

Submission to the European Commission in the context of the preparation of the second annual Rule of Law Report (2021), by the European Union Agency for Fundamental Rights

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## 1. Background

On 8 February 2021, the European Commissioner for Justice, Didier Reynders, asked the European Union Agency for Fundamental Rights (FRA) for input to the European Commission's rule of law report 2021, in particular using EFRIS, the European Union Fundamental Rights Information System.<sup>1</sup>

FRA's overall objective is to *"provide the relevant institutions, bodies, offices and agencies"* of the EU as well as the Member when implementing Union law with *"assistance and expertise relating to fundamental rights in order to support them when they take measures or formulate courses of action within their respective spheres of competence to fully respect fundamental rights."* (Art. 2 of the [EU regulation on FRA](#) (Council Regulation (EC) No. 168/2007). Thus, the Agency is mandated to deal with all matters related to fundamental rights as long as they fall within the scope of EU law. One of the Agency's primary tasks is to *"collect, record, analyse and disseminate relevant, objective, reliable and comparable information and data"* and *"to develop methods and standards to improve the comparability, and reliability of data at European level, in cooperation with the Commission and the Member States"* (Art. 4 (1) a) and b) of the founding regulation).

Fundamental rights and the rule of law are closely interlinked.<sup>2</sup> Under the rule of law *"all public powers always act within the constraints set out by law, in accordance with the values of democracy and fundamental rights, and under the control of independent and impartial courts."*<sup>3</sup> For instance, the *"transparent, accountable, democratic and pluralistic process for enacting laws"* is amongst others based on the right to good administration (Article 41 of the Charter of Fundamental Rights of the EU and the related general principles of law) as is the *"prohibiting the arbitrary exercise of executive power"*. "Legal certainty" and the "separation of powers" are also closely linked to fundamental rights entitlements as Article 47 of the Charter and the rich case law of the European Court of Human Rights shows.<sup>4</sup> "Equality before the law" is in itself a fundamental right (equality and non-discrimination, as laid down in Articles 20 and 21 of the Charter). In terms of human rights more generally, it is worth noting the language

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<sup>1</sup> Letter Ares S(2021)928179. The benefits of EFRIS were also pointed out in European Commission (2019), Strengthening the rule of law within the Union A blueprint for action, COM/2019/343 final, at p. 10.

<sup>2</sup> See for instance title VI of the Charter (Articles 47–50) which enshrines the fundamental rights guarantees for a fair justice system.

<sup>3</sup> European Commission (2019), Further strengthening the Rule of Law within the Union State of play and possible next steps, COM(2019) 163 final, p. 1.

<sup>4</sup> On legal clarity, foreseeability linked to the rule of law and fundamental rights, see e.g. ECtHR, *Brumarescu v. Romania*, No. 28342/95, 28 October 1999; on judicial independence, see e.g. ECtHR, *Findlay v. the United Kingdom*, No. 24810/06, 22 December 2009 and CJEU, C-103/97, *Köllensperger*, 4 February 1999.

of the Universal Declaration of Human Rights, according to which “*it is essential [...] that human rights should be protected by the rule of law*” (third paragraph of the preamble).

## 2. Scope and structure

The submission is structured according to the European Commission’s questionnaire used for the Rule of Law Report data collection, covering the four areas of judicial systems, anti-corruption framework, media pluralism and other constitutional issues.

This submission will be updated with new data regarding the enabling framework for civil society and the experiences of civil society organisations in 2020, which will be shared with the European Commission in a further submission in April 2021.

## 3. FRA sources and reports used for this submission

### a. FRA’s findings on civil society

A FRA report on [Challenges facing civil society organisations working on human rights in the EU](#) in 2018 identified key challenges for civil society, in particular through government regulatory work, the availability of funding, the possibilities to contribute to law and policy making, and a safe space for civil society to operate – free from harassment and negative discourses undermining the work of civil society. To gather civil society experiences with these challenges, the Agency runs an annual consultation through its Fundamental Rights Platform – currently including some 700 registered civil society organisations with activities in the EU Member States. In 2020, the Agency also repeated the data collection conducted for its 2018 report, by asking its multidisciplinary network FRANET to provide relevant information about legal and policy developments related to civil society in all 27 EU Member States. Based on the consultation and this additional research, an analysis of civil society’s experiences and challenges faced in 2020 will be added to this submission to allow for the analysis to be finalised. The findings will also be published in a FRA report later in 2021.

