

2025 Rule of Law Report

Additional questionnaire on the single market dimension

In line with the discussions in the meeting of the network of contact points on 10 December, the Commission is hereby sharing an additional questionnaire on the single market dimension for the 2025 Rule of Law Report. This additional questionnaire should be answered in the same manner as the regular questionnaire. Please provide **a general overview of the relevant legal framework** (if not covered in previous inputs for the Rule of Law Report), as well **as information on any relevant developments since January 2024**. You are asked to provide the 'type of information' as outlined in section two of the main questionnaire (i.e. legislative developments, policy developments, developments related to the judiciary/independent authorities, as well as others if deemed relevant). In addition, below it is always indicated which pillar and sub-section the additional questions refer to, so that you can better contextualise them within the existing questionnaire. Please send your input on this questionnaire **by 24 January 2025** to rule-of-law-network@ec.europa.eu (either as part of your overall input or separately).

Questions for input on the single market dimension of the Rule of Law Report

Pillar I:

Quality of justice

- Specialisation (of judges/specific courts/chambers within courts) and training for the judiciary to deal with commercial cases.
- Alternative dispute resolution mechanisms and mediation

The law of 19 december 2023 containing various provisions on civil and judicial matters came into force on 6th January 2024. From this date, an amicable settlement chamber may be set up in all courts and tribunals dealing with civil matters (including labour law and company law). The creation of such a chamber will be compulsory from 1 September 2025 in all courts and tribunals (except those divided into divisions, where a chamber will have to be created in at least one division).

In these chambers, the judge will conciliate in the same way as a judge who would practice traditional conciliation in their court, or may refer cases to mediation. Certain principles specifically govern the judge's work in these amicable settlement chambers (articles 734/4 of the Judicial Code), which is not the case for traditional conciliation (articles 731 to 734 of the Judicial Code). Conciliation in these chambers remains confidential, as does mediation. The judge may also organise 'caucuses' or 'asides' with each of the parties involved, with the agreement of all parties. In other words, the judge can hold discussions with one party without the other being present, and vice versa.

Finally, the judge who has sat on the amicable settlement panel can no longer intervene in the same case as a judge in the litigation panel. This provision is intended to provide the parties with the assurance that, should the conciliation process prove unsuccessful, the judge will not be called upon to rule on their case. It is also noteworthy that judges presiding

in such chambers must have undergone specialised training. In terms of procedure, the matter may be referred to the judge of the amicable settlement chamber either before or during any legal proceedings (article 734/4, § 1 and § 2). If the parties reach a total or partial agreement (article 734/2, § 1 and § 2), this will be set out in minutes or in an agreement judgment (if legal proceedings are in progress). If the parties do not reach an agreement (article 734/3, § 1 and § 2), they may initiate legal proceedings or continue those they have already begun.

Pillar II:

Prevention

- Measures for the prevention of corruption in relation to the issuing of official permits (e.g. related to environment, energy and various types of construction)

See answer on the follow-up of the recommendation on the integrity framework.

- Reporting on the use of digital technologies to enhance transparency and oversight in public procurement

FPS BOSA offers various services on public procurement. They advise and support (by providing training, templates, framework agreements, a strategic federal procurement policy,...) government departments (federal) in public procurement. Furthermore, they ensure the management, evolution and maintenance of the e-Procurementplatform.

There is an ongoing OECD project “Strengthening the Strategic Approach to Public Integrity in Belgium, including the integrity of public procurement processes and data-driven approach in procurement risk management”, which includes “Outcome C: New guidance, tools and methods to strengthen integrity in public tendering”, in which the Integrity Bureau of BOSA has a coordinating role. This project aims to identify fraud indicators, in collaboration with the OECD, and set up a tool in the context of fraud prevention and detection in public procurement.

New transparency obligations have been in place since 1/9/2023 and 1/1/2025 including:

- the obligation to use digital communication in all contracts placed through negotiated procedures without prior publication
- the mandatory registration of the opening report (in the e-Procurement platform)
- the obligation to publish a (simplified) contract award notice in negotiated procedures without prior publication
- the obligation to register key figures relating to contracts of limited value
- the obligation to record key figures relating to framework agreements.

The aforementioned initiatives should enable Belgium to fulfil its statistical obligations more efficiently. The measures will provide Belgium with more qualitative data. Indicators will be developed by the FPS BOSA regarding the way in which each procurer has complied with a number of the transparency obligations. For this latter aspect, the Governance Committee (on Public Procurement) has yet to draw up a list of indicators.

Pillar IV:

The process for preparing and enacting laws

- Safeguards to ensure legal certainty, the stability of the legal framework and non-discrimination. *[this question complements the existing question on rules and use of fast-track and emergency procedures]*

The House does not discriminate on the basis of subject matter when dealing with legislative files. All subjects are therefore treated in the same way as other legislative files; in that sense, the answers in pillar IV, part A also apply to this follow-up question.

Independent authorities

- Safeguards to ensure the effective independence of supervisory and regulatory authorities with a direct impact on economic operators

The rules were not changed in 2024. The applicable rules are those of the Judicial code for judges and clerks of the business courts ("*tribunaux de l'entreprise*").

Accessibility and judicial review of administrative decisions

- Respect of the good administration principle (including the obligation of the administration to give reasons for decisions) *[this question complements the existing question on transparency of administrative decisions]*
- Safeguards (other than judicial review) regarding decisions or inaction of administrative authorities, including remedies. *[this question complements the existing question on judicial review of administrative decisions]*

For these last two questions, the Council of State is best placed to answer.