19.

Since 2006, the integrated police have a code of ethics. This code already provides good guidance for the staff of the integrated police.

The Federal Police is actively working on its integrity policy and therefore also on the prevention of corruption. This policy is incorporated in a note by the Commissioner-General with several strategic and operational objectives that are monitored by the Integrity Service of the Federal Police. The note provides for the creation of specific integrity plans per component (judicial and administrative police) and per central and regional directorate. These plans are drawn up and implemented in phases. Among other things, attention is paid to training in ethical leadership, ethical decision-making for managers and dilemma training in the form of a serious game 'dealing with police dilemmas', etc. In addition, attention is paid to concrete themes such as respect, gifts and corruption.

**24. General transparency of public decision-making (including rules on lobbying and their enforcement, asset disclosure rules and enforcement, gifts policy, transparency of political party financing)**

See also the answer to question 19.

Several proposals to amend the Rules of Procedure were tabled in the House of Representatives with a view to enhancing transparency of the decision-making:

- the proposal [DOC 55-2276/001](#) seeks to complete the House's [lobbies register](#) with data on all contacts and meetings that persons supposed to represent an organisation that is registered in the lobbies register have had with political groups, House Members or their assistants, as well as on the matters discussed during these contacts or meetings. Furthermore, the proposal wishes to complete the Rules of Procedure with the obligation to attach to each legislative initiative and to each amendment a list of all persons supposed to represent one of the organisations registered in the House's lobbies register that have had an influence on the content of the legislative initiative or amendment or have drafted or suggested it;
- in order to comply with a GRECO's recommendation, the proposal [DOC 55-2649/001](#) aims to include in the Code of Deontology of the Members of the House of Representatives a prohibition on receiving gifts of cash or other financial benefits, with the exception of those authorised in the context of financing political parties.

Furthermore, on 24 May 2023, in the context of the transparency of political party financing, a hearing was held in the standing committee for Constitutional Review and Institutional Reforms with representatives of the "We need to talk" consortium and of the Citizens' Panel on political party financing that issued recommendations on this particular topic. The report of this hearing (DOC 55-3194/004) can be consulted [here](#).

Regarding asset disclosure: As indicated in the Belgian government's response in the 2021 report, the police services will comply with the decisions taken by the Minister for the Civil Service in this area. It is imperative that all sectors where risk functions can be identified are subject to the same rules and obligations. As far as the police services are concerned, it should be remembered that all pay scales, salary components, bonuses and allowances are set out in legal and regulatory texts and are therefore accessible to the public via the Belgian official journal. The publicly accessible website [www.ssgpi.be](http://www.ssgpi.be) also contains this information and even allows anyone to carry out a salary simulation.

Regarding gifts, a section has been included in the code of ethics. This already provides a certain framework that is further clarified in concrete situations and towards specific questions or directorates. As a recurring integrity theme, attention is paid to this in the integrity action plans of directorates within the Federal Police.

- 25. Rules and measures to prevent and address conflicts of interest in the public sector. Please specify the features and scope of their application (e.g. categories of officials concerned, types of checks and corrective measures depending on the category of officials concerned)**  
**For questions 23-25, please provide figures on their application, such as number of detected breaches/irregularities of the various rules in place and the follow-up given (investigations, sanctions, etc.).**

We would like to refer to the GRECO recommendations regarding ancillary activities and the ongoing efforts to address them : In February 2024 , the integrity Service of the Federal Police will organize thematic and systemic sessions for directors and personnel managers. During these sessions, we gain insight into the dilemmas that arise with regard to ancillary activities, we also study the existing decision making process concerning secondary functions and the link with possible corruption, influence and conflicts of interest. The conclusions from these

sessions will be studied, processed and presented to the executive committee of the Federal Police.

## **26. Measures in place to ensure whistleblower protection and encourage reporting of corruption, including the number of reports received and the follow-up given**

Un arrêté royal d'exécution de la loi du 8 décembre 2022 relative aux canaux de signalement et à la protection des auteurs de signalement d'atteintes à l'intégrité dans les organismes du secteur public fédéral et au sein de la police intégrée a été adopté au cours de l'année 2023.

Il s'agit de l'arrêté royal du 20 octobre 2023 déterminant les éléments de procédures et de suivi des signalements internes, les finalités et le contenu de l'archivage des signalements et les modalités de consultation publique, mentionnés aux articles 10, § 1er, alinéa 4, 11, alinéa 3, 27, § 5, alinéa 3, et 76, alinéa 3, de la loi du 8 décembre 2022 relative aux canaux de signalement et à la protection des auteurs de signalement d'atteintes à l'intégrité dans les organismes du secteur public fédéral et au sein de la police intégrée (cf. lien : <https://www.ejustice.just.fgov.be/eli/arrete/2023/10/20/2023046353/justel> ). Celui-ci a été publié au moniteur belge le 27 octobre 2023, et est entré en vigueur le 6 novembre 2023.

L'objet principal de cet arrêté royal est de préciser les éléments de procédures et de suivi applicables aux canaux de signalement internes des organismes du secteur public fédéral, tels que définis à l'article 6, 1<sup>o</sup> de la loi du 8 décembre 2022 susmentionnée. Les dispositions relatives à ces éléments constituent par ailleurs la majorité des dispositions de cet arrêté royal, s'étendant des articles 2 à 13.

Les autres dispositions de l'arrêté royal mentionné ci-dessus, à savoir les articles 14, 15 et 16, contiennent respectivement des informations sur l'archivage des signalements, les modalités de la consultation publique qui sera effectuée au cours de l'année 2025 et l'exécution de l'arrêté royal par les différents ministres, en fonction de leurs compétences spécifiques.

In the period between the 1<sup>st</sup> of January 2023 and the 31<sup>st</sup> of December 2023, the federal Ombudsman opened 271 files that were related to the whistleblowing legislation. 208 files concerned the law of 28 November 2022 for the private sector and 63 files concerned the law of 8 December 2022 for the federal public sector. In addition, the federal Ombudsman received 37 general questions for information on the reporting procedures. The federal Ombudsman is also competent for the protection of reporters in the federal public sector (excl. the police and the intelligence services) and in the private sector. The federal Ombudsman opened 22 protection files<sup>2</sup>.

Following the Belgian law of 8 December 2022 concerning the protection of whistleblowers, the Department of Integrity was designated as the internal reporting channel for the Federal Police in the integrity policy and in the whistleblowing procedure from the Commissioner General, thereby installing and announcing the internal reporting channel. Over the past and coming period, this internal reporting channel has been and will be further developed and a broader ethics reporting policy is being drawn up. To this end, collegial consultations were

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<sup>2</sup> These numbers give a rough and partial picture of reporting in Belgium since the entering into force of the new whistleblowing legislations in 2023. It gives only the figures of the federal Ombudsman as external reporting channel in the private sector and the federal public sector. It does not include the figures of the other competent authorities for the private sector (statistics will be collected in April 2023), the other external reporting channels for the federal public sector (Comité P and Comité R) and the external reporting channels at regional and community levels.

held with internal departments and external authorities (Committee P, Federal ombudsmen, Federal Audit).

