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2024 Rule of Law Report Country Chapter on the rule of law situation in Luxembourg

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COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS

2024 Rule of Law Report

The rule of law situation in the European Union

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ABSTRACT

The level of perceived judicial independence in Luxembourg continues to be very high among the general public, and courts are operating efficiently. The elections for the National Council for Justice took place, and the Council is becoming fully operational. Its work has been positively assessed. The reform that aims to make legal aid more accessible was adopted. Progress concerning the digitalisation of the justice remains slow, although there was some development in administrative justice area. A reform of the criminal justice for youth and children is ongoing, aiming to ensure better access to a lawyer.

The Corruption Prevention Committee focused on preparations for the evaluation of Luxembourg's obligations under the Anti-Bribery Convention. There are plans to increase the resources and recruitment for the police and prosecution services to enable them to investigate economic and financial crime. The code of conduct for parliamentarians was revised to increase the transparency of the interactions between parliamentarians and lobbyists, but the online publicly available information included in the transparency register remains limited. Draft laws to introduce codes of conduct for elected representatives and officials at municipal level are still pending adoption. The way information is transmitted to the register of meetings between members of the Government and their advisers with third parties is being simplified to improve transparency and efficiency. The Ethics Committee found no breaches of the Codes of Conduct for Members of Government or their Advisers and the Court of Auditors found no irregularities in relation to political party financing or the misuse of public funds or procurement procedures. A central Office for Whistleblowers was set up.

The general legal framework establishing the regulator for audio-visual media services and governing its functioning remains stable, while its tasks have been expanded. The Government ensured funding support for Public Service Media 100.7 for the 7-year period 2024-2030. Amendments to the law on open and transparent administration have been announced, to address, among others matters, the specific needs of journalists for fast access to information. The framework for the protection of journalists was reinforced with amendments to the criminal legislation.

Steps have been taken to make the legislative decision-making process more inclusive, as multiple actors are consulted at various stages by the Government though shortcomings remain at the level of Parliament. A reform of the independent fundamental rights institutions is being discussed with the aim to unify their legislation and improve their independence. A new law on non-profit associations and foundations was adopted with a focus on their governance.

RECOMMENDATIONS

Overall, concerning the recommendations in the 2023 Rule of Law Report, Luxembourg has (made):

- Fully implemented the recommendation to continue with the process to adopt the reform on making legal aid more accessible.
- Significant progress on evaluating the implementation of the new legislation on lobbying the Parliament and the functioning of the transparency register but no progress on ensuring that it meets the transparency requirements set out in the Parliament's rules of procedures.
- Some further progress on ensuring the implementation of measures adopted in relation to the time for processing of requests for disclosure of official documents, taking into account European standards on access to official documents.
- Some progress on improving the legislative decision-making process by providing wider possibilities for stakeholders to participate in public consultations.

On this basis, and considering other developments that took place in the period of reference, it is recommended to Luxembourg to:

- Strengthen efforts to achieve full digitalisation of civil, criminal and administrative proceedings.
- Step up efforts to increase the information contained in the transparency register, including by covering all the information set out in the Parliament's rules of procedures.
- Take forward the reform of the legal framework for the disclosure of official documents, taking into account European standards on access to official documents.
- Improve the legislative decision-making process notably at the level of Parliament by increasing the transparency and involvement of stakeholders in the public consultations.

I. JUSTICE SYSTEM

The justice system contains two separate branches of courts: ordinary courts with jurisdiction in civil and criminal matters and administrative courts hearing cases of administrative law. The ordinary branch includes three Justices of the Peace, two District Courts with general jurisdiction, a Court of Appeal and a Court of Cassation. The administrative branch is composed of an Administrative First-instance Court and an Administrative Court of Appeal. The Constitutional Court is part of the judiciary and rules on the compliance of laws with the Constitution. Since 1 July 2023, the National Council for Justice is responsible for the appointment, appraisal and disciplinary proceedings of judges and prosecutors. The Prosecutor's Office is independent in the exercise of individual investigations and prosecutions, without prejudice to the Government's right to give direction on criminal policies. The two Bar Associations are independent and represent lawyers established in Luxembourg. Each Bar Association has an Assembly¹, a Bar Council², a President of the Bar³ and for the whole profession, a Disciplinary and Administrative Council⁴. Luxembourg participates in the European Public Prosecutor's Office (EPPO).

Independence

The level of perceived judicial independence in Luxembourg continues to be very high among the general public and high among companies. Overall, 77% of the general population and 74% of companies perceive the level of independence of courts and judges to be 'fairly or very good' in 2024⁵. The perceived judicial independence among the general public has slightly increased in comparison with 2023 (76%), as well as in comparison with 2020 (74%). The perceived judicial independence among companies remains at the same level as in 2023 (74%) and in 2020 (74%)⁶.

The elections for the National Council for Justice took place and the Council is becoming fully operational. As mentioned in the 2023 Rule of Law Report⁷, on 1 July 2023, the National Council for Justice (NCJ) became operational, and it started fulfilling⁸ its role as the main responsible institution for appointment, appraisal, promotion, and disciplinary proceedings of magistrates⁹. The elections for the members of the NCJ were completed before it started its work. The NCJ is composed of nine members: six magistrates elected by

¹ Art. 12-15 of the Law on the profession of a lawyer, 10 August 1991.

² Art. 16-19 of the Law on the profession of a lawyer, 10 August 1991.

³ Art. 20-23 of the Law on the profession of a lawyer, 10 August 1991.

⁴ Art. 24-25 of the Law on the profession of a lawyer, 10 August 1991.

⁵ Figures 51 and 53, 2024 EU Justice Scoreboard, and Figures 50 and 52, 2022 EU Justice Scoreboard. The level of perceived judicial independence is categorised as follows: very low (below 30% of respondents perceive judicial independence as fairly good and very good); low (between 30-39%), average (between 40-59%), high (between 60-75%), very high (above 75%).

⁶ In Luxembourg, 84% of the companies are either fairly or very confident that their investments are protected by the law and courts in the Member State. Only 7% of the surveyed companies see the quality, efficiency or independence of justice as one of the main reasons for concern about investment protection in the country. Figures 55 and 56, 2024 EU Justice Scoreboard.

⁷ See 2023 Rule of Law Report, Country Chapter on the rule of law situation in Luxembourg, p. 4.

⁸ There are some important structures that still have to be established in order to consider the NCJ fully operational. For example, the appointment of the disciplinary courts that will review the disciplinary cases brought to them by the NCJ. This is being done progressively by the NCJ.

⁹ See Chapter 2 on the competences of the council and Chapter 3 on the functioning of the council of the Law on the organisation of the National Council for Justice.

their peers, from all levels of the judiciary¹⁰ and from different ranks¹¹; one lawyer elected by their peers¹²; and two persons elected by the Parliament based on their education or experience¹³. Therefore, the current composition is consistent with the relevant European standards¹⁴.

The first results of the National Council for Justice are overall being positively assessed.

Despite the short time since it started operating, the Government and stakeholders assess the NCJ's work as positive overall¹⁵. The administration of the new body is also considered to have sufficient human and financial resources to fulfil its tasks¹⁶. In terms of workload of NCJ's members their duties within the new body come in addition to their full-time occupations, which is why this is balanced by having supplementary members to replace them when needed. On this topic, the situation is in line with the relevant European Standards, as according to the Council of Europe¹⁷ there is no single model for the occupancy of the members of judicial councils¹⁸. The terms of office could be part time, like in the present case, or full-time but limited in number of terms or in time spent at the position. In both cases, the part-time or the time limit is done to preserve contact with the court practice¹⁹. While stakeholders have reported that the NCJ does not motivate the appointment of magistrates²⁰, the NCJ is ready to make such motivations available to candidates upon request²¹.

¹⁰ Art. 1(1) of the Law on the organisation of the National Council for Justice. According to the law, each level of the judiciary (e.g. first instance courts and prosecutor's office, first instance administrative courts, second instance courts and prosecutor's office, second instance administrative courts, Supreme court and Prosecutor General office).

¹¹ The plurality is exemplified by the fact that there are two out of the members are administrative heads, while other members are coming from different ranks of the judiciary.

¹² Art. 1(2) and Art. 4 of the Law on the organisation of the National Council for Justice. The lawyer is elected by the Order of the lawyers of the Bars of Luxembourg and Diekirch with the majority of their members present and voting.

¹³ Art. 1(2) and Art. 52 of the Law on the organisation of the National Council for Justice.

¹⁴ Recommendation CM/Rec(2010)12 of the Committee of Ministers of the Council of Europe, paras. 26-27. *"Not less than half of the members of such councils should be judges chosen by their peers from all levels of the judiciary and with respect for pluralism inside the judiciary"*.