### b. COVID bulletins

Since the start of the COVID pandemic, FRA has issued a series of bulletins assessing the fundamental rights implications of measures taken in the EU Member States.<sup>5</sup> The bulletins deal with emergency measures introduced, as well as specific issues, including tracing apps, impact on older people,

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<sup>5</sup> [Products | European Union Agency for Fundamental Rights \(europa.eu\)](#)

on civil and political rights, as well as economic and social rights. These bulletins are referenced in the context of the questions related to COVID.

### c. EFRIS – the European Union Fundamental Rights Information System

EFRIS reduces the complexity of the various European and international human rights monitoring mechanisms and points to data and information of direct relevance to the European Commission's data collection on the rule of law. Additional tailor-made analysis has been undertaken by FRA to add detail. EFRIS-based data has been limited to 2020 and include the most relevant UN and Council of Europe mechanisms – the Universal Periodic Review (indicating whether the state has accepted the recommendation or only took note), the thematic Treaty Bodies and Special Procedures. EFRIS is continually being developed by FRA, so that in the future it can be used to deliver even more targeted results to processes such as the European Commission's rule of law report.

In 2020, the relevant Treaty Bodies that covered an EU Member State were the CCPR (Human Rights Committee – for the International Covenant on Civil and Political Rights), CESCR (Committee on Economic, Social and Cultural Rights), CRC (Committee on the Rights of the Child) and CERD (Committee on the Elimination of Racial Discrimination).

The Special Procedures visit a limited number of countries globally every year, and hence relatively rarely EU Member States. In 2020 only a report by the Special Rapporteur on violence against women, its causes and consequences, on Bulgaria, has been included. A few additional Special Rapporteurs visited EU Member States during the period, but not dealing with topics related to the scope of the European Commission questions. The United Nations Human Rights Council's Universal Periodic Review considered the situation in Spain and Sweden during the period.

From the Council of Europe, the submission includes the European Court of Human Rights, the European Committee for the Prevention of Torture and Inhuman and Degrading Treatment of Punishment (CPT) and the Council of Europe Group of States against Corruption (GRECO). The Venice Commission was not included since it is not yet part of EFRIS.<sup>6</sup>

### **United Nations human rights monitoring mechanisms**

Each of the UN human rights treaties has a monitoring committee, so called Treaty Bodies, consisting of independent experts. The treaty bodies scrutinise the compliance with the treaties of all state parties at regular intervals of usually five years. This submission includes the recommendations provided to EU Member States assessed during 2020.

The UN has 44 thematic Special Procedures, most of which are so called Special Rapporteurs (others are, for instance, working groups), who are independent experts. One of the ways Special Procedures conduct their work is through country visits. This submission includes the Special Procedures relevant to the rule of law and recommendations affecting the rule of law.

The UN Human Rights Council, an inter-governmental body consisting of 47 states, organises a peer review of all UN member states at regular intervals of about five years. Any UN member state can make recommendations to the state under review. This submission includes the recommendations received by the EU Member States reviewed during 2020, indicating whether the state has accepted the recommendation or merely noted it.

In the 2020 submission, FRA included detailed references to United Nations human rights monitoring mechanisms only; this year the Agency has included key references from both the United Nations and the Council of Europe to provide a comparative overview. However, for comprehensive overviews of the relevant documents, reference is made to the respective submissions of the United Nations and the Council of Europe. For the European Court of Human Rights, the summary set of keywords are used to provide detail on a case, while for the remaining mechanisms the key passage is quoted.

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<sup>6</sup> The Venice Commission issued opinions during the reporting period on Bulgaria, Latvia, Malta (2), and Poland; see [Documents by opinions and studies \(coe.int\)](https://www.coe.int/en/web/venice-commission/documents-by-opinions-and-studies).