**27. Sectors with high risks of corruption in your Member State:**

- **Measures taken/envisaged for monitoring and preventing corruption and conflict of interest in public procurement**

No recent developments.

- **list other sectors with high risks of corruption and the relevant measures taken/envisaged for monitoring and preventing corruption and conflict of interest in these sectors (e.g. healthcare, citizen/residence investor schemes, urban planning, risk or cases of corruption linked to the disbursement of EU funds, other), and, where applicable, list measures to prevent and address corruption committed by organised crime groups (e.g. to infiltrate the public sector)**

No recent developments.

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

No recent developments.

**C. Repressive measures**

**29. Criminalisation, including the level of sanctions available by law, of corruption and related offences, including foreign bribery.**

No recent developments

**30. Data on the number of investigations, prosecutions, final judgments and application of sanctions for corruption offences (differentiated by corruption offence if possible), including for legal persons and high level and complex corruption cases and their transparency, including as regards to the implementation of EU funds.**

Statistiques des Cours et Tribunaux

In 2023 (January to December) in Belgium, 37 cases were closed through a final judgment (acquitted, convicted, or other) by the correctional sections of the courts of first instance, with an identifying code that includes corruption but also includes other alleged actions that do not (or do not necessarily) involve corruption (for example theft by a civil servant). Specifically this identification code includes all the following (but does not allow to distinguish further within this category to uniquely identify cases of corruption):

- *Concussion*
- *Corruption*
- *Suppression d'envois postaux*
- *Détournement ou vol par fonctionnaire*
- *Prise d'intérêt par fonctionnaire*
- *Faux commis par un fonctionnaire dans l'exercice de ses fonctions*
- *Faux commis dans la déclaration concernant les mandats, fonctions et professions ou dans la déclaration de patrimoine (art. 6 §1 loi du 2 mai 1995)*

It is not possible to further distinguish these cases between legal and natural persons (this distinction is recorded in the application used to process court cases, but we currently do not publish statistics on this as we have not (yet) verified the quality of this data), or based on

whether or not EU funding is involved (the application does not contain variables/fields that explicitly make this distinction).

In 2023 in Belgium, 289 cases were closed through a final decision by the **courts of appeal** concerning fraud (489-509quater penal code)<sup>3</sup>. Note that this code is more comprehensive than solely corruption cases. Two cases were closed in 2023 through a final decision concerning the bribery of a public official (246-253 penal code)<sup>4</sup>. Please note that a case can involve multiple violations, but only one can be registered in the application. Moreover, the content of the final decision is not encoded in the application. It is thus possible that the final decision states that there is no question of corruption or fraud.

### Statistiques du Parquet

**Tableau 1 : Nombre d'affaires avec un code de prévention 25 entrées dans les parquets entre le 1<sup>er</sup> janvier 2020 et le 31 août 2023, par année d'entrée et par code de prévention (n & % en colonne).**

	2020		2021		2022		1/1 -> 31/8 2023		TOTAL	
	n	%	n	%	n	%	n	%	n	%
<b>25B - Corruption publique, sauf corruption d'agents publics étrangers et internationaux</b>	70	20,00	93	23,72	74	20,27	60	22,30	297	21,58
<b>25H - Corruption d'agents publics étrangers et internationaux</b>	2	0,57	3	0,77	1	0,27	.	.	6	0,44
<b>25I - Corruption privée</b>	10	2,86	13	3,32	15	4,11	4	1,49	42	3,05

Source: banque de données du Collège des Procureurs généraux - analystes statistiques

**Tableau 2 : Dernier état d'avancement au 2 septembre 2023 des affaires avec un code de prévention 25 entrées dans les parquets entre le 1<sup>er</sup> janvier 2020 et le 31 août 2022, par année d'entrée (n & % en colonne).**

	2020		2021		2022		1/1 -> 31/8 2023		TOTAL	
	n	%	n	%	n	%	n	%	n	%
<b>Information</b>	18	5,14	30	7,65	84	23,01	125	46,47	257	18,68
<b>Traitement sans poursuites pénales pour des motifs techniques</b>	154	44,00	147	37,50	112	30,68	39	14,50	452	32,85
<b>Traitement sans poursuites pénales pour des motifs d'opportunité</b>	40	11,43	51	13,01	32	8,77	25	9,29	148	10,76
<b>Signalement du suspect</b>	4	1,14	1	0,26	1	0,27	1	0,37	7	0,51
<b>Pour disposition</b>	30	8,57	34	8,67	33	9,04	30	11,15	127	9,23
<b>Probation prétorienne</b>	4	1,14	8	2,04	4	1,10	3	1,12	19	1,38
<b>Règlement en chaîne: traitement administratif</b>	32	9,14	25	6,38	3	0,82	8	2,97	68	4,94
<b>Autre règlement en chaîne</b>	12	3,43	10	2,55	15	4,11	5	1,86	42	3,05
<b>Paiement d'une somme d'argent</b>	5	1,43	1	0,26	5	1,37	3	1,12	14	1,02
<b>Médiation et mesures</b>	.	.	2	0,51	1	0,27	2	0,74	5	0,36
<b>Instruction judiciaire</b>	22	6,29	48	12,24	61	16,71	26	9,67	157	11,41
<b>Chambre du conseil</b>	9	2,57	5	1,28	4	1,10	.	.	18	1,31
<b>Citation &amp; suite</b>	19	5,43	30	7,65	10	2,74	2	0,74	61	4,43
<b>Inconnu/erreur</b>	1	0,29	.	.	.	.	.	.	1	0,07
<b>TOTAL</b>	350	100,00	392	100,00	365	100,00	269	100,00	1.376	100,00

<sup>3</sup> Aardcode "Bedrog (489-509quater sw)" / Code nature français « Fraudes (489-509quater c.p.) ».

<sup>4</sup> Aardcode Nederlands "Omkoping van ambtenaar (246-253 sw)" / Code nature français « Corruption de personnes qui exercent une fonction ».

Concernant le tableau 2, nous soulignons qu'il est logique que l'état d'avancement des affaires plus anciennes soit plus évolué que celui des affaires plus récentes (et donc notamment celles introduites en 2023). Il n'est donc pas non plus illogique que le pourcentage d'affaires ayant déjà évolué vers une citation ("citation & suite") soit plus élevé pour les affaires introduites en 2020 et 2021 que pour celles de 2022 et 2023. Il n'est donc pas correct de conclure du tableau 2 qu'il y a eu plus d'affaires portées devant la Cour dans le passé que plus récemment

Il faut également prendre en compte que les chiffres dans le tableau 2 prennent en compte toutes les affaires avec un code de prévention 25; contrairement au tableau 1.