¹⁵ Information received from the Government, the Prosecutor's Office, the Supreme Court and Groupement des Magistrats Luxembourgeois in the context of the country visit to Luxembourg.

¹⁶ Information received from the National Council for Justice in the context of the country visit to Luxembourg.

¹⁷ Council of Europe, Comparative Overview on Judicial Councils in Europe, (DG I – DCJ (2022)1), 14 March 2022.

¹⁸ In four countries, the members are full-time occupied by the council work; in four countries, some of the members are part-time occupied by the council work; in nine countries, these are no full-time positions.

¹⁹ See Consultative Council of European Judges (CCJE), Opinion No. 10 (2007) and Opinion No. 24 (2021) on Evolution of the Councils for the Judiciary and their role in independent and impartial judicial systems.

²⁰ However, the non-appointments have not been challenged despite the possibility to do so before the administrative courts. Information received from the Supreme Court and Groupement des Magistrats Luxembourgeois in the context of the country visit to Luxembourg.

²¹ Every decision on appointment is motivated and compiled in the document that is sent to the Grand Duke for the official appointment. The document is not publicly disclosed in its entirety for data protection reasons. Information received from the National Council for Justice in the context of the country visit to Luxembourg.

Quality

The reform to make legal aid more accessible was adopted thus fully implementing the 2023 recommendation. The 2023 Rule of Law Report recommended to Luxembourg to ‘[c]ontinue with the process to adopt the reform on making legal aid more accessible’²². On 7 August 2023, the Parliament adopted the law on the organisation of legal aid. As mentioned in the 2023 Rule of Law Report²³, the Council of State had delivered its opinion on 1 June 2023²⁴. Following this, the Parliament made the necessary adjustments that were more of a technical rather than substantive nature²⁵. The law entered into force in February 2024 and now expands the scope of legal aid to include persons who do not hold the Luxembourgish nationality but reside in Luxembourg²⁶. The law enlarges the pool of beneficiaries to candidates that previously would not have qualified for full legal aid despite limited financial means²⁷. In view of these developments, the recommendation made in the 2023 Rule of Law Report is fully implemented.

The digitalisation of justice remains slow, although there was some progress in the administrative justice. The 2023 Rule of Law Report noted the launching of the first pilot project under the “paperless justice” project²⁸, which covered only emergency proceedings before the administrative courts²⁹. Although there is no evaluation of the project, stakeholders have reported that the digitalised version of this type of proceedings is not widely used³⁰. Moreover, stakeholders explained that only part of the procedure is digital, while there is a part that still has to be filed in paper³¹. Therefore, they prefer to submit everything at once on paper rather than to duplicate their work. As regards civil justice, the development of a software for digital filing started in February 2024 and is scheduled to be completed by the end of the year³². The digitalisation of criminal justice is less developed, as analysis on what is needed and how it could be achieved have just begun³³. Stakeholders using the digitalised justice system criticise the overall approach of repurposing an existing platform, namely the main platform for citizens to interact with the administration, to accommodate for the needs

²² 2023 Rule of Law Report, Country Chapter on the rule of law situation in Luxembourg, p. 2, which assessed that ‘[n]o further progress on continuing with the process to adopt the reform on making legal aid more accessible.’

²³ See 2023 Rule of Law Report, Country Chapter on the rule of law situation in Luxembourg, pp. 5-6.

²⁴ See Council of State Opinion No. 60.901 of 1 June 2023. The opinion of the Council of State is a mandatory step in the legislative process in Luxembourg.

²⁵ Information received from the Council of State in the context of the country visit to Luxembourg.

²⁶ In application of Council Directive 2002/8/EC of 27 January 2003 to improve access to justice in cross-border disputes by establishing minimum common rules relating to legal aid for such disputes.

²⁷ The different modalities regarding partial legal aid were clarified in a Grand-ducal regulation. Project No. 7959, p. 1 (Art. 2(1) of the draft law).

²⁸ The “paperless justice” project encompasses 13 sub-projects and aims to address present shortcomings in digitalisation of justice. See 2021, 2022 and 2023 Rule of Law Report, Country Chapter on the rule of law situation in Luxembourg, pp. 4-6.

²⁹ *Recours en référé*.

³⁰ Information received from the Groupement des Magistrats Luxembourgeois and the Luxembourg Bar Association in the context of the country visit to Luxembourg.

³¹ Information received from the Groupement des Magistrats Luxembourgeois and the Luxembourg Bar Association in the context of the country visit to Luxembourg.

³² Input from Luxembourg for the 2024 Rule of Law Report, p. 3.

³³ Information received from the Ministry of Justice in the context of the country visit to Luxembourg.

of the justice system, rather than building a new platform or buying an existing one³⁴. The “paperless justice” project, which covers all implemented, ongoing and future projects concerning the digitalisation of justice, is expected to be completed by 2026³⁵, but no information is available concerning the launch of other projects than the one described above³⁶. Despite progress achieved, the digitalisation of justice is still lagging behind. Also, despite the introduction of the possibility of filing a claim in one specific administrative proceeding, there are still shortcomings in the availability of digital tools to initiate and follow proceedings³⁷. In civil and commercial cases it is only possible for the courts to serve documents electronically to citizens and businesses and to send electronic acknowledgement of receipt proving the submission of documents. However, it is still not possible to receive comprehensive information on court fees, to pay court fees online, or to access the electronic files of closed or ongoing cases³⁸.

A reform of criminal justice for youth and children is ongoing and aims to ensure better access to a lawyer. The Government and stakeholders informed about three draft laws aiming to reform the criminal justice system for youth and children currently pending before Parliament³⁹. The proposed reform would distinguish between children in conflict with the law and children requiring protection and assistance. According to stakeholders, the proposed reform would bring the system into compliance with international standards⁴⁰ and would address the lengthy process for designating a lawyer for children that was reported in the 2023 Rule of Law Report⁴¹. Moreover, the Luxembourg Bar Association has undertaken steps to facilitate the designation of lawyers specialised in family law⁴². The reform is however not yet adopted, and the issues reported in 2023 persist, with some more instances in which children are left without lawyers⁴³.

³⁴ A software that has been already developed by another country or a company and is available for purchasing and implementing. Information received from the Groupement des Magistrats Luxembourgeois and the Luxembourg Bar Association in the context of the country visit to Luxembourg.

³⁵ See 2020, 2021 and 2022 Rule of Law Reports, Country Chapter on the rule of law situation in Luxembourg, respectively p. 3, p. 4 and p. 6.

³⁶ Information received from the Ministry of Justice in the context of the country visit to Luxembourg.

³⁷ Figure 47, 2024 EU Justice Scoreboard.

³⁸ Figure 47, 2024 EU Justice Scoreboard. However, in civil disputes, no court costs are incurred, except bailiff’s fee, which is available online. In addition, payment of court fees can be done by bank transfer.

³⁹ See Projects No. 7991, 7992 and 7994. Written contribution from UNICEF Luxembourg for the preparation of the 2024 Rule of Law Report, pp. 11, 12 and 19. Information also received from the Ministry of Justice and OKaJu in the context of the country visit to Luxembourg.

⁴⁰ Written contribution from UNICEF Luxembourg for the preparation of the 2024 Rule of Law Report, pp. 11.

⁴¹ See 2023 Rule of Law Report, country Chapter on the rule of law situation in Luxembourg, p. 6. Figure 31, 2023 EU Justice Scoreboard. On 7 February 2024, the Commission referred Luxembourg to the Court of Justice of the European Union for not fully granting the right of access to a lawyer and communication upon arrest. On 13 March 2024, the Commission sent a letter of formal notice to Luxembourg calling on the authorities to fully transpose the EU rules on procedural safeguards for children in criminal proceedings.

⁴² The Luxembourg Bar Association has created a list of lawyers that have a certain degree of training in family matters. The training is provided by the Bar itself and only after going through it the lawyer can be added to the list. The list is available on the website of the Luxembourg Bar Association. Information received from OKaJu and Luxembourg Bar Association in the context of the country visit to Luxembourg.

⁴³ Information received from OKaJu in the context of the country visit to Luxembourg.

Efficiency

The courts remain efficient, and the clearance rate remains stable. Courts remain efficient, despite the fact that the estimated time needed to resolve a case at first instance in civil, commercial or administrative proceedings in 2022 has slightly increased in comparison to 2021⁴⁴. The same minor increase is observed in the estimated time needed to resolve a case at first instance in the specific civil and commercial cases category⁴⁵. The clearance rate observed in previous years⁴⁶ remains stable⁴⁷. As regards the efficiency at the different court instances, the length of proceedings for litigious civil and commercial cases at first and last instance remains among the most efficient in the EU⁴⁸. However, longer proceedings are observed at second instance. At the same time, for 2022, the length of proceedings for administrative cases at first instance remained higher than the one for second instance⁴⁹.