## 4. The 2021 submission

*Only the numbered questions of the European Commission's stakeholder consultation have been included where there is data or information included.*

### I. Justice System

#### A. Independence

##### *1. Appointment and selection of judges, prosecutors and court presidents*

No FRA data available for the reporting period

##### *2. Irremovability of judges; including transfers, dismissal and retirement regime of judges, court presidents and prosecutors*

#### **European Court of Human Rights – Romania**

“Art 6 (civil) • Access to court • Inability of chief prosecutor to effectively challenge premature termination of mandate • Both conditions of the *Eskelinen* test not met • Absence of judicial control of legality of removal decision not in interest of State • Judicial review limited to formal review not sufficient in circumstances • Essence of right of access to court impaired

Art 10 • Freedom of expression • Premature termination of chief prosecutor's mandate following public criticism of legislative reforms • Impugned measure not pursuing a legitimate aim • Criticism in context of debate of public interest, not containing attacks against the judiciary • Statements calling for high degree of protection • Chilling effect of the measure defeating the very purpose of maintaining the independence of the judiciary • Interference not accompanied by effective and adequate safeguards against abuse” [KÖVESI v. ROMANIA \(coe.int\)](https://www.coe.int/kovesi-v-romania)

##### *3. Promotion of judges and prosecutors*

No FRA data available for the reporting period

##### *4. Allocation of cases in courts*

No FRA data available for the reporting period

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

#### **United Nations Human Rights Council, Universal Periodic Review - Croatia**

“Strive to reduce the time frame for trials and ensure the independence of judges in order to respect the right to a fair trial” (recommendation

137.93, by France); [A/HRC/46/16 - E - A/HRC/46/16 -Desktop \(undocs.org\)](#)

### **United Nations Committee on the Rights of the Child – Hungary**

“Recalling its previous recommendations (CRC/C/HUN/CO/3-5, para. 45), the Committee urges the State party: (d) To ensure that reporting of cases of violence, abuse and neglect of children with disabilities is mandatory for all persons working with them, to ensure access to judicial remedies and redress for children with disabilities, to strengthen the independent monitoring of psychiatric hospitals and other institutions where children with disabilities are institutionalized, and to ensure access to independent lawyers and human rights defenders for the provision of legal aid and counselling;”

<https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsnHFwMhaZ6UbkZi jXRimgYC1HmMfZ3Q4LpGEGHsqvNnxAD%2f7hdJskKIUqejjIvzA%2fVXQV1b22Adqbb5lpeZ1OmJCAuFcCrFX7YNj JEQpR4TJ>

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

No FRA data available for the reporting period

*7. Remuneration/bonuses for judges and prosecutors*

No FRA data available for the reporting period

*8. Independence/autonomy of the prosecution service*

No FRA data available for the reporting period

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

No FRA data available for the reporting period

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

### **European Court of Human Rights – Croatia**

“Art 11 • Freedom of association • Unjustified dissolution by domestic authorities of applicant association due to bankruptcy proceedings against it, despite agreement in those proceedings to restructure, preserve and continue the association’s activities

Art 6 § 1 (constitutional) • Impartial tribunal • Lack of objective impartiality of a judge on Constitutional Court three-judge panel deciding association’s complaint, whose husband was the president of a golf club, against which the applicant association had initiated enforcement proceedings to collect unpaid membership fees • Both proceedings unrelated, but dissolution of applicant association directly decisive in extinguishing debt of the club • Constitutional Court decision not constitutive of dissolution, but rendering



the administrative authorities' decision irreversible and definitely extinguishing the debt of the golf club of the judge's husband" [CROATIAN GOLF FEDERATION v. CROATIA \(coe.int\)](#)

### **European Court of Human Rights – Croatia**

"Art 6 § 1 (civil) • Access to court • Applicant unable to obtain final determination of dispute concerning compensation • Series of omissions and uncertainties created by the domestic courts • Burden of court's errors not to be borne by applicant • Interference unjustified" [GOGIĆ v. CROATIA \(coe.int\)](#)

### **European Court of Human Rights – the Czech Republic**

"Article 6 (criminal) • Fair hearing • Case repeatedly remitted to first-instance court for new examination until guilty verdict obtained on fifth occasion • High Court criticising first-instance courts' assessment of evidence and credibility of witness, an approach at odds with domestic law • High Court's failure to provide reasons for its decision not to hear the key witness directly and assess his credibility itself • High Court's approach suggesting that only a guilty verdict would be acceptable • Particular succession of events strongly indicating dysfunction in the operation of the judiciary, vitiating the overall fairness of the proceedings  
Article 6 (criminal) • Reasonable time • Excessive length of proceedings" [TEMPEL v. THE CZECH REPUBLIC \(coe.int\)](#)

### **European Court of Human Rights – the Czech Republic**

"Art 6 § 1 (civil) • Impartial tribunal • Opponent's lawyer being a founding partner of the law firm at which the judge's son had been working • Lack of objective impartiality • Factors to be taken into account when a judge's relative is involved in a case, including in small jurisdictions" [KOULIAS v. CYPRUS \(coe.int\)](#)