**Tableau 3 : Nombre d'affaires avec un code de prévention 25 entrées dans les parquets entre le 1<sup>er</sup> janvier 2020 et le 31 août 2023 et traitées sans poursuites pénales à la date d'extraction.**

**Données présentées en fonction du motif de traitement sans poursuites pénales et selon l'année d'entrée de l'affaire (n & % en colonne).**

	2020		2021		2022		1/1 -> 31/8 2023		TOTAL	
	n	%	n	%	n	%	n	%	n	%
<b>Traitement sans poursuites pénales pour des motifs techniques</b>	<b>154</b>	<b>79,38</b>	<b>147</b>	<b>74,24</b>	<b>112</b>	<b>77,78</b>	<b>39</b>	<b>60,94</b>	<b>452</b>	<b>75,33</b>
<i>Éléments insuffisants pour la poursuite pénale</i>	<b>143</b>	<b>73,71</b>	<b>142</b>	<b>71,72</b>	<b>107</b>	<b>74,31</b>	<b>37</b>	<b>57,81</b>	<b>429</b>	<b>71,50</b>
Pas d'infraction	35	18,04	49	24,75	32	22,22	19	29,69	135	22,50
Charges insuffisantes	98	50,52	80	40,40	61	42,36	15	23,44	254	42,33
Auteur(s) inconnu(s)	10	5,15	13	6,57	14	9,72	3	4,69	40	6,67
<b>Extinction de l'action publique</b>	<b>6</b>	<b>3,09</b>	<b>2</b>	<b>1,01</b>	<b>3</b>	<b>2,08</b>	<b>1</b>	<b>1,56</b>	<b>12</b>	<b>2,00</b>
Prescription	3	1,55	2	1,01	1	0,69	1	1,56	7	1,17
Décès du suspect	3	1,55	.	.	2	1,39	.	.	5	0,83
<b>Irrecevabilité de l'action publique</b>	<b>5</b>	<b>2,58</b>	<b>3</b>	<b>1,52</b>	<b>2</b>	<b>1,39</b>	<b>1</b>	<b>1,56</b>	<b>11</b>	<b>1,83</b>
Incompétence des organes de poursuite et des juridictions nationaux	1	0,52	.	.	1	0,69	.	.	2	0,33
Force de chose jugée	3	1,55	1	0,51	.	.	.	.	4	0,67
Cause d'excuse absolutoire	1	0,52	2	1,01	.	.	1	1,56	4	0,67
Ne bis in idem	.	.	.	.	1	0,69	.	.	1	0,17
<b>Traitement sans poursuites pénales pour des motifs d'opportunité</b>	<b>40</b>	<b>20,62</b>	<b>51</b>	<b>25,76</b>	<b>32</b>	<b>22,22</b>	<b>25</b>	<b>39,06</b>	<b>148</b>	<b>24,67</b>
<i>Motifs propres à la nature des faits</i>	<b>11</b>	<b>5,67</b>	<b>9</b>	<b>4,55</b>	<b>13</b>	<b>9,03</b>	<b>6</b>	<b>9,38</b>	<b>39</b>	<b>6,50</b>
Répercussion sociale limitée	1	0,52	.	.	3	2,08	.	.	4	0,67
Préjudice peu important	.	.	1	0,51	3	2,08	.	.	4	0,67
Disproportion entre les conséquences de la poursuite pénale et le trouble social	6	3,09	6	3,03	5	3,47	3	4,69	20	3,33
Faits occasionnels découlant de circonstances spécifiques	2	1,03	1	0,51	1	0,69	1	1,56	5	0,83
Dépassement du délai raisonnable pour la poursuite	2	1,03	1	0,51	1	0,69	1	1,56	5	0,83
Absorption possible	.	.	.	.	.	.	1	1,56	1	0,17
<b>Motifs propres au suspect, à la victime ou à leur relation mutuelle</b>	<b>6</b>	<b>3,09</b>	<b>14</b>	<b>7,07</b>	<b>5</b>	<b>3,47</b>	<b>4</b>	<b>6,25</b>	<b>29</b>	<b>4,83</b>
Absence d'antécédents	2	1,03	2	1,01	2	1,39	1	1,56	7	1,17
Domage réglé ou situation illégale régularisée par le suspect	3	1,55	12	6,06	3	2,08	1	1,56	19	3,17
Comportement du plaignant	1	0,52	.	.	.	.	.	.	1	0,17



L'auteur et la victime ont une relation spécifique entre eux	.	.	.	.	.	.	2	3,13	2	0,33
<b>Politique</b>	<b>23</b>	<b>11,86</b>	<b>28</b>	<b>14,14</b>	<b>14</b>	<b>9,72</b>	<b>15</b>	<b>23,44</b>	<b>80</b>	<b>13,33</b>
Capacité de recherche insuffisante	4	2,06	7	3,54	2	1,39	5	7,81	18	3,00
Autres priorités en matière de politique de recherche et de poursuite	11	5,67	5	2,53	4	2,78	1	1,56	21	3,50
Priorité au règlement civil	8	4,12	16	8,08	8	5,56	9	14,06	41	6,83
<b>TOTAL</b>	<b>194</b>	<b>100,00</b>	<b>198</b>	<b>100,00</b>	<b>144</b>	<b>100,00</b>	<b>64</b>	<b>100,00</b>	<b>600</b>	<b>100,00</b>

Source: banque de données du Collège des Procureurs généraux - analystes statistiques

### **31. Potential obstacles to investigation and prosecution as well as to the effectiveness of criminal sanctions of high-level and complex corruption cases (e.g. political immunity regulation, procedural rules, statute of limitations, cross-border cooperation, pardoning)**

Deux projets de loi portant diverses modifications du Code d'instruction criminelle ont été introduits à la Chambre des représentants.

**Projet de loi I** a pour objet de réformer la procédure pénale sur deux points: d'une part, en ce qui concerne les règles relatives à l'action publique pour des crimes ou délits commis hors du territoire du Royaume et, d'autre part, en ce qui concerne la prescription de l'action publique.

Tout d'abord, il restructure et réécrit les articles existants du chapitre II du Titre préliminaire du Code de procédure pénale, en classant dans différentes sections les dispositions relatives à la compétence extraterritoriale des juridictions belges selon les critères traditionnels du droit international public. En outre, le projet de loi vise à réformer le système de prescription. À cet égard, il se fonde sur trois principes de base:

- 1° des délais suffisamment longs pour mener et clôturer une enquête pénale, sur la base de délais fixes sans possibilité d'interruption de la prescription;
- 2° la cessation du cours de la prescription dès l'instant où la juridiction de jugement est saisie de l'action publique;
- 3° la validité des causes de suspension uniquement lorsqu'il existe réellement un obstacle à l'introduction ou à l'exercice de l'action publique.