II. ANTI-CORRUPTION FRAMEWORK

The Ministry of Justice is the main authority in charge of overall anti-corruption matters, including policy coordination. Within the Ministry of Justice, an inter-ministerial committee, the Corruption Prevention Committee (COPRECO), acts as a consultative forum and supports the overall national policy to fight corruption. The Economic and Financial section of the Prosecution service has specific competences to investigate criminal cases of economic and financial nature, including corruption cases. The Court of Auditors is indirectly involved in the fight against corruption through its controls on the use of public funds.

The perception among experts and business executives is that the level of corruption in the public sector is relatively low. In the 2023 Corruption Perceptions Index by Transparency International, Luxembourg scores 78/100, ranks 5th in the European Union and 9th globally⁵⁰. This perception has been relatively stable⁵¹. The 2024 Special Eurobarometer on Corruption shows that 43% of respondents consider corruption widespread in their country (EU average 68%) and 8% of respondents feel personally affected by corruption in their daily lives (EU average 27%)⁵². As regards businesses, 46% of companies consider that corruption is widespread (EU average 65%) and 40% consider that corruption is a problem when doing

⁴⁴ Figure 5, 2024 EU Justice Scoreboard.

⁴⁵ Figure 6, 2024 EU Justice Scoreboard.

⁴⁶ See 2023 Rule of Law Report, Country Chapter on the rule of law situation in Luxembourg, p. 7.

⁴⁷ Figures 11, 2024 EU Justice Scoreboard.

⁴⁸ Figure 7, 2024 EU Justice Scoreboard. The length in days is 182 days for first instance, 464 days for second instance and 216 days for last instance.

⁴⁹ Figure 10, 2024 EU Justice Scoreboard. The length for 2022 was 528 days at first instance and 228 days at second instance.

⁵⁰ Transparency International, Corruption Perceptions Index 2023 (2024). The level of perceived corruption is categorized as follows: low (the perception among experts and business executives of public sector corruption scores above 79); relatively low (scores between 79-60), relatively high (scores between 59-50), high (scores below 50).

⁵¹ In 2019 the score was 80, while, in 2023, the score is 78. The score significantly increases/decreases when it changes more than five points; improves/deteriorates (changes between 4-5 points); is relatively stable (changes from 1-3 points) in the last five years.

⁵² Special Eurobarometer 548 on Citizens' attitudes towards Corruption in the EU (2024). The Eurobarometer data on citizens' corruption perception and experience is updated every year. The previous data set is the Special Eurobarometer 534 (2023).

business (EU average 36%)⁵³. Furthermore, 35% of respondents find that there are enough successful prosecutions to deter people from corrupt practices (EU average 32%)⁵⁴, while 56% of companies believe that people and businesses caught for bribing a senior official are appropriately punished (EU average 31%)⁵⁵.

The Corruption Prevention Committee focused on preparations for the evaluation of its obligations under the Anti-Bribery Convention. In its recent evaluation, the OECD expressed concerns about Luxembourg's weak enforcement of the Anti-Bribery Convention⁵⁶. It called on Luxembourg to better identify the foreign bribery risks to which companies are exposed, to take a more proactive approach to the investigation and prosecution of bribery of foreign public officials with respect to both natural and legal persons, as well as to ensure sufficient resources for law enforcement and judicial authorities⁵⁷. In 2023 and 2024, the COPRECO continued to focus on the evaluation of Luxembourg's implementation of the OECD Anti-Bribery Convention⁵⁸. As the plenary session of the OECD Working Group on Bribery was postponed from December 2023 to March 2024 and due to changes in the Ministry of Justice, COPRECO's second meeting⁵⁹, planned for the autumn of 2023, was postponed to January 2024. COPRECO plans to hold a second meeting in the second half of 2024 to inform members of the outcome of the OECD's evaluation⁶⁰, analyse the report's findings and decide on specific actions to implement the recommendations⁶¹. The authorities indicated that there are currently no concrete plans to change COPRECO into a specialised agency or to draw up a formal anti-corruption strategy as this will largely depend on the final outcome of negotiations on the proposal for an EU Directive⁶² on combatting corruption⁶³. There have been calls in this direction from civil society for a number of years⁶⁴.

⁵³ Flash Eurobarometer 543 on Businesses' attitudes towards corruption in the EU (2024). The Eurobarometer data on business attitudes towards corruption is updated every year. The previous data set is the Flash Eurobarometer 524 (2023).

⁵⁴ Special Eurobarometer 548 on Citizens' attitudes towards corruption in the EU (2024).

⁵⁵ Flash Eurobarometer 543 on Businesses' attitudes towards corruption in the EU (2024).

⁵⁶ Between 1999 and 2023, Luxembourg only carried out 7 foreign bribery investigations of which there were 4 prosecutions, 2 discontinued investigations and 1 ongoing investigation. Only one of these has received a final judgment. OECD (2024), *Implementing the OECD Anti-Bribery Convention in Luxembourg: Phase 4 Report*, p. 11.

⁵⁷ OECD (2024), *Implementing the OECD Anti-Bribery Convention in Luxembourg: Phase 4 Report*, pp. 51, 95 and 96.

⁵⁸ As was the case last year, COPRECO did not present or propose any recommendations or specific measures. See 2023 Rule of Law Report, Country Chapter on the rule of law situation in Luxembourg, p. 10.

⁵⁹ COPRECO is required by law to meet at least twice a year according to Art. 3(1) of the Regulation of 15 February 2008 determining the composition and operation of the Committee for the Prevention of Corruption. COPRECO met on 18 April 2023 to prepare for the OECD evaluation and on-site visit of May 2023.

⁶⁰ The OECD Working Group on Bribery adopted Luxembourg's Phase 4 evaluation report on 7 March and published it on 15 March 2024.

⁶¹ The topic will be 'Implementation of the Recommendations of the OECD Phase 4 Evaluation and GRECO Phase 6 Evaluation preparations'. Written contribution and information received from COPRECO in the context of the country visit to Luxembourg.

⁶² COM(2023) 234 final, 3.5.2023.

⁶³ These issues (e.g., role, operating mode and functioning of the COPRECO) would be analysed in depth and discussed with the members of the COPRECO once the new EU Directive is adopted. Information received from COPRECO and Ministry of State in the context of the country visit to Luxembourg. See also 2023 Rule of Law Report, Country Chapter on the rule of law situation in Luxembourg, p. 10. Parties to the UN

The number of reported corruption cases over the past year shows a slight increase as do the number of ongoing investigations. The number of corruption cases registered in the State Prosecutor’s Office showed a slight increase in 2023 at 31 cases compared to 28 cases in 2022⁶⁵. Data for 2023 also show an increase in the number of ongoing investigations – 23 compared to 14 in 2022⁶⁶. There were three convictions compared to six in 2022 and final court decisions amounted to four cases each in 2023 and 2022⁶⁷. In 2023, five new cases were also opened that relate to the possible involvement of a legal person. Since 2019 there have been 14 cases involving at least one legal person, of which 9 cases were still ongoing as of 31 December 2023. There are currently four ongoing investigations on international bribery cases which started between 2020 and 2022⁶⁸. The Police reported four open cases of corruption and bribery, three from 2023 and one open in 2024. The Police are in the process of consolidating their separate databases into one centralised and global case-management system, which is planned to be in place by summer 2025. The new system is expected to improve the extraction and reporting of statistical information, enable the police to carry out their core task of combatting crime more effectively, and facilitate exchanges with both external and international databases⁶⁹. The overall cooperation between EPPO, the judicial police, and the national prosecution offices continues to work well⁷⁰. There were no reported cases of corruption within the Police nor any breaches of the transparency and integrity charter for the General Police Inspectorate⁷¹.

There are plans to increase the resources and recruitment for the police and prosecution services dealing with economic and financial crime. The 2023 Rule of Law Report had reported significant progress in the increase of resources for the police and prosecution services⁷². The Government’s Coalition Agreement 2023-2028 has committed to

Convention against Corruption are required to ensure the existence of an independent body that oversees and coordinates preventive anti-corruption policy.

⁶⁴ Information received from StopCorrupt in the context of the country visit to Luxembourg. See also 2023 Rule of Law Report, Country Chapter on the rule of law situation in Luxembourg, p. 10.