### **European Court of Human Rights – Poland**

"Art 10 • Freedom of expression • Conviction for disciplinary offence of undermining the dignity of the office of a judge, after commenting on assessment report made by another judge in the context of a promotion procedure • Law sufficiently foreseeable for a judge, taken together with its interpretation by domestic courts • Comments not concerning the exercise of applicant's adjudicatory function and made in essentially intra-judicial context, without intent to insult • Impugned remarks having a certain factual basis and made by the applicant in the context of defending his interests in the promotion procedure • Information regarding conviction placed on applicant's personal file for five years, with potential repercussions for future career prospects • Interference not "necessary in a democratic society" [GUZ v. POLAND \(coe.int\)](#)



## B. Quality of justice

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

#### **European Court of Human Rights – Bulgaria**

“Art 6 § 1 (civil) • Access to court • Excessive amount of court fees in a successful claim for damages against the State • Applicants ordered to pay in court fees more than half of the total amount granted to them • Absence of foreseeability of the court fees • No benefit from the safeguards provided in domestic law against excessive court fees • Automatic application of the rules despite applicants’ reliance on ECHR judgment • Significant difference in the court fees’ amounts required for the same service between claims against the State under two domestic legislations” [CHORBADZHIYSKI AND KRASTEVA v. BULGARIA \(coe.int\)](#)

#### **European Court of Human Rights – Croatia**

“Art 6 § 1 (civil) • Reasonable time • Excessive length of civil proceedings Art 13 (+ Art 6) • Lack of effective remedy in respect of length of proceedings cases (purely acceleratory remedy and constitutional complaint) • Change in the Constitutional Court’s practice must have become public knowledge” [KIRINČIĆ AND OTHERS v. CROATIA \(coe.int\)](#)

#### **Council of Europe, Committee for the Prevention of Torture (CPT) – Finland**

[Not yet available in English] “Då det gäller de grundläggande garantierna mot övergrepp fick delegationen intrycket av att frågan om tillgång till en advokat i praktiken inte utgjorde något särskilt problem, inte heller under polisens inledande förhör. Förseningar i underrättelser om frihetsberövande, ett annat grundläggande rättsligt skydd, var däremot utbredda och kunde sträcka sig upp till den i lagen föreskrivna längsta tidsfristen för frihetsberövande från polisen (dvs. 96 timmar), särskilt när den gripne var utländsk medborgare utan hemvist i Finland. [CPT alustavat havainnot 2020 SV \(coe.int\)](#)”

#### **Council of Europe, Committee for the Prevention of Torture (CPT) – Greece**

“The CPT wishes to recall again that, in the same way as other categories of detained persons, irregular migrants apprehended by the police in virtue of the applicable aliens’ legislation should, from the very outset of their deprivation of liberty, enjoy three basic rights that are fundamental safeguards against ill-treatment, namely the rights of notification of custody, access to a lawyer and access to a doctor. That said, no noticeable improvements have occurred since the CPT’s 2018 visit to Greece. Once again, the Committee has to conclude that these fundamental safeguards

against ill-treatment, for the most part, do not apply in practice from the very outset of a foreign national's deprivation of liberty and, more generally, remain ineffective, despite the existence of clear rules.<sup>17</sup> The suspension of the right to apply for asylum after 1 March 2020 does not in any way remove the legal right to benefit from these fundamental safeguards. [...] The CPT calls upon the Greek authorities to take the necessary steps to ensure that all foreign nationals who are deprived of their liberty by the police under aliens' legislation are granted the rights of notification of custody, access to a lawyer and access to a doctor and are placed in a position to effectively exercise these rights as from the very outset of their deprivation of liberty. As regards the right of access to a lawyer, this should include the right to have access to legal advice as well as, when foreign nationals are not in a position to pay for a lawyer themselves, the right to benefit from access to free legal aid." [1680a06a86 \(coe.int\)](https://www.coe.int/t/0900406a86)

### **United Nations Committee on the Elimination of Racial Discrimination – Ireland**

"The Committee is concerned about the discriminatory refusal of entry to licensed premises such as bars, public houses and hotels experienced mainly by Travellers and Roma. While noting that discrimination in licensed premises does not fall under the purview of the Equal Status Acts 2000 to 2018, but rather that of the Intoxicating Liquor Act 2003, and that therefore complaints of racial discrimination in licensed premises cannot be brought before the Workplace Relations Commission but before district courts, the Committee is concerned that the complex court proceedings may effectively hinder Travellers and Roma from accessing justice and remedies for the racial discrimination they have experienced (arts. 5 and 6).