**Projet de loi II** vise un certain nombre de réformes spécifiques de la procédure pénale et prévoit, entre autres, les modifications suivantes du Code d'instruction criminelle :

La réforme de la procédure de reconnaissance préalable de culpabilité (article 216 du Code d'instruction criminelle) est proposée. Le champ d'application procédural est étendu vu que l'application de la procédure deviendra possible pendant l'instruction, après l'avis obligatoire et contraignant du juge d'instruction. La place de la victime dans la procédure est également redéfinie. Lors de l'audience d'homologation, le juge pourra non seulement homologuer ou non l'accord conclu, mais pourra également poursuivre l'examen de l'affaire à la requête du procureur du Roi et du prévenu.

Pour ce qui concerne la transaction pénale (article 216bis du Code d'instruction criminelle), le projet de loi prévoit la possibilité pour le ministère public d'imposer dans le cadre d'une transaction une interdiction d'administrer en plus de la somme d'argent proposée. En outre, le projet de loi prévoit la publication des transactions et donc plus de transparence.

**32. Information on effectiveness of non-criminal measures and of sanctions (e.g. recovery measures and administrative sanctions) on both public and private offenders.**

No recent developments.

**Other – please specify**

**III. Media pluralism and media freedom**

**33. Please provide information on measures taken to follow-up on the recommendations received in the 2023 Report regarding media pluralism and media freedom (if applicable)**

Cf. our earlier correspondence with the European Commission per mail at the end of July 23, the following adjustment had to be made in the following part of the report of 2023 (p.20): *“Some progress has been made as regards public access to documents, insofar as initiatives are on their way to allow the Commission for access to administrative documents (CTB-CADA) to take binding decisions to improve and optimize the access to official documents and modernize the legal framework on the access to official documents that applies to the federal level.*

In this regard, the following update has been provided earlier to the European Commission (albeit after the July 2023 Report had been published); we suggest to adapt the part on the access to official document in the new Rule of Law Report accordingly, as these adjustments are more correct, clear and correspond to the current legislative initiative of the Minister of Interior on the public access to official documents: “The 2022 Rule of Law Report recommended to Belgium to “Strengthen the framework for access to official documents, in particular by improving request and appeal processes and by limiting the grounds for rejection of disclosure requests, taking into account European standards on access to official documents”.

It is certain that the right to public access to documents is anchored in the Belgian Constitution. At Federal level, the body competent to handle an appeal in matters not related to environmental information, the CTB-CADA, remains only an advisory body so far. This has been criticised by some stakeholders. They also indicated that the procedures to obtain information takes too long. Furthermore, the CTB-CADA was inoperative for nine months from September 2021 to June 2022 because the necessary royal decree for the re-appointment of its members had not been renewed in time.

Upon request of the Minister of the Interior, the advice was sought from the CTB-CADA regarding the legal and budgetary impact of granting decision-making powers to the CTB-CADA. The opinion of the CTB-CADA indicated that granting binding decision-making powers obviously has advantages, but is to be considered as not budget neutral and, moreover, rather complex from a legal perspective and therefore non-obvious. In addition, the CTB-CADA indicated that granting binding decision-making powers would imply a particular increase in workload and responsibility for the CTB-CADA. The nature and composition of the CTB-CADA and related regulations would thus have to be drastically changed. At the hearing that took place in Belgian Parliament during the discussion on the legislative proposal of the Minister of the Interior (see hereinafter), the President of the CTB-CADA additionally explained that in

the present circumstances and with the present resources, he is at this point not in favor of such reforms extending the powers of the CTB-CADA. In any case, legal protection is adequately guaranteed in this matter, since a refusal to a request for access to a public document can always be contested before the country's highest administrative court, the Council of State.

In addition, the Minister of the Interior submitted an own legislative initiative for this purpose, amending the federal law on access to public documents. The current legal framework at the federal level, the law of April 11, 1994, is, according to the Minister, undoubtedly in need of improvement and modernisation. The legislative proposal to amend the federal law represents an important first step in this regard. In this context, the Belgian federal government agreed to now meet, with the legislative proposal of the Minister of the Interior, as a first phase, the recommendations of the GRECO on access to public documents at the federal level. After all, this is the most urgent. The government took this opportunity to also implement a number of other quick wins in order to optimise and modernise the access to public documents. These quick-wins respond to the most pressing recommendations of various advisory bodies and stakeholders. In this regard, it was never disputed that other amendments and possible further reforms of the law of April 11, 1994 can be implemented in the future, in a second phase. Nonetheless, this legislative proposal already significantly improves access to public documents at the federal level and should therefore be considered a first, yet essential, phase in the reform of this law.

Further updates (December 2023):

- The legislative proposal of the Minister of Interior has been approved in the Committee of the Interior of the federal Parliament September 20<sup>th</sup> 2023. On October 5<sup>th</sup>, it was discussed for the first time in the plenary of the federal Parliament and subsequently on the 30<sup>th</sup> of November. When discussing the proposal, the members of the opposition within the Parliament have decided to seek the opinion of the Council of State on certain amendments. Therefore the proposal has not been voted yet, and further discussions have been postponed.
- The proposal will be debated again around mid-January 2024 in the plenary, i.e. after the receipt of the opinions of the Council of State on the amendments. However, it is difficult to give a more specific timing.
- The text of the proposal, the texts and chronology of the process, incl. the amendments, can be found via this link on the website of the federal Parliament: <https://www.dekamer.be/kvvcr/showpage.cfm?section=/flwb&language=nl&cfm=/site/wwwcfm/flwb/flwbn.cfm?legislist=legisnr&dossierID=3217>.
- To further concretise some of the new obligations on active publicity of administration under the aforementioned draft law, we are preparing a draft royal decree that we intend to adopt soon after the law enters into force. Finally, with the Minister of Civil Service, we will send a letter to the federal administrative bodies that will henceforth be subject to the (new) obligations on openness of administration at the federal level, explaining these new obligations in detail so that every federal administrative body is aware of them in good time and can prepare properly.

## **A. Media authorities and bodies**

### ***34. Measures taken to ensure the independence, enforcement powers and adequacy of resources (financial, human and technical) of media regulatory authorities and bodies***

For the Flemish Community, we refer to our input for the 2022 Rule of Law Report. The [Act of 27 March 2009 on Radio and Television Broadcasting](#) (hereafter: Act of 27 March 2009) contains an extensive chapter on the Flemish Media Regulator (art. 215-235).