⁶⁵ Written input from Luxembourg to the 2024 Rule of Law Report. One case was added to the statistics of 2022 (from 27 reported last year to 28 cases) after the last database update. See also p. 8 of the 2023 Rule of Law Report, Country Chapter on the rule of law situation in Luxembourg for the trend since 2019. Figures include money laundering cases.

⁶⁶ In the 2023 Rule of Law Report, the figure quoted for 2022 was 18 ongoing cases (p. 8). The actual updated figure is 14 ongoing cases. The difference is reportedly because manually inputted data include data on suspected offences which are then tallied at the end of the year with the actual number of cases (‘living file’). Information received from the Prosecution Service (Economic and Financial Crime Section) in the context of the country visit to Luxembourg.

⁶⁷ Input from Luxembourg for the 2024 Rule of Law Report. Written contribution and information received from the Prosecution Service (Economic and Financial Crime Section) in the context of the country visit to Luxembourg.

⁶⁸ Written contribution and information received from the Prosecution Service (Economic and Financial Crime Section) in the context of the country visit to Luxembourg.

⁶⁹ Information received from the Police in the context of the country visit to Luxembourg. The new case management system, called ‘POLIS’, is designed to enable more interconnected, mobile and efficient work.

⁷⁰ Input from EPPO for the 2024 Rule of Law Report and information from the Police and the Prosecution Service (Economic and Financial Crime Section) in the context of the country visit to Luxembourg. In 2023, EPPO investigated one corruption offence amounting to 3.6% of active EPPO cases in Luxembourg. EPPO (2024), Annual Report 2023, p. 43. According to information from the Police in the context of the country visit, they were involved in 13 cases with EPPO between 2021 and 2024.

⁷¹ Information received from the Police and the Ministry of Home Affairs during the country visit to Luxembourg.

⁷² 2023 Rule of Law Report, Country Chapter on the rule of law situation in Luxembourg, pp. 8-9.

strengthen the Judicial Police, particularly in the fight against economic and financial crime. Significant recruitment efforts should continue to address the shortage of staff and to enable the police to fulfil its legal tasks⁷³. Although it is too early to know how future resources will be allocated, the expectation is for one-third to go to the Judicial Police, of which five to eight officers would be allocated to the economic and financial crime department per year⁷⁴. Staff in the anti-money laundering/terrorist financing section of the Police has gone up by 10 (from 19 in 2022 to 29 in 2023)⁷⁵. The Police have indicated the need to recruit specialists to reinforce the civilian staff (‘civilian police’) to assist with their financial and economic crime investigations⁷⁶. The number of magistrates at the Economic and Financial Crime Section of the Prosecution Service has, however, remained stable at 16 compared to 2023 despite the expected 15 percent increase in the number of magistrates reported last year⁷⁷. One assistant prosecutor will join the department in April 2024 and the hiring process (begun in late 2023) for a second one is still ongoing. Administrative staff increased by two (one in the general secretariat and one for the economic and financial crime section) which is a slight improvement but not a significant change⁷⁸. With the objective of addressing the lack of magistrates, a draft bill⁷⁹ was presented in August 2023 seeking to substantially increase their number. yet⁸⁰. The Council of State issued its opinion on the draft bill on 12 March 2024. At the end of March 2024, the Government made some preliminary amendments to the draft bill that are currently under consideration in the Parliament and may be completed by September 2024⁸¹.

⁷³ Government of Luxembourg, Coalition Agreement 2023-2028, p. 112. Information also received from the Ministry of State and the Ministry of Home Affairs in the context of the country visit to Luxembourg.

⁷⁴ In May, a net increase of 90 police officers was expected to support national and local police units and services. An exceptional request for 50 positions for the police in the context of the coalition agreement has been made and is still pending. Information and written contribution from the Police in the context of the country visit to Luxembourg.

⁷⁵ Input from Luxembourg for the 2024 Rule of Law Report. Over the past three years, the Grand-Ducal Police has been offering students who undertake a contractual traineeship as part of their course the opportunity to discover the profession of investigator. As part of this traineeship, they may, where appropriate, participate in investigations in relation to corruption cases.

⁷⁶ Information received from the Police in the context of the country visit to Luxembourg. The Police have already taken in two new recruits from the traineeship programme (see footnote 76) into their financial and economic crime department.

⁷⁷ Input from Luxembourg for the 2024 Rule of Law Report and information received from the Prosecution Office (Economic and Financial Crime Section) in the context of the country visit to Luxembourg. See also 2023 Rule of Law Report, Country Chapter on the rule of law situation in Luxembourg, p. 9 and footnotes 70 and 71.

⁷⁸ Information received from the State Prosecution Service (Economic and Financial Crime Section).

⁷⁹ Draft Law No. 8299 presented on 23 August 2023 was tabled under the former Government before the October 2023 general elections. The draft bill proposes to create 194 new posts (compared to the current 276 posts) over a six-year period. Written contribution received from the State Prosecution Service in the context of the country visit to Luxembourg.

⁸⁰ From the prosecution’s perspective, an increase would help to offset the imbalance in resources between the prosecution and the defence teams especially when prosecuting serious financial crimes. The capacity of a defence team to make many requests to the courts could lead to significant delays in the judicial procedure and creates an asymmetry between the capacities of the prosecution and the defence. At the same time, judicial authorities are concerned that it would not be possible to find the requested number of candidates to fill so many new posts in such a short time and that the proposed number of posts is disproportionately much higher than the posts proposed for judges. Written contribution and information received from the State Prosecution Service in the context of the country visit to Luxembourg.

⁸¹ The draft amendments propose splitting the bill into three parts. It would effectively maintain the number of 194 newly created posts (identical with the number proposed in draft law Project 8299) but would be limited

Significant progress was made on increasing the transparency of interactions between parliamentarians and lobbyists as the Code of Conduct for Parliamentarians was revised. The 2023 Rule of Law Report recommended to Luxembourg to ‘[e]valuate the implementation of the new legislation on lobbying the Parliament and the functioning of the transparency register and ensure that it meets the transparency requirements set out in the Parliament’s rules of procedures’⁸². The Code of Conduct for Parliamentarians, an integral part of the Rules of Procedure of the Chamber of Deputies, was revised on 21 July 2023. The amendments clarify and strengthen the ethical rules for parliamentarians and increase transparency, in particular in relation to the disclosure of assets and public representative missions⁸³. The disciplinary provisions (for breaches of the Code) in the Chamber’s Rules of Procedure (Chapter 9) and the Code of Conduct (Article 8) were also modified. A specific obligation for parliamentarians to denounce any cases of attempted corruption was added to the Code of Conduct. On 11 October 2023, the Bureau of the Chamber adopted a new Practical Guide to Ethics and Transparency that provides guidance and practical examples on the application of the Code of Conduct in relation to asset declarations, relations with lobbyists, gifts, and invitations⁸⁴. The Parliament will hold ethical training for Members and their staff in spring 2024⁸⁵. Members of Parliament are now required to announce their contacts with lobbyists during committee and plenary hearings while a rapporteur for a particular piece of legislation must record any meetings in the actual report and minutes of the committee meetings⁸⁶. Parliamentarians and third parties are not required to list their meetings in the register (in contrast to members of government and their advisers)⁸⁷. The information entered into the Transparency Register, set up in 2021⁸⁸, must include all the

to modifying the recruitment procedures. Written contribution from the State Prosecution Service and from the Police in the context of the country visit to Luxembourg.

⁸² 2023 Rule of Law Report, Country Chapter on the rule of law situation in Luxembourg, p. 2. A similar recommendation was made in the 2022 Rule of Law Report, Country Chapter on the rule of law situation in Luxembourg, p. 2, which assessed ‘[s]ome progress on continuing to implement and evaluate the new legislation on lobbying the Parliament, including the transparency register.’

⁸³ Input from Luxembourg for the 2024 Rule of Law Report, pp. 5-6 and information received from the Ministry of State and the Parliamentary Administration in the context of the country visit to Luxembourg. All these developments and changes resulted from an internal evaluation carried out by the Bureau of the Chamber and the Conference of Presidents.

⁸⁴ Input from Luxembourg for the 2024 Rule of Law report and information received from the Parliament Administration and the Ministry of State in the context of the country visit to Luxembourg. The Guide, which is not a public document, was distributed to the members of the new Parliament set up on 24 October following the general elections of 8 October 2023. A first version of the Guide already dated from 24 February 2023. For its part, the Group of States against Corruption (GRECO) is satisfied about the revisions to the Code of Conduct together with the Guide to Ethics and Transparency that formed part of its recommendation on ‘corruption prevention in respect of members of parliament’. See GRECO (2023), Fourth Evaluation Round, Addendum to the Second Compliance Report for Luxembourg, adopted on 1 December and published on 6 December 2023, pp. 3-4.