The Committee is concerned about the lack of legal aid provided for appeals concerning social welfare, housing and eviction, which has a significant adverse impact on the ability of Travellers and other ethnic minority groups to claim their rights. It is also concerned about the absence of legal aid available for claims of racial discrimination under equality legislation brought before the Workplace Relations Commission, which results in non-equality of arms as respondents are mostly represented by legal counsels (arts. 5 and 6). 44. The Committee recommends that the State party extend the scope of the Legal Aid Board to the areas of law that are particularly relevant to Travellers and other ethnic minority groups, including by designating the Social Welfare Appeals Office and the Workplace Relations Commission as prescribed tribunals under section 27 (2) (b) of the Civil Legal Aid Act 1995." (paragraph 45) <https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsl%2fyrM1B9TT0o>

[GmEKg0FjIFBaQQaO8bEZ9%2fjUMsKngxCaMmgpgGYMQhQE5n36ANxPo5h0sdiUX3IS8T9azvv%2bZme%2bdsMxQwPefayHIGLS4jD](https://www.fra.europa.eu/en/press-communications/press-releases/2018/08/20180820-01)

### **European Court of Human Rights – Lithuania**

“Art 6 (civil) • Access to court • Individual and excessive burden on applicants as a result of domestic courts’ refusal to reimburse legal costs incurred in successful litigation for lifting fines • Pecuniary loss from litigation costs substantially exceeding the amount of fines imposed • Domestic courts’ failure to carry out proportionality assessment • Litigation costs not excessive” [ČERNIUS AND RINKEVIČIUS v. LITHUANIA \(coe.int\)](https://www.echr.coe.int/ViewDoc.aspx?id=159333)

### **European Court of Human Rights – Malta**

“Art 6 (criminal) • Excessive length of proceedings  
Art 6 (civil) • Excessive length of constitutional redress proceedings  
Art 13 (+ Art 6 § 1) • Effective remedy • Systemic flaws rendering constitutional redress proceedings ineffective in respect of length-of-proceedings complaints • Lack of speediness • Regular practice of unreasonably low compensation awards” [GALEA AND PAVIA v. MALTA \(coe.int\)](https://www.echr.coe.int/ViewDoc.aspx?id=159333)

### **United Nations Human Rights Committee – Portugal**

“While the Committee takes note of the clarifications provided by the delegation in writing (CCPR/C/PRT/5, paras. 148–156) and orally with regard to information provided to detainees and on access to free legal aid, the Committee remains concerned about reports that detainees, particularly foreigners, are not always promptly informed in a language that they understand of their rights, including of their right to access legal counsel from the time of arrest. The Committee is also concerned about the lack of effective access to legal assistance for persons detained (arts. 7, 9 and 10). 39. Recalling its previous recommendations (CCPR/C/PRT/CO/4, para. 8), the State party should strengthen measures to ensure that detained persons have an effective right of access to legal counsel from the time they become subject to police custody, and that law enforcement officials abide by the legal duty to inform all persons deprived of their liberty of their rights in a language they understand.” (paragraph 38)  
<https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhshYSuxMUifRIy90VnAxQecFFu5LsMqLbK6DPLrapwczGXfBBP%2bzn8vhH7bEXeRxYqBrwl8iTjJQesxx53Sqq%2bs%2fMpeEijV4dJlivNPUOTZbz>

### **European Court of Human Rights – Slovenia**

“Art 6 § 1 (civil) • Access to court • Relevant statute allowing for subjective time-limit (from the applicant’s learning of the occurrence of adverse consequences) for application before Constitutional Court • Application for review of constitutionality and legality of several-year-old municipal ordinances dismissed as out of time, on ground of applicant’s failure to demonstrate that he could not have learned of the adverse consequences earlier, despite lack of evidence contradicting the time-line provided by the

applicant • Unforeseeable expectation • Fair balance upset” [GROS v. SLOVENIA \(coe.int\)](#)