Concerning the French- and German-speaking community, no new elements compared with the information provided in the 2023 Report.

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

For the Flemish Community, we refer to our input for the 2022 Rule of Law Report. The appointment and dismissal of the members of the Chambers of the Flemish Media Regulator are regulated in Article 216 of the Act of 27 March 2009.

Concerning the French- and German-speaking community, no new elements compared with the information provided in the 2023 Report.

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

For the Flemish Community, we refer to our input for the 2022 Rule of Law Report. The Raad voor de Journalistiek is the self-regulatory body for media in the Flemish community, of which almost all media are either direct members, or participating via umbrella associations of newspapers and magazines. The Raad voor de Journalistiek is independent and handles complaints from the public. It helps setting deontology standards for journalists by issuing guidelines.

Concerning the French- and German-speaking community, no new elements compared with the information provided in the 2023 Report.

**B. Safeguards against government or political interference and transparency and concentration of media ownership**

***37. Measures taken to ensure the fair and transparent allocation of state advertising (including any rules regulating the matter)***

For the Flemish Community, we refer to our input for the 2022 Rule of Law Report. The Act on Radio and Television Broadcasting stipulates that the Flemish radio and television broadcaster VRT is required to broadcast a maximum of 15 minutes of announcements by the Flemish Government, the Flemish Parliament and the ministers of the government and state secretaries of the Brussels Capital Region every month. The announcements are broadcast immediately after the main news program. The same message is broadcast only once. The announcements serve to inform the Flemish population with regard to matters of public interest. Before and after the announcements, an announcement will be made to say that they have been provided by the Flemish Government or the government of the Brussels Capital Region (art. 34).

Since 2013, the Government of Flanders has had a framework contract with a media agency for the procurement of advertising space in various types of media. Each public service is responsible for its own purchases under the contract. Based on a client brief, a media plan presents a selection of the most appropriate media channels. The basic principle is to ensure that messages reach the target audience(s) in the most efficient and effective manner possible.

Concerning the French- and German-speaking community, no new elements compared with the information provided in the 2023 Report.

**38. Safeguards against state / political interference, in particular:**

**- safeguards to ensure editorial independence of media (private and public)**

For the Flemish Community, we refer to our input for the 2022 Rule of Law Report. The autonomy of the Flemish public broadcaster VRT is legally stipulated in article 7 of the Act of 27 March 2009. Furthermore, the editorial independence of VRT is laid down in article 29 of the Act of 27 March 2009.

The editorial independence of private audiovisual media is legally stipulated in Article 164 and 169 of the Act of 27 March 2009. The editorial independence of private radio stations is guaranteed in Article 131 of the same Act.

Concerning the French- and German-speaking community, no new elements compared with the information provided in the 2023 Report.

**- specific safeguards for the independence of heads of management and members of the governing boards of public service media (e.g. related to appointment, dismissal), safeguards for their operational independence (e.g. related to reporting obligations and the allocation of resources) and safeguards for plurality of information and opinions**

For the Flemish Community, we refer to our input for the 2022 Rule of Law Report. The independence of the Board of Directors of the Flemish public broadcaster VRT is ensured, inter alia, by the incompatibilities imposed in Article 12(2). The mandate of Director cannot be combined with a political office, neither with a position in a press or media company.

To further strengthen the independence of the Board of Directors, it is compulsory for the Flemish public broadcaster VRT to appoint four independent directors (Article 12).

Concerning the French- and German -speaking community, no new elements compared with the information provided in the 2023 Report.

**- information on specific legal provisions and procedures applying to media service providers, including as regards granting/renewal/termination of licences, company operation, capital entry requirements, concentration, and corporate governance**

For the Flemish Community, we refer to our input for the 2022 Rule of Law Report. As regards procedures for licenses, according to article 37 of the Act of 27 March 2009 freedom of expression is guaranteed for all broadcasting activities. Broadcasting activities are free and cannot be subjected to any requirements as regards form or prior control, except as provided below for broadcasting services. The procedures for accreditation of radio broadcasters are set out in article 132 et seq. of the Act of 27 March 2009 and in the [Decision of the Flemish Government of 30 June 2006](#).

There are no specific requirements in the Flemish Community for companies to be active in the media sector, except that linear national, network and local radio broadcasters must be established in the form of a legal person and that private linear television broadcasters must be established as a legal person under private law. Furthermore, the general rules of commercial law, company law and competition law apply to these companies.

Concerning the French- and German -speaking community, no new elements compared with the information provided in the 2023 Report.

**39. *Transparency of media ownership and public availability of media ownership information, including on direct, indirect and beneficial owners as well as any rules regulating the matter***

For the Flemish Community, we refer to our input for the 2022 Rule of Law Report. The mission of the Flemish Regulator for the Media is to enforce the media regulations within the Flemish Community, settle disputes related to the media regulations and issue media licenses in accordance with the regulations. One of the tasks of the general chamber of the Flemish Regulator for the Media is to map concentrations in the Flemish media sector (art. 218, §2, lid 1, 8° of the Act of 27 March 2009).

Concerning the French- and German-speaking community, no new elements compared with the information provided in the 2023 Report.

**C. Framework for journalists' protection, transparency and access to documents**

**40. *Rules and practices guaranteeing journalist's independence and safety, including as regards protection of journalistic sources and communications, referring also, if applicable, to follow-up given to alerts lodged with the Council of Europe's Platform to promote the protection of journalism and safety of journalists.***

No recent developments.

**41. *Law enforcement capacity, including during protests and demonstrations, to ensure journalists' safety and to investigate attacks on journalists***

No recent developments.

**42. *Access to information and public documents by public at large and journalists (incl. transparency authorities where they exist, procedures, costs/fees, timeframes, administrative/judicial review of decisions, execution of decisions by public authorities, possible obstacles related to the classification of information)***

See answer to question 33.

On the regional level, public access to administrative documents in the Brussels-Capital Region is based on legislation of 16 May 2019 . The appeal body is the "Commission d'Accès aux Documents Administratifs (CADA) " of the Brussels Region which has investigative and coercive powers under this legislation. A new government decree of 7 December 2023 defines its functioning.

**43. *Lawsuits (incl. SLAPPs - strategic lawsuits against public participation) and convictions against journalists (incl. defamation cases) and measures taken to safeguard against manifestly unfounded and abusive lawsuits***

No recent developments

**Other – please specify**

#### **IV. Other institutional issues related to checks and balances**

##### **44. Please provide information on measures taken to follow-up on the recommendations received in the 2023 Report regarding the system of checks and balances (if applicable)**

Not applicable

#### **A. The process for preparing and enacting laws**

##### **45. Framework, policy and use of impact assessments and evidence based policy-making, stakeholders' public consultations (including consultation of judiciary and other relevant stakeholders on judicial reforms), and transparency and quality of the legislative process both in the preparatory and the parliamentary phase.**

Regarding the "regulation impact assessment" to which Government bills are generally subjected prior to their submission to the House of Representatives, we refer to the information covered in the input for the 2021 Rule of Law Report.