⁸⁵ Input from Luxembourg for the 2024 Rule of Law Report and information from the Parliament Administration.

⁸⁶ Information received from the Ministry of State and the Parliamentary Administration in the context of the country visit to Luxembourg. Furthermore, in April 2024, the parliament is starting a test phase for live online broadcasts of 5 out of 20 committees that will remain accessible afterwards thus improving transparency.

⁸⁷ The OECD considers that, as measured against OECD standards on lobbying, Luxembourg fulfils 25% of criteria for regulations and 33% for practice compared to the OECD average of 38% and 35% respectively. OECD (2024), OECD Anti-Corruption and Integrity Outlook: Country Fact Sheet 2024, p. 6.

⁸⁸ The transparency register was created by law on 9 December 2021 (Amendment of the Rules of Procedure of the Chamber of Deputies, Document 7499 of 2020-2021, 17 January 2022) and an extract is publicly

information required by the Rules of Procedure, although only an extract of this information is directly accessible on the Parliament’s website: the name, the legal form and the name of the third party represented⁸⁹. The public may nevertheless consult the more detailed information held in the Register through a request with the Parliamentary Administration. However, it does not cover other important information such as the policy or piece of legislation targeted⁹⁰ and nor is there a supervisory function in central government overseeing the transparency in lobbying activities⁹¹. The transparency for asset declarations has improved⁹² although there is still no formal verification system to check their accuracy, which would be considered relevant⁹³. Overall, in light of the regulatory developments, there has therefore been significant progress on the implementation of the recommendation made in the 2023 Rule of Law Report.

Draft laws to introduce codes of conduct for elected representatives and officials at municipal level are still pending adoption. The opinion of the Council of State on the draft law and draft Grand-Ducal Regulation⁹⁴ to introduce ethical principles applicable to municipal councilors in the exercise of their functions and strengthen transparency in the exercise of local politics and administration is still pending. The precise timeframe is not

available through the Parliament’s website See 2023 Rule of Law Report, Country Chapter on the rule of law situation in Luxembourg, p. 11.

⁸⁹ According to Article 178bis, para 5, of the Rules of Procedure, the register should include the name, legal form, address of the registered office, the telephone number, email address, the business number in the trade and companies register or its equivalent for foreign companies, the purpose of the association, company or group, and the name of the third party represented if applicable. However, the Rules only require the Parliament to publish an extract of the Register on its website.

⁹⁰ The 2024 OECD Recommendation of the Council on Transparency and Integrity in Lobbying and Influence recommends to “make publicly available (...) comprehensive and detailed information on lobbying and influence activities, in particular on who, and/or on whose behalf, is lobbying or influencing undertaken, who is the target of such activities, the policy issue or regulatory act concerned, the objectives, and any supporting documentation received from lobbying and influence actors; “ensure that the oversight function reviews the completeness, adequacy and timeliness of all the information.”

⁹¹ OECD (2024), OECD Anti-Corruption and Integrity Outlook: Country Fact Sheet 2024, p. 6. As mentioned in the 2023 Rule of Law Report, Country Chapter on the rule of law situation in Luxembourg, p. 11, the quality and utility of the register (an Excel file) are still considered as minimal because it is not possible for the public or journalists to ascertain whether meetings have taken place or what was discussed. Information received from StopCorrupt in the context of the country visit to Luxembourg.

⁹² Asset declarations are publicly available on the Parliament’s website and are thus subject to ‘public oversight’ by civil society or the press, who can refer any irregularities to the Speaker of the House or the Conference of President. The case is then referred to the Advisory Committee that will examine the alleged infringement and, depending on the findings, will make a recommendation on a possible decision. See input from Luxembourg for the 2024 Rule of Law Report and Article 8 of the Code of Conduct.

⁹³ Information received from StopCorrupt in the context of the country visit to Luxembourg. GRECO considers that this type of public monitoring, while essential, is not a substitute for monitoring by State authorities, even though it acknowledges that the disciplinary rules of the Chamber’s Rule of Procedure were extensively amended. It therefore considers its related recommendation to be partly implemented. At the same time, GRECO has decided to terminate the Fourth Round compliance procedure and invites Luxembourg to keep it informed of any future progress on the outstanding recommendation. See GRECO (2023), Fourth Evaluation Round, Addendum to the Second Compliance Report for Luxembourg, adopted on 1 December and published on 6 December 2023, pp. 4-5 and 13-14.

⁹⁴ Draft law PL No 8052 and draft Grand-Ducal Regulation (PRGD 61.113). The law will include rules on the limits of the amount of the gifts which municipal councillors may accept and an obligation for them to make a declaration of their real estate assets (including those of their spouses) and interests within one month of their taking office. See 2023 Rule of Law Report, Country Chapter on the rule of law situation in Luxembourg, p. 12 and related footnotes.

known but the Government hopes that it would be possible to adopt the draft law and regulation in 2024⁹⁵. This is seen as a positive step even though some concerns have been expressed on the personal scope which is limited only to elected officials and not also to civil servants⁹⁶. Civil servants at local level are nevertheless subject to the Municipal Code, which sets out their rights and duties in general as well as disciplinary measures⁹⁷. The implementation of the Municipal Code falls under the responsibility of the Ministry of Home Affairs that provides advice on possible conflicts of interest and the application of the Code in concrete cases⁹⁸.

The transmission of information to the transparency register for meetings between members of the Government and their advisers with third parties is being simplified.

The register of meetings between members of Government and their advisers with representatives of interest groups or third parties was set up under the 2022 Codes of Conduct for Government members and their advisers⁹⁹. As was the case last year, the technical updates to the transparency register continued to pose some problems primarily because of the way information has been entered into the register¹⁰⁰. The Ethics Committee was unable to monitor the meetings that took place under the new Government (in office since 17 November 2023), as the last update to the Register was made on 2 October 2023¹⁰¹. It was reportedly unclear as to what types of meetings the new government members and advisers should include in the register to comply with the requirements under the Code of Conduct, and this resulted in a delay to update the register¹⁰². The platform is now undergoing some internal technical changes to simplify and facilitate the way that information about meetings is transmitted to the register, so as to ensure timelier and more up-to-date information being

⁹⁵ Information received in the context of the country visit to Luxembourg from the Ministry of State and the Ministry of Home Affairs.

⁹⁶ Information received from StopCorrupt in the context of the country visit to Luxembourg. They have been calling for a local level code for some time. See 2023 Rule of Law Report, Country Chapter on the rule of law situation in Luxembourg, p. 12.

⁹⁷ Chapters 5 and 15 of the Municipal Code. The Ministry of Home Affairs is responsible for oversight of the municipalities.

⁹⁸ In the last five years, the Ministry estimated it received about 170 requests for clarification (to be noted that the Ministry does not produce or conduct any official statistics). Information received from the Ministry of Home Affairs in the context of the country visit to Luxembourg.

⁹⁹ Two separate Codes of Conduct for Members of Government and their advisers form part of the Government's Rules of Procedure (Annexes D and F). These include rules on gifts, revolving doors, conflicts of interest and lobbying. See Grand Ducal Decree of 27 November 2023, Official Journal, Memorial A779.

¹⁰⁰ Currently, information about meetings is entered individually on a platform where only a limited number of users can export all the meetings into a document to ensure their publication. This has led to delays in the updating of the register and to erroneous information being entered (some one-third of meetings entered were deemed ineligible as they did not concern meetings relating to the Government's legislative or regulatory activity as required under the Codes of Conduct). Information received from the Ministry of State in the context of the country visit to Luxembourg. See also the 2023 Rule of Law Report, Country Chapter on the rule of law situation in Luxembourg, pp. 11-12.

¹⁰¹ In 2023, 67 meetings between government members and lobbyists/third parties took place, compared to 156 in 2022. The corresponding figures for government advisers are 24 in 2023 and 85 in 2022. Since the new Government took office on 17 November 2023, the registers of interviews were not updated before 31 January and 1 February 2024. Data for that period were therefore not included in the Ethics Committee's 2023 annual report. See the annual reports of the Ethics Committee for 2023 and 2022 published on 30 January 2024 and 26 January 2023 respectively. The registers have now been updated to reflect meetings held from October 2023 to January 2024.

¹⁰² Information received from the Ministry of State in the context of the country visit to Luxembourg.

made available to the public¹⁰³. These changes should be operational by the end of September 2024¹⁰⁴.