### **European Court of Human Rights – Spain**

“Art 6 § 1 (civil) • Access to court • Appeal on points of law declared inadmissible for notice of appeal failing to comply with new formal requirement originating in subsequent case-law development • Issue concerning the principle of legal certainty • Retroactive application unforeseeable • No perceptible line of case-law development at time of introduction • No opportunity for the applicant to remedy any possible deficiencies in the notice of appeal to meet the new requirement • Excessive formalism” [GIL SANJUAN v. SPAIN \(coe.int\)](#)

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

No FRA data available for the reporting period

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

### **United Nations Committee on Economic, Social and Cultural Rights – Belgium**

“The Committee notes that the State party’s domestic law does not recognize the applicability of the Covenant and all its provisions. It notes with concern that the Covenant is very rarely invoked before the courts. 6. The Committee reiterates the recommendations made in its previous concluding observations that the State party guarantee the applicability of the Covenant provisions in its domestic legal order (E/C.12/BEL/CO/3, paras. 24 and 25; E/C.12/BEL/CO/4, para. 7). It also recommends that the State party intensify its efforts to acquaint lawyers, judges and magistrates, as well as the general population, with the Covenant and its Optional Protocol. It draws the State party’s attention to its general comment No. 9 (1998) on the domestic application of the Covenant.” (paragraph 5) <https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=4slQ6QSmIBEDzFEovLCuW9oVixnwFxc9xL1Osr7QWIfxei5srTR0exdYA3bKT8diQ0ZNoXOVMcZrMWXwhteibbSfjvG%2f0Khr0Tnhkqwws%2bp7sQrVWzfsfh6Pv%2fX5E2xM>

### **United Nations Human Rights Council, Universal Periodic Review - Bulgaria**

“Introduce systematic capacity-building for judges, prosecutors, police and other law enforcement officers on the application of criminal law provisions on gender-based violence against women” (recommendation 134.170, by Croatia) [A/HRC/46/13 - E - A/HRC/46/13 -Desktop \(undocs.org\)](#)

### **United Nations Human Rights Council, Special Rapporteur on violence against women – Bulgaria**

“While noting the efforts of the Government to deliver training workshops to prosecutors and judges, the Special Rapporteur points out that, overall,

they are not yet familiar with the international standards for combating gender based violence, particularly the Convention on the Elimination of All Forms of Discrimination against Women, general recommendation No. 19 of the Committee on the Elimination of Discrimination against Women and the Declaration on the Elimination of Violence against Women. They do not therefore apply these instruments in cases of violence against women. [...] 68. For purposes of training and awareness, the Government should: (a) Provide mandatory training to law enforcement officers and members of the judiciary, including judges and prosecutors, on the Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol, the general recommendations of the Committee on the Elimination of Discrimination against Women and the Committee's jurisprudence on violence against women and interpreting national legal provisions in the light of that jurisprudence; A/HRC/44/52/Add.1 19 (b) Strengthen efforts to combat discriminatory gender stereotypes among law enforcement officials dealing with domestic violence; (c) Conduct continuous training for law enforcement officials on gender equality and determination and assessment of cases of violence against women." (paragraph 47) [Human Rights Documents \(ohchr.org\)](https://www.ohchr.org/)

### **United Nations Human Rights Council, Universal Periodic Review – Croatia**

"Provide and enhance specialized training for staff involved in ensuring comprehensive protection for women and children as victims of violence" (recommendation 137.159, by Slovenia)

"Continue to expand training on gender equality and gender-based violence for police officials, civil servants and court officials to enhance their understanding of applicable international and European Union standards and ensure their consistent application across sectors" (recommendation 137.169, by Malta)

"Provide training on human rights and on combating discrimination and violence, including based on sexual orientation and gender identity, to health personnel, members of the judiciary, police forces and prison officers" (Recommendation 137.41, by Portugal)

"Take additional practical steps necessary to eradicate stereotypes and prejudice, including by providing appropriate training to public officials to put A/HRC/46/16 14 an end to the social stigmatization of women, people with disabilities and persons belonging to ethnic, sexual and other minorities" (recommendation 137.45, by Czechia)

“Increase efforts to end stereotyping and prejudice against lesbian, gay, bisexual and transgender persons, through increased awareness-raising campaigns and targeted training for public officials” (recommendation 137.46, by Ireland)