Regarding the evidence based policy-making and the stakeholders'/public consultations in the House of Representatives, no significant developments since December 2022 must be reported.

- During the period from 1 December 2022<sup>5</sup> until 30 November 2023, hearings were held in 138 out of the 791 public committee meetings (17,45%).
- On aggregated level, during the current 55<sup>th</sup> parliamentary term, up until 30 November 2023, hearings were held in 771 out of the 3,621 public committee meetings (21,29%).

Regarding the transparency and quality of the legislative process in the House of Representatives, no significant developments since December 2022 must be reported either.

- During the period from 1 December 2022 until 30 November 2023, 62 out of the 296 bills and proposals reported out of committee to the plenary went through a second reading procedure (20,95%), and up to 791 out of the 859 committee meetings were public (92,08%).
- On aggregated level, in the current 55<sup>th</sup> parliamentary term, up until 30 November 2023, 215 out of the 1,193 bills and proposals reported out of committee to the plenary went through a second reading procedure (18,02%), and up to 3,621 out of the 3,980 committee meetings were public (90,98%).

##### **46. 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).**

Regarding the emergency procedures in the House of Representatives, there are no significant developments since December 2022.

- During the period from 1 December 2022 until 30 November 2023, the urgency procedure has been requested for 57 items out of 539 items (10,58%).
- On aggregated level, in the current 55<sup>th</sup> parliamentary term, up until 30 November 2023, the urgency procedure has been used for 355 items out of 3,342 items (10,62%).

##### **47. Rules and application of states of emergency (or analogous regimes), including judicial review and parliamentary oversight.**

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<sup>5</sup> The period for which the information was collected for the House's input for the 2023 Rule of Law Report was closed on 30 November 2022.

As already mentioned in the input for the 2023 Rule of Law Report, the state of ‘epidemic emergency’ that was declared under the so-called [‘Federal Pandemic Law’ of 14 August 2021](#) ceased on 11 March 2022 and has not been reinstated to this day. By way of reminder, the so-called [‘Federal Pandemic Law’](#) aimed to provide a new legal basis for pandemic emergency measures. By virtue of this Law, the King, *i.e.* the federal Government, can declare the state of ‘epidemic emergency’ by Royal Decree for a maximum period of three months. This period may be extended by the King for a maximum period of three months at a time. The state of ‘epidemic emergency’ or its prolongation must be confirmed by Parliament within 15 days.

However, notwithstanding the end of the state of ‘epidemic emergency’, even after 11 March 2022, the House of Representatives has used its traditional means of oversight, such as written and oral questions, to investigate *ex post* the state of ‘epidemic emergency’ and the measures taken in the context of this state of ‘epidemic emergency’. See, for example, the [exchange of views](#) with the Ministers of the Interior and Public Health on the Review of the Federal Pandemic Law held in the Home Affairs Committee on 17 January 2023.

#### **48. Regime for constitutional review of laws**

No recent developments.

### **B. Independent authorities**

#### **49. Independence, resources, 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**

There have been no significant changes concerning the federal equality bodies.

Regarding the independence of the Belgian Federal Institute for the Promotion and Protection of Human Rights (**FIRM-IFDH**), it is worth mentioning that in March 2023, FIRM-IFDH received its first-time accreditation as a National Human Rights Institute, gaining a B-status. The SCA of GANHRI welcomed the establishment of the FIRM-IFDH and the efforts it has already made to promote and protect human rights in the country. The SCA made, however, some remarks in its report, which are currently the subject of a draft law that has been approved by the Federal Government and which will be discussed shortly within the Federal Parliament. These changes to the law establishing the FIRM-IFDH have the objective to align the mandate of the FIRM-IFDH more closely with the Paris Principles.

Concerning FIRM-IFDH's resources, it is worth mentioning that these are discussed during a parliamentary session and are increased annually. The budget was €891,421.92 in 2021, €1,409,847.19 in 2022, and €2,867,733 in 2023. The substantial increase in 2023 is, *inter alia*, attributable to the new capacities and powers granted to the FIRM-IFDH.

In reference to these new capacities and powers of the FIRM-IFDH, it can be noted that by the end of 2022, two laws<sup>6</sup> were passed, granting FIRM-IFDH new responsibilities related to the

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<sup>6</sup> 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, PE/78/2019/REV/1, OJ L 305, 26.11.2019, p. 17–56; Implemented by the Act of 28 November 2022 on the protection of persons reporting violations of Union or national law within a private sector legal entity, Belgian official Bulletin, 15 December 2022 and the Act of 8 December 2022 on reporting channels and the protection of whistle-blowers in federal public sector bodies and the integrated police, Belgian official Bulletin, 23 December 2022.



whistle-blower regulations. Under these legislations, FIRM-IFDH was assigned new tasks, which it has been officially carrying out since March 2023.

Furthermore, in 2023, FIRM-IFDH was officially appointed as the Belgian focal point for SLAPP within the framework of the European Commission Recommendation (EU) 2022/758 of 27 April 2022 on protecting journalists and human rights defenders who engage in public participation from manifestly unfounded or abusive court proceedings ("strategic lawsuits against public participation").

Moreover, the Council of Ministers approved on the 24th of November 2023 a draft law to establish a prevention mechanism on torture and degrading treatment or punishment. This prevention mechanism will have the power to visit federal places of deprivation of liberty and will be an independent body established within the FIRM-IFDH. This federal prevention mechanism is a first towards the establishment of a national prevention mechanism, as foreseen by the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT), adopted in New York on December 18, 2002.

In 2023 (last updated on December 11th 2023), FIRM-IFDH published 12 opinions, 6 reports, and 3 positions. The total number of the staff of FIRM-IFDH is currently 15, with two staff members specifically hired to support the mandate regarding the whistle-blower regulations.

Le **Médiateur fédéral** a obtenu en 2023 un budget supplémentaire de € 318 000 dans le cadre de l'extension de ses compétences en matière de suivi des signalements d'atteinte à l'intégrité au sein du secteur public fédéral, de coordination du traitement des signalements de violation au droit de l'Union européenne et au droit national au sein du secteur privé et de protection des lanceurs d'alerte (Centre Intégrité). Vu le nombre croissant des plaintes concernant le fonctionnement des administrations de la fonction public fédéral, le Médiateur fédéral a obtenu, pour 2024, une extension de son cadre de 4 attachés et une augmentation de son budget de € 327 000.