The Ethics Committee found no breaches of the Codes of Conduct for Members of Government or their Advisers. In January 2024, the Ethics Committee published its 2023 annual report on the implementation of the Codes of Conduct for government members and their advisers¹⁰⁵. In 2023, for members of government, it checked 18 declarations of assets and interests and issued 18 opinions (same as in 2022) and made no requests for clarification (compared to 4 in 2022). It did not identify any conflicts of interest and took one measure to prevent conflicts of interest or remind of obligations under the Code (compared to none in 2022). For government advisers, it reviewed and checked 26 lists of personal declarations (10 in 2022), drafted 26 opinions¹⁰⁶ (10 in 2022) and made eight requests for clarification (2 in 2022). As in 2022, it did not identify any conflicts of interest or take any measures to prevent conflicts of interest or recall obligations in 2023. The register of gifts was last updated on 27 June 2023 and the Ethics Committee was unable to monitor the gifts received after that date as since the new Government took office on 17 November 2023, no updates had been made to the register of gifts¹⁰⁷. In 2023, 73 gifts were received by members of government (compared to 200 in 2022) and no gifts were accepted by government advisers for both 2023 and 2022¹⁰⁸. Since 1 October 2023, the Ethics Committee's members increased from three to four¹⁰⁹. In May 2024, the Ethics Committee held a meeting with the new government to follow up on its April 2023 and 2024 recommendations to specify its investigation powers, and amend its rules of procedure and to change the Code of Ethics for the members of the Government and their advisers, mainly in relation to the level of their debts¹¹⁰.

¹⁰³ The plan is to change only the transmission of information and not the content of that information. More agents will be allowed to access the platform. Each individual will be able to register their meetings and will receive a notification when the information entered is considered complete and can be published, or when certain data requires further information. Each user will therefore be informed of the status of the meetings he or she has entered on the platform. This should simplify the procedure and make it less time-consuming while ensuring a timelier transmission of information about meetings. Information received from the Ministry of State in the context of the country visit to Luxembourg.

¹⁰⁴ Information received from the Ministry of State in the context of the country visit to Luxembourg. The timeframe to adapt the internal IT system of the platform is as follows: design (April to June 2024); implementation (July to September 2024).

¹⁰⁵ Ethics Committee (2024), Report on the activities of the Ethics Committee 2023, published on 30 January 2024.

¹⁰⁶ Statements and opinions by the Ethics Committee are confidential.

¹⁰⁷ Ethics Committee (2024), Report on the activities of the Ethics Committee 2023, p. 7 and written contribution from the Ethics Committee in the context of the country visit to Luxembourg.

¹⁰⁸ Ethics Committee (2024), Report on the activities of the Ethics Committee 2023, p.8.

¹⁰⁹ Article 26 of the Code of Ethics for Members of the Government states that the Ethics Committee shall consist of at least three members, chosen from among members of the Government, deputies, judges, state advisers or civil servants who have ceased their term of office or functions respectively. The members of the Ethics Committee are appointed for a non-renewable five-year term. The Committee held four face-to-face meetings in 2023 and six in 2022 apart from regular consultations on topical issues falling within its remit.

¹¹⁰ Written contribution from the Ethics Committee in the context of the country visit to Luxembourg. According to the Committee, the 2022 regulations setting up the Ethics Committee contain very few rules on its powers and resources available to carry out the tasks entrusted to it. That is why the Committee adopted its own rules of procedure to ensure the transparency of its operation. See the recommendations issued by the Ethics Committee on 3 April 2023 and 10 April 2024. See also 2023 Rule of Law Report, Country Chapter on the rule of law situation in Luxembourg, p. 12.

The Court of Auditors found no irregularities in relation to political parties' compliance with public funding rules. In its 2022 annual report on political party financing¹¹¹, apart from some minor technical accounting errors, the Court did not find any irregularities in the parties' compliance with the public funding rules¹¹². The law on political party financing also obliges political parties to keep accounts of any donations received whether in cash or of an equivalent value 'in kind'. Candidates themselves must not receive and keep donations on a personal basis and no anonymous donations are allowed. Only natural persons are allowed to make a donation to a political party and all donors must be registered by the respective party¹¹³. Any donation exceeding the value of EUR 250 in cash or in kind¹¹⁴ must be officially reported to the Prime Minister, to the President of the Parliament and to the Court of Auditors¹¹⁵.

An Office for whistleblowers was set up. An Office for whistleblowers (*l'Office des signalements* (OSIG)) under the authority of the Ministry of Justice has been in operation since 1 September 2023. One of the OSIG's main tasks is to inform and assist reporting persons, raise awareness, and help with interpreting the law. The OSIG expects to publish its first activity report in mid-2024. It is also preparing an awareness raising campaign to be launched in 2024 and followed up in 2025. A dedicated website that will provide information and guidance on whistleblowing legislation will be set up in the coming months¹¹⁶. The police did not receive any whistleblower reports during this reporting period¹¹⁷.

No corruption cases were reported in public procurement, although the sector remains, with financial services and real estate, at high risk of corruption. The Flash

¹¹¹ Court of Auditors (2024), 'Rapport sur l'observation des dispositions de la loi modifiée du 21 décembre 2007 portant réglementation du financement des partis politiques pour l'exercice 2022'. Finalised in December 2023 and presented to the Parliament in January 2024.

¹¹² Ibid and written contribution from the Court of Auditors in the context of the country visit to Luxembourg. See also Chamber of Deputies, 'Political party financing under scrutiny in 2022', press release of 22 January 2024.

¹¹³ As measured against OECD standards on political finance, Luxembourg fulfils 70% of criteria for regulations and 71% for practice, compared to the OECD average of 73% and 58% respectively. Political parties are prevented from receiving anonymous donations or any financial support from state-owned enterprises, foreign states and foreign enterprises. See OECD (2024), *Anti-Corruption and Integrity Outlook: Country Fact Sheet 2024*, p. 8.

¹¹⁴ Following a ruling by the Administrative Court on 3 February 2022 ('Appeal filed by the non-profit association against a decision of the Prime Minister, Minister of State regarding the financing of political parties'), Parliament may return to the question of how to assess contributions in kind, including whether the legal framework needs adapting. Information received by the Parliament's administration and the Ministry of State in the context of the country visit to Luxembourg. See also Chamber of Deputies, 'Political party financing under scrutiny in 2022', press release of 22 January 2024.

¹¹⁵ Article 9 & Article 14 of the Act of 21 December 2007 regulating the financing of political parties. Written contribution from the Court of Auditors in the context of the country visit to Luxembourg.

¹¹⁶ Input from Luxembourg for the 2024 Rule of Law report and information received from the Ministry of State in the context of the country visit to Luxembourg. The activity report will be included as an additional section in the annual report of the Ministry of Justice. The availability of data will depend on the input of the 23 competent authorities receiving whistleblowing reports. The Prosecution Service has held meetings with the Office to help define their communication channels. The OECD commended Luxembourg on its whistleblower protection law although it asked for clarifications and revisions of certain elements. OECD (2024), *Implementing the OECD Anti-Bribery Convention in Luxembourg: Phase 4 Report*, pp. 19-20 and 95.

¹¹⁷ Information received from the Police and the Ministry of Home Affairs during the country visit to Luxembourg.

Eurobarometer on Businesses' attitudes towards corruption in the EU shows that 34% of companies in Luxembourg (EU average 27%) think that corruption has prevented them from winning a public tender or a public procurement contract in practice in the last three years¹¹⁸. As was the case last year, the Court of Auditors did not detect or receive any reports about irregularities or suspicions of corruption in relation to public procurement procedures or the use of public funds¹¹⁹. The police did not detect any discernible trends of infiltration by organised crime within the police force which they attribute to preventive measures in place¹²⁰. Nevertheless, sectors identified as vulnerable to corruption and fraud are public procurement, financial services and real estate¹²¹ as well as designated non-financial professions¹²².

III. MEDIA PLURALISM AND MEDIA FREEDOM

The legal framework concerning media freedom and pluralism comprises a set of constitutional and legislative safeguards. Freedom of expression is explicitly recognised in the Constitution. The Law on Freedom of Expression in Media ensures protection for journalists¹²³. The Law on Electronic Media guarantees the financial and administrative independence of the audiovisual media regulator. The Law on Open and Transparent Administration regulates access to information held by public authorities and bodies.

The Government is planning reforms in the media sector legislation. The Government envisages the overhaul of the Law on Electronic Media and started preparing, together with the Ministry of Justice, the Press Council and journalists an Action Plan to guarantee the safety of journalists¹²⁴. The coalition agreement for the Government (2023-2028) explicitly mentions the commitment to reinforce the protection of journalists against acts of physical violence and intimidation attempts, aiming to establish a safe and favourable environment for freedom of expression and democracy¹²⁵. An evaluation on the application of the law on the press aid scheme, which may trigger an adaptation of this scheme to focus on professional journalists, is expected by July 2024.