“Conduct awareness-raising and educational campaigns aimed at the general public and provide appropriate training to public officials to combat stereotypes, prejudices and hate speech against lesbian, gay, bisexual, transgender and intersex persons, and ensure that acts of violence against them are effectively investigated and the perpetrators prosecuted and sanctioned” (recommendation 137.52, by Belgium)

[A/HRC/46/16 - E - A/HRC/46/16 -Desktop \(undocs.org\)](https://undocs.org/A/HRC/46/16-E-A/HRC/46/16-Desktop)

### **United Nations Committee on the Rights of the Child – Hungary**

“Recalling its previous recommendation (CRC/C/HUN/CO/3-5, para. 16), the Committee recommends that the State party: (c) Include mandatory modules on human rights and the Convention in the school curriculum and in training programmes for all professionals working with or for children, including all law enforcement officials, teachers, health personnel, social workers and personnel of childcare institutions, as well as State and local government officials. 40. The Committee welcomes the entry into force of the new Code of Criminal Procedure, on 1 July 2018, with enhanced safeguards for children’s rights. With reference to its general comment No. 24 (2019) on children’s rights in the child justice system, and recalling its previous recommendations (CRC/C/HUN/CO/3-5, para. 57), the Committee recommends that the State party bring its child justice system fully into line with the Convention and: (a) Ensure that specialized and well-trained judges and judicial staff deal with cases involving children; (b) Amend the law to re-establish a standardized minimum age of criminal responsibility of 14 years, regardless of the crime; (c) Abolish the practice of sentencing children to prison terms for petty crimes; (d) Train professionals on and actively promote non-judicial measures, such as diversion, mediation and counselling, for children accused of criminal offences and, wherever possible, non-custodial sentences such as probation or community service; (e) In cases in which detention is unavoidable, ensure that children are detained in separate facilities, and that pre-trial detention is regularly and judicially reviewed, with a view to its withdrawal, and is subject to a strict limit on its extension; (f) Provide children accused of criminal offences with information about their rights and how to report abuses” (paragraph 13)

<https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsnHFwMhaZ6UbkZi jXRImqYC1HmMfZ3Q4LpGEGHsqvNnxAD%2f7hdJskKIUqejiIvzA%2fVXOV1b22Adqbb5lpeZ1OmJCAuFcCrfX7YNi JEQpR4TJ>



## **United Nations Committee on the Elimination of Racial Discrimination – Ireland**

“While noting the information provided by the State party, the Committee regrets the lack of detailed information on human rights and equality training, in particular with regard to racial discrimination issues, provided for public officials, including the police and law enforcement officials, as well as on the implementation of the duty by public bodies under section 42 of the Irish Human Rights and Equality Commission Act 2014 (art. 7). 50. The Committee recommends that the State party strengthen its human rights and equality training, in particular with regard to racial discrimination issues, for police officers, and that it fully implement section 42 of the Irish Human Rights and Equality Commission Act. It requests the State party to provide information in its next periodic report on the impact of section 42 of the Act.” (paragraph 49)

<https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsl%2fyrM1B9TT0oGmEKq0FjIFBaQQaO8bEZ9%2fjUMsKngxCaMmqpqGYMQhQE5n36ANxPo5h0sdiUX3IS8T9azvv%2bZme%2bdsMxQwPefayHIGLS4jD>

*14. Digitalisation (e.g. use of digital technology, particularly electronic communication tools, within the justice system and with court users, including resilience of justice systems in COVID-19 pandemic)*

No FRA data available for the reporting period

*15. 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)*

No FRA data available for the reporting period

*16. Geographical distribution and number of courts/jurisdictions (“judicial map”) and their specialisation*

No FRA data available for the reporting period

C. Efficiency of justice systems

*17. Length of proceedings*

No FRA data available for the reporting period

Other – please specify

No FRA data available for the reporting period



## II. Anti-corruption framework

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

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

No FRA data available for the reporting period

B. Prevention

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

Table 1: Council of Europe, Group of States against Corruption (GRECO), reports adopted in 2020