On the regional level, the government of Flanders has established the Flanders Human Rights Institute (**FLANHRI**), with a broad, independent mandate to protect all human rights within the sphere of Flanders' competences. The FLANHRI also functions as the Flemish equality body, with a specific complaints-handling mechanism (mediation / non-binding ruling) with regard to complaints on discrimination and has been operational since March 15<sup>th</sup> of 2023.

The FLANHRI is an autonomous public body with legal personality, under the supervision of the Flemish Parliament and fully independent in the exercise of its mandate.<sup>7</sup>

The FLANHRI is financed through an allocation by the Flemish Parliament, stemming from the general expenditure budget of the Flemish government. This allocation is indexed annually on the basis of the health index<sup>8</sup>.

The FLANHRI Establishment Decree states that its funding shall be sufficient to ensure the independent and effective operation of the institute in a structural manner, and that its resources may not be reduced as long as the FHRIs tasks remain unchanged.<sup>9</sup>

The FLANHRI was established in October 2022. In February 2023, the board was appointed and a transition team was appointed to ensure continuity in the handling of reports and complaints. The front-line service and mediation service were thus immediately fully

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<sup>7</sup> Art 4 of the decree establishing a Flanders Institute for Human Rights

<sup>8</sup> Draft budget for 2024 is €4.9 million, parliamentary discussion on the funding of FLANHRI <https://www.vlaamsparlament.be/nl/parlementaire-documenten/parlementaire-initiatieven/1780765>

<sup>9</sup> Art 40 of the decree establishing a Flanders Institute for Human Rights

operational. In September 2023, the management was formally appointed and the members of the dispute room were appointed by the board of directors.

The litigation chamber is ready to issue its first rulings, but is still awaiting the Flemish Government's decision on the related procedure (approved at the end of December 2023).

Since its operationalisation in March 23, the FLANHRI received some 575 complaints (120 reports of human rights violations and 455 complaints of possible discrimination).

In order to obtain an A-status, the FLANHRI will be part of an inter-federal human rights mechanism in accordance with the Paris Principles. Through this mechanism the government of Flanders strives for maximum cooperation between the different policy levels in order to maximise the human rights protection. For this reason, the government of Flanders is seeking to conclude a legislative cooperation agreement with the involved levels of competence and their governments.

***50. Statistics/reports concerning the follow-up of recommendations by National Human Rights Institutions, ombudsman institutions, equality bodies and supreme audit institutions in the past two years.***

Equality bodies : Le Centre inter-fédéral pour l'égalité des chances **Unia** dispose d'une banque de données où sont encodées toutes les recommandations. Les principales recommandations adressées aux autorités publiques sont des mémorandums pour les élections, des rapports parallèles rendus aux organes de traités internationaux, des rapports de recherche, et des résultats de consultations, qui comportent de nombreuses recommandations, parfois adressées à des acteurs différents.

Cette base de données ne permet pas, pour le moment, d'en extraire des statistiques concernant la prise en compte des recommandations par les autorités ou par tout autre acteur à qui elles sont adressées. Un projet est prévu en 2024 afin d'améliorer cet outil et de créer des outils supplémentaires, afin de mieux mesurer l'impact des recommandations.

Néanmoins, Unia rapporte les éléments suivants :

Les autorités belges prennent généralement en compte, au moins partiellement, les recommandations élaborées par Unia ;

Les autorités belges (pouvoirs exécutifs et législatifs) invitent aussi Unia à donner un avis, dans le cadre de ses compétences, sur leurs projets de politiques ou de textes législatifs. Cependant, elles ne le font pas systématiquement et, quand elles le font, cela ne signifie pas nécessairement que les avis seront suivis ;

Les recommandations et/ou résultats de recherche d'Unia peuvent aboutir également à des questions parlementaires adressées au pouvoir exécutif ;

Durant cette législature, certaines des recommandations formulées dans le cadre du Mémorandum en vue des élections de 2019, ont été partiellement réalisées, notamment, par l'adoption et la mise en œuvre de plans d'action (handicap, racisme, etc.) ainsi que l'implication d'Unia dans le monitoring de ces plans et la réalisation de certaines mesures ; par la réforme des lois et la mise en œuvre de politiques de lutte contre les discriminations (par exemple, en matière de logement, d'emploi ou de lutte contre la fracture numérique) ; et par la constitution de conseils consultatifs dans les différentes régions et communautés.

Il convient également de noter l'adoption du rapport final de la Commission d'évaluation des lois fédérales tendant à lutter contre la discrimination, auquel ont participé des représentants d'Unia et de l'Institut pour l'égalité des femmes et des hommes, et qui a été publié en août 2023. Ce rapport contient 73 recommandations concernant l'application et l'effectivité de la législation fédérale anti-discrimination. Un certain nombre de ces recommandations ont été mises en œuvre dans le cadre d'une réforme adoptée en juin 2023. Cette réforme clarifie les interactions entre les critères protégés, en consacrant expressément dans les lois fédérales la discrimination multiple, la discrimination par association ainsi que la discrimination fondée sur un critère supposé, et rend également les sanctions plus efficaces et plus dissuasives. Les autres recommandations sont en cours d'analyse et, pour certaines, de mise en œuvre, notamment dans le cadre des travaux de révision du code pénal ou de la circulaire de 2013 relative à la politique de recherche et de poursuite en matière de discriminations et de délits de haine, dite « COL 13/2013 ».

Nothing to report as far as it concerns the **FIRM-IFDH**.

En ce qui concerne les réclamations relatives au fonctionnement des autorités administratives fédérales, le **Médiateur fédéral** a émis quinze recommandations en 2022-2023, dont deux au parlement et 13 à une administration fédérale. Une recommandation a été suivie.

### **C. Accessibility and judicial review of administrative decisions**

#### ***51. Transparency of administrative decisions and sanctions (incl. their publication and rules on collection of related data)***

No recent developments.

#### ***52. Judicial review of administrative decisions:***

- ***short description of the general regime (in particular competent court, scope, suspensive effect, interim measures, and any applicable specific rules or derogations from the general regime of judicial review).***

No recent developments.

#### ***53. Rules and practices related to the application by all courts, including constitutional jurisdictions, of the preliminary ruling procedure (Art. 267 TFEU)***

Judicial authorities and individual judges are independent and apply national and European law and caselaw of the ECJ. This question can be best answered by national jurisdictions when they will meet with the Commission during the Commission's country visit. We can however inform the Commission that, in 2022, questions in 30 cases were issued by Belgian jurisdictions. Most of them came from the Courts of appeal and the Courts of first instance (8 each), followed by the Council of State (7 - Raad van State), the Court of Cassation (3) and Labor Courts (3) and the Constitutional Court (1).