The general legal framework concerning the regulator for audiovisual media services remains stable, while its tasks have been expanded. The legal base of the Luxembourg Independent Authority for Audiovisual Media (ALIA) is stable, although the transposition of

¹¹⁸ Flash Eurobarometer 543 on Businesses' attitudes towards corruption in the EU (2024). This is 7 percentage points above the EU average.

¹¹⁹ Written contribution from the Court of Auditors in the context of the country visit to Luxembourg. See also 2023 Rule of Law Report, Country Chapter for Luxembourg, p. 13.

¹²⁰ Information from the Police in the context of the country visit to Luxembourg.

¹²¹ Information from the Police, the Ministry of Home Affairs and StopCorrupt in the context of the country visit to Luxembourg.

¹²² As a major financial centre, Luxembourg has a high risk of money laundering, including the proceeds of bribery. In addition to financial institutions and professions, designated non-financial professions such as lawyers, certified accountants, auditors, accountants and tax advisors, are exposed to increased risks of money laundering (or may be behind such schemes), especially due to their access to financial services and their major role as intermediaries. OECD (2024), *Implementing the OECD Anti-Bribery Convention in Luxembourg: Phase 4 Report*, pp. 9-10.

¹²³ Luxembourg ranks 11th in the 2024 Reporters without Borders World Press Freedom Index compared to 20th in the previous year.

¹²⁴ Information received from the Ministry of State in the context of the country visit to Luxembourg.

¹²⁵ See Government coalition agreement.

the revised Audiovisual Media Services Directive triggered the setting up of new procedures for external reporting and safeguarding confidentiality. These added to the increased workload for ALIA, as already signalled in the 2023 Rule of Law Report¹²⁶. ALIA has been signalled to the new Government¹²⁷ its estimated needs of around seven additional posts, to have in total 20 posts. Moreover, the Media Pluralism Monitor 2024 for Luxembourg outlines that the budget allocated by the State is not sufficient to perform its functions adequately¹²⁸. Information on media ownership is published in the Euromedia Ownership Monitor¹²⁹. The Media Pluralism Monitor 2024 for Luxembourg notes that the media landscape is highly concentrated offline and online due, in part, to the absence of specific limitations to prevent media concentration¹³⁰.

The Government ensured funding support for the Public Service Media 100.7 until 2030. Law 8209 adopted on 15 August 2023¹³¹ confirms a total financial allocation of around EUR 80 million to the Public Service Media 100.7 for the years 2024-2030¹³². During the first year, Public Service Media 100.7 established a “*Statut Redactionnel*”¹³³, which safeguards its editorial independence as a public service and sets up its governance structure¹³⁴. The Audience Council¹³⁵ has been established, and 12 members were nominated to the Board of Directors in December 2023 following a public call for candidates.

Some further progress has been reported to facilitate the access to official documents.

The 2023 Rule of Law Report recommended to Luxembourg to ‘[e]nsure the implementation of measures adopted in relation to the time of processing of requests for disclosure of official documents, taking into account European standards on access to official documents’¹³⁶. Administrative measures were taken in the past (internal explanatory notes) instructing the administration to disclose information in a timely manner¹³⁷, however journalists have been calling for changes to the Law on Transparent and Open Administration. Since the publication of the results of the 2022 survey on the application of the Law¹³⁸, consultations took place between the Commission on Access to Documents and the Press Council with the aim to reflect in the Law, among other matters, the specific needs of journalists for fast access to information. The government has pledged to present, in 2024, a draft law which would

¹²⁶ See 2023 Rule of Law Report, Country Chapter on the rule of law situation in Luxembourg, p. 14-15.

¹²⁷ Information received from the ALIA in the context of the country visit to Luxembourg.

¹²⁸ Media Pluralism Monitor 2024 for Luxembourg, p 15.

¹²⁹ See Euromedia ownership monitor.

¹³⁰ Media Pluralism Monitor 2024 for Luxembourg, p 8.

¹³¹ Law of August 15, 2023 authorising the State to grant an annual grant to the public establishment “Public service media 100.7” for the financial years 2024 to 2030 inclusive.

¹³² The trust in public service media in Luxembourg reaches 59%, against an EU average of 48% (European Parliament Flash Eurobarometer. News and Media Survey 2023).

¹³³ Editorial Statute of the Public national radio 100.7.

¹³⁴ The “Statut Redactionnel” adopted by the Management Board of Public Service Media 100.7 establishes the rules and principles regarding the independence and execution of the public service mission. It sets the rights and obligations of journalists and defines the editorial competences of the editor in chief and the director general.

¹³⁵ Contemplated in article 7 of the law of 12 August 2022 on Média de Service public 100.7

¹³⁶ See 2023 Rule of Law Report, Country Chapter on the rule of law situation in Luxembourg, p. 2, which assessed that ‘[s]ome progress on reducing the time of processing of requests for disclosure of official documents, taking into account European standards on access to official documents.’

¹³⁷ See 2023 Rule of Law Report, Country Chapter on the rule of law situation in Luxembourg, p. 16.

¹³⁸ Inquiry into the application of the amended law of September 14, 2018 relating to transparent and open administration – Analysis of the results

enshrine in law the right to access public information for professional journalists¹³⁹. Therefore, building also on the progress assessed in the 2023 Rule of Law Report, some further progress has been made.

The professional environment for journalists continues to be safe, and their protection has been strengthened. The framework for the protection of journalists remains robust¹⁴⁰. The Law 8015 of 7 August 2023¹⁴¹ amended the Criminal Code and the Code of Criminal Procedure to qualify attacks against journalists as an aggravating circumstance. In particular, threats or attacks with dangerous substances or the disclosure of information that could lead to identification, putting the person or the person's family members at risk, are punished more severely if committed against professional journalists. Since the 2023 Rule of Law Report, the Council of Europe Platform to promote the protection of journalism and safety of journalists¹⁴² and the Media Freedom Rapid Response¹⁴³ have not registered any alerts for Luxembourg. Criminal defamation prosecutions against the media continue to be scarce. The Government provides financial support to the Press Council and the Luxembourg Professional Association of Journalists, which covers partially the expenses related to the legal protection of their members.

IV. OTHER INSTITUTIONAL ISSUES RELATED TO CHECKS AND BALANCES

Luxembourg is a unicameral¹⁴⁴ parliamentary democracy, in which legislative proposals can originate from the Government and from members of Parliament. The Council of State gives an advisory opinion on draft legislation, whether proposed by the Government or by members of Parliament. The Constitutional Court scrutinises the constitutionality of legislation. Independent authorities, such as the Consultative Commission for Human Rights (CCDH), the Ombudsperson, the Ombudsperson for children and youngsters, and Centre for Equal Treatment¹⁴⁵ play an important role in the system of checks and balances.

Some progress has been achieved in making the legislative process more inclusive, in particular as regards the Government, while shortcomings remain at level of Parliament. The 2023 Rule of Law Report recommended to Luxembourg to '[i]mprove the legislative decision-making process by providing wider possibilities for stakeholders to participate in public consultations'¹⁴⁶. As mentioned in previous Rule of Law Reports¹⁴⁷,

¹³⁹ See Luc Frieden annonce un projet de loi pour les journalistes avant l'été. - <https://infos.rtl.lu/actu/luxembourg/a/2157109.html>

¹⁴⁰ The framework for the protection of journalists is based on a set of constitutional and legislative safeguards. In particular, the law on freedom of expression in the media provides protection for the journalists working in Luxembourg. Journalists are legally protected in cases of editorial change, and journalistic sources are well protected too. – See 2020 Rule of Law Report, Country Chapter on the rule of law situation in Luxembourg, p. 8.

¹⁴¹ Law of 7 August 2023 amending the Criminal Code and the Criminal Procedure Code.

¹⁴² Council of Europe Platform to promote the protection of journalism and safety of journalists.

¹⁴³ European Centre for Press and Media Freedom, Media Freedom Rapid Response – Luxembourg.

¹⁴⁴ The parliament is composed of the Chamber of Deputies.

¹⁴⁵ The equality body of Luxembourg.

¹⁴⁶ See 2023 Rule of Law Report, Country Chapter on the rule of law situation in Luxembourg, p. 2, which assessed that '[n]o further progress on improving the legislative decision-making process by providing wider possibilities for stakeholders to participate in public consultations.'