#### ***54. Follow-up by the public administration and State institutions to final (national/supranational, including the European Court of Human Rights) court decisions, as well as available remedies in case of non-implementation***

The situation regarding the reception of asylum seekers is still very precarious in the period from June 2023 to the end of December 2023. The Belgian government has taken a lot of

additional measures during this period to comply as much as possible with the obligation to provide immediate reception to every applicant for international protection, although the latter is still not possible for everyone. Priority was given to families, minors and vulnerable persons.

Thus, the convention with the Brussels Region was extended for emergency reception (from 1,500 places to 2,000). Additional shelters were also opened, but some also had to close due to specific circumstances. It was decided to also temporarily use youth initiatives for housing for families. Further efforts were made to speed up the outflow of reception centre residents by investing in the asylum system with a view to shortening the asylum procedure and following up people who have already been in the reception network for more than 3 years.

In addition, the government also further funded the Refugee Medical point and continued funding of initiatives on the ground by NGOs that target asylum seekers without shelter. There was also an initial discussion in parliament in December to link the right to material aid to a final negative asylum decision and not to the expiry of the period included in the return decision. This legislative amendment also includes the legal mission for the Agency for the Reception of Asylum Seekers to conduct prospecting of vacant buildings and, in this sense, obtain personal data from owners.

#### **D. The enabling framework for civil society**

##### ***55. Measures regarding the framework for civil society organisations and human rights defenders (e.g. legal framework and its application in practice incl. registration and dissolution rules)***

No recent developments.

##### ***56. Rules and practices having an impact on the effective operation and safety of civil society organisations and human rights defenders. This includes measures for protection from attacks – verbal, physical or on-line –, intimidation, legal threats incl. SLAPPs, negative narratives or smear campaigns, measures capable of affecting the public perception of civil society organisations, etc. It also includes measures to monitor threats or attacks and dedicated support services.***

No recent developments

##### ***57. Organisation of financial support for civil society organisations and human rights defenders (e.g. framework to ensure access to funding, and for financial viability, taxation/incentive/donation systems, measures to ensure a fair distribution of funding)***

Equality and non-discrimination : Depuis une réforme adoptée en juin 2023, les trois lois fédérales de lutte contre la discrimination prévoient explicitement l'octroi de subventions structurelles annuelles aux organisations actives dans le domaine de la lutte contre les discriminations, de la lutte contre le racisme ou la xénophobie, et de l'égalité des genres, sur la base d'un agrément valable cinq ans. Les modalités d'octroi de ces subventions sont définies par arrêté royal<sup>10</sup>. Les premiers appels à candidatures ont été lancés fin 2023.

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<sup>10</sup> Arrêté royal du 2 octobre 2023 relatif aux modalités d'octroi des subsides annuels pour les associations qui luttent pour l'égalité des genres en ce qui concerne les matières relevant de la compétence de l'autorité fédérale ;

**58. Rules and practices on the participation of civil society organisations and human rights defenders to the decision-making process (e.g. measures related to dialogue between authorities and civil society, participation of civil society in policy development and decision-making, consultation, dialogues, etc.)**

As already outlined in the input for the 2021 Rule of Law Report, in order to harmonize the House Rules with the [federal Law of 2 May 2019 'on petitions submitted to the House of Representatives'](#), the House of Representatives amended its Rules of Procedure to lay down the detailed provisions under which petitioners shall be heard in the House committee responsible for the matter to which the petition relates. According to the amended House Rule 143, when the conditions to be heard as a petitioner are met, the petition shall be sent to the committee responsible for the matter to which the petition relates. The latter committee shall determine the date and time of the hearing, and may also determine the speaking time allotted to the petitioners. On 11 January 2023, for instance, in application of House Rule 143, a hearing was held with the petitioners of the petition on the abolition of the patient-unfriendly measure in the House Committee on Health and Equal Opportunity. The report of this hearing (DOC 55-3166/001) can be consulted [here](#).

Furthermore, on 9 February 2023, in the context of citizens' participation, the House of Representatives adopted a Government bill providing the legal basis for the access of the House of Representatives to the national register in order to allow it to organize processes of deliberative democracy that require the drawing of lots of citizens. This resulted in the [federal Law of 2 March 2023 'establishing the principles for the drawing of lots of citizens for mixed committees and citizens' panels at the initiative of the House of Representatives'](#).

Pursuant to this federal Law, a proposal to amend the Rules of Procedure was submitted to the House of Representatives on 18 July 2023 with a view to establishing mixed committees and citizens' panels ([DOC 55-3510/001](#)).

At the level of the Brussels Parliament, the citizen participation platform [democratie.brussels](#) enables the citizens of Brussels to contribute and take part in several participatory processes such as:

- deliberative committees: six thematic deliberative committees have been held since the system was set up in 2021
- petitions
- citizens' suggestions

A Climate Assembly composed of citizens randomly selected citizens issued a series of recommendations to the government in 2023 for a low-carbon Brussels by 2050.

In order to strengthen participatory democracy in the Brussels Region, the Brussels Region has also created a new Regional Department of Citizen Participation within [perspective.brussels](#), which acts as a facilitator responsible for both supporting the processes and developing a genuine culture of participation in the Brussels Region.

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Arrêté royal du 2 octobre 2023 relatif aux modalités d'octroi des subsides annuels pour les couples d'organisations non gouvernementales actives dans le domaine de la lutte contre la discrimination fondée sur l'orientation sexuelle en ce qui concerne les matières relevant de la compétence de l'autorité fédérale ;

Arrêté royal du 2 octobre 2023 relatif aux modalités d'octroi des subsides annuels pour les associations qui luttent contre le racisme en ce qui concerne les matières relevant de la compétence de l'autorité fédérale.

## **E. Initiatives to foster a rule of law culture**

### **59. 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, contributions from civil society, education initiatives, etc.)**

As already outlined in the input for the 2021 Rule of Law Report, when the “rule of law” is the main topic of parliamentary debates within the House of Representatives, it usually concerns the state of the rule of law in other countries. On 23 November 2023, for instance, the House of Representatives adopted a resolution on the condemnation of the authoritarian Belarusian regime and on supporting the initiation of a democratic transition in Belarus ([DOC 55-3147/006](#)).

However, parliamentary debates on domestic issues related to well-defined aspects of the rule of law have continued to take place regularly within the House of Representatives since December 2022. On 10 January 2023, for instance, the Federal Advisory Committee for European Questions held an exchange of views with Mr. Didier Reynders, Commissioner for Justice, on the Belgian Chapter of the 2022 Rule of Law Report. The report of this exchange of views (DOC 55-3237/001) can be consulted [here](#). Furthermore, on 5 December 2023, the same Committee held an [exchange of views](#) with Mr. Didier Reynders on the Belgian Chapter of the 2023 Rule of Law Report.

**Other – please specify**