¹⁴⁷ See 2021, 2022 and 2023 Rule of Law Report, Country Chapter on the rule of law situation in Luxembourg, pp. 15 to 17.

concerns have been raised as regards the regularity and extent of stakeholder consultations in the decision-making process. As a general rule, throughout the ordinary legislative procedure, a consultative opinion of the Council of State is mandatory for every proposed legislation. In addition, there are five professional chambers¹⁴⁸, which are consulted in their respective field of expertise. The Ministry of State informed that at Government level stakeholders are consulted either before drafting the draft law, or before tabling the draft law in Parliament, or at the moment of tabling the draft law in Parliament¹⁴⁹. Moreover, there is a wide list of stakeholders that are consulted according to the topic of the draft that is being prepared¹⁵⁰. For some of these stakeholders the consultation is mandatory, notably in specific areas of legislation, while for others, this is at the discretion of the governmental authority preparing the draft law¹⁵¹. Thus, the stakeholder consultation at the Government level is well regulated and inclusive with various possibilities for stakeholders to take part in the process. However, at the level of Parliament, when the draft is prepared by the members of Parliament, as mentioned in previous Reports¹⁵², the consultation includes only the opinions of the Council of State, the relevant professional chamber, and the stakeholders that have been specifically asked by the Parliament to contribute to the process. The contribution of stakeholders that decided to proactively send a contribution, while being considered as part of the file, is not published on the website of the Parliament and it is not clear whether it is taken into account¹⁵³. So there has been some progress on the implementation of the recommendation made in the 2023 Rule of Law Report.

A reform of the independent fundamental rights institutions is being discussed to give them more independence. The Consultative Commission for Human Rights (CCDH) is the National Human Rights Institution, which has A-status accreditation¹⁵⁴. Since June 2023, there are discussions about a reform that would unify all legislative acts regarding the independent fundamental rights institutions. These institutions included the Ombudsperson, OKaJu (the Ombudsperson for children and youngsters) and the Centre for the Equality of Treatment. They are administratively under the responsibility of the Parliament and have significant financial and operational independence¹⁵⁵. The CCDH, which is administratively under the responsibility of the Ministry of State and its financial and operational independence is linked to the Government, has requested to be included in this discussion. The aim is to increase its financial and operational independence by transferring it under the responsibility of the Parliament¹⁵⁶.

¹⁴⁸ Chamber of Employees; Chamber of Civil Servants and Public Employees; Chamber of Agriculture; Chamber of Commerce; Chamber of Trades.

¹⁴⁹ Information received from the Ministry of State during the country visit to Luxembourg.

¹⁵⁰ Input from Luxembourg for the 2024 Rule of Law Report, Annex III.

¹⁵¹ *Idem*.

¹⁵² See 2021, 2022 and 2023 Rule of Law Report, Country Chapter on the rule of law situation in Luxembourg, pp. 15 to 17.

¹⁵³ Information received from the Ministry of State and Chambre des Députés during the country visit to Luxembourg. In Luxembourg, only 4% of the surveyed investors perceive the frequent changes in legislation or concerns about quality of law-making process as a reason for the lack of confidence in investment protection. Figure 56, 2024 EU Justice Scoreboard.

¹⁵⁴ Accreditation by Global Alliance of National Human Rights Institutions (GANHRI).

¹⁵⁵ Information received from the Ministry of State, Ombudsperson, OKaJu and CCDH during the country visit to Luxembourg.

¹⁵⁶ Written contribution from CCDH for the preparation of the 2024 Rule of Law Report, p. 22-24.

On 1 January 2024, Luxembourg had two judgments of the European Court of Human Rights pending implementation, an increase of one compared to the previous year¹⁵⁷. As of 1 January 2024, Luxembourg's rate of leading judgments from the past 10 years that remain pending was at 50% (compared to 25% in 2023) and the average time that the judgments had been pending implementation was 1 year and 5 months (compared to 12 months in 2023)¹⁵⁸. The increase in the rate of leading judgments that remain pending should be assessed against the very few violation-finding judgments rendered in respect of Luxembourg in absolute numbers and is mainly due to the new judgment rendered in 2023. As regards the respect of payment deadlines, on 31 December 2023 there were no cases in total awaiting confirmation of payments (compared to 2 in 2022)¹⁵⁹. On 1 July 2024, the number of leading judgments pending implementation had increased to three¹⁶⁰.

A new law on non-profit associations and foundations was adopted with a focus on their governance. The civic space remains open¹⁶¹. On 7 August 2023, the Act on non-profit associations and foundations¹⁶² was adopted. This is the first law on Non-Governmental Organisations since 1928. It primarily focuses on the governance structure by removing the requirement for every non-profit organisation to annually submit a list of its members; strengthening financial reporting obligations; and delineating specific criteria for various types of organisations, categorising them as small, medium, or large¹⁶³.

¹⁵⁷ The adoption of necessary execution measures for a judgment by the European Court of Human Rights is supervised by the Committee of Ministers of the Council of Europe. It is the Committee's practice to group cases against a State requiring similar execution measures, particularly general measures, and examine them jointly. The first case in the group is designated as the leading case as regards the supervision of the general measures and repetitive cases within the group can be closed when it is assessed that all possible individual measures needed to provide redress to the applicant have been taken.

¹⁵⁸ All figures are calculated by the European Implementation Network and are based on the number of cases that are considered pending at the annual cut-off date of 1 January 2024. See the Contribution from the European Implementation Network for the 2024 Rule of Law Report, p. 6.

¹⁵⁹ Council of Europe (2024), Supervision of the execution of judgments decisions of the European Court of Human Rights – 17th Annual Report of the Committee of Ministers – 2023, p. 137.

¹⁶⁰ Data according to the online database of the Council of Europe (HUDOC).

¹⁶¹ See 2021, 2022 and 2023 Rule of Law Report, Country Chapter on the rule of law situation in Luxembourg, p. 13, p. 16 and p. 19. See also rating given by CIVICUS. Ratings are on a five-category scale defined as: open, narrowed, obstructed, repressed and closed.

¹⁶² Luxembourg, Act of 7 August 2023 regarding non-profit associations and foundations *Loi du 7 août 2023 sur les associations sans but lucratif et les fondations*, 19 September 2023.

¹⁶³ Small associations are required to maintain simplified accounts that record all income and expenses (Art.18(4)). Large associations are identified based on meeting two out of three criteria: 1) having a minimum of 15 members, 2) achieving total revenues exceeding 1,000,000 euros, and/or 3) possessing total assets of over 3,000,000 euros (as stipulated in Art.18(5)). Furthermore, the financial records of large associations must undergo scrutiny by a statutory auditor (Art.18(6)). Associations are granted a 24-month period to conform to these new regulations (Art. 77(1)) - Franet (2024), *Country research - Legal environment and space of civil society organisations in supporting fundamental rights 2024 - Luxembourg*, pp. 25-26.

Annex I: List of sources in alphabetical order*

* *The list of contributions received in the context of the consultation for the 2024 Rule of Law report can be found at https://commission.europa.eu/publications/2024-rule-law-report-targeted-stakeholder-consultation_en.*

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Annex II: Country visit to Luxembourg

The Commission services held virtual meetings in January 2024 with:

- Chambre des Députés (Parliament)
- Commission for access to documents
- Committee for the Prevention of Corruption (COPRECO)
- Constitutional Court
- Consultative Commission for Human Rights (CCDH)
- Council of State
- Groupement des magistrats Luxembourgeois
- Internal Security Service
- Les Barreaux de Luxembourg et de Diekirch
- Luxembourg Association of Journalists (ALJP)
- Luxembourgish Media Regulator (ALIA)
- Ministry of Foreign and European Affairs
- Ministry of Home Affairs
- Ministry of Interior
- Ministry of Justice
- Ministry of State
- National Council for Justice
- Ombudsperson
- Ombudsperson for children (OKaJu)
- Police Grand Ducal
- Press Council of Luxembourg
- Prosecution service
- Public service media 100,7
- StopCorrupt
- Supreme Court of Justice

* The Commission also met the following organisations in a number of horizontal meetings:

- Amnesty International EU
- Centre for Democracy and Technology Europe
- Centre for European Volunteering
- Civil Liberties Union for Europe
- Civil Rights Defenders
- Civil Society Europe
- Culture Action Europe
- Democracy Reporting International
- European Centre for Non-Profit Law
- European Civic Forum
- European Federation of Journalists
- European Partnership for Democracy
- European Youth Forum
- Free Press Unlimited

- International Federation for Human Rights
- International Planned Parenthood Federation
- International Press Institute
- Irish Council for Civil Liberties
- JEF Europe
- Open Society Foundations
- Philanthropy Europe Association
- PICUM
- Reporters Without Borders
- SOLIDAR
- Transparency International EU