	Cycle	Type	Link
<b>Belgium</b>	Fifth	Evaluation	<a href="#">1680998a40 (coe.int)</a>
<b>Bulgaria</b>	Fourth	Evaluation	<a href="#">GRECO (coe.int)</a>
<b>Croatia</b>	Fifth	Evaluation	<a href="#">GRECO (coe.int)</a>
<b>Croatia</b>	Fourth	Addendum	<a href="#">GRECO (coe.int)</a>
<b>Cyprus</b>	Fourth	Evaluation	<a href="#">GRECO (coe.int)</a>
<b>Czechia</b>	Fourth	Interim	<a href="#">GRECO (coe.int)</a>
<b>Denmark</b>	Fourth	Evaluation	<a href="#">GRECO (coe.int)</a>
<b>Finland</b>	Fifth	Compliance	<a href="#">GRECO (coe.int)</a>
<b>France</b>	Fifth	Evaluation	<a href="#">GRECO (coe.int)</a>
<b>France</b>	Fourth	Interim	<a href="#">GRECO (coe.int)</a>
<b>Germany</b>	Fifth	Evaluation	<a href="#">GRECO (coe.int)</a>
<b>Greece</b>		Ad hoc (Rule 34)*	<a href="#">GRECO (coe.int)</a>
<b>Greece</b>	Fourth	Compliance	<a href="#">GRECO (coe.int)</a>
<b>Hungary</b>	Fourth	Interim	<a href="#">GRECO (coe.int)</a>
<b>Ireland</b>	Fourth	Interim	<a href="#">GRECO (coe.int)</a>
<b>Latvia</b>	Fourth	Addendum (2021)	<a href="#">GRECO (coe.int)</a>
<b>Latvia</b>	Fifth	Compliance (2021)	<a href="#">GRECO (coe.int)</a>
<b>Luxembourg</b>	Fourth	Interim	<a href="#">Compliance report</a>
<b>Luxembourg</b>	Fifth	Compliance	<a href="#">Compliance report</a>
<b>Poland</b>		Letter to Minister of Justice	<a href="#">16809ca6d9 (coe.int)</a>
<b>Netherlands</b>	Fourth	Addendum	<a href="#">GRECO (coe.int)</a>
<b>Slovakia</b>	Fourth	Evaluation (2021)	<a href="#">GRECO (coe.int)</a>
<b>Slovenia</b>		Ad hoc (Rule 34)*	<a href="#">GRECO (coe.int)</a>
<b>Spain</b>		Letter to Ministry of Justice, 2021	<a href="#">1680a010c8 (coe.int)</a>

Source: [EFRIS](#)

\* Rule 34 is a procedure for exceptional circumstances with reliable information that changes underway may lead to violations of the standards.

### **United Nations Human Rights Council, Universal Periodic Review – Bulgaria**

“Pursue reform of the judiciary, including by strengthening efforts to combat corruption” (recommendation: 134.81, by France) [A/HRC/46/13 - E - A/HRC/46/13 -Desktop \(undocs.org\)](#)

### **United Nations Human Rights Committee – Portugal**

“While appreciating the information provided by the State party on the legislative, institutional and enforcement measures taken to prevent and combat corruption, the Committee is concerned about recent scandals involving high-level cases of corruption in the State party (arts. 1, 2 and 25). 9. The State party should continue its efforts, including through international cooperation and effective implementation of legislation and preventive measures, to combat corruption and promote good governance, transparency and accountability. It should provide relevant training to law enforcement agencies, prosecutors and judges on detecting, investigating and prosecuting corruption, and on strengthening the operational and structural independence and specialization of law enforcement agencies and prosecutors dealing with corruption cases, in order to enable the investigation of complex and high-level corruption cases.” (paragraph 8) <https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhshYSuxMUifRIy90VnAxQecFFu5LsMqLbK6DPLrapwcZGXfBBP%2bzn8vhH7bEXeRxYqBrwl8jTyJQesxx53Sgg%2bs%2fMpeEliV4dJlivNPUOTZbz>

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

No FRA data available for the reporting period

*21. Rules on preventing conflict of interests in the public sector*

No FRA data available for the reporting period

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

### **European Court of Human Rights – Romania**

“Art 10 • Freedom of expression • Statements alleging corruption directed at certain members of parliament made by politician in support of her view of incompatibility of that role with that of lawyer • Appellate courts failing to provide convincing reasons for conclusion that comments amounted to untruthful statements • Appellate courts failing to consider collective nature of statements and consequence of context in which comments had been made • Sanction capable of having dissuasive effect on exercise of freedom of expression” [Monica Macovei v. Romania \(coe.int\)](#)

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

No FRA data available for the reporting period

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

No FRA data available for the reporting period

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

No FRA data available for the reporting period

C. Repressive measures

*26. Criminalisation of corruption and related offences*

### **United Nations Human Rights Council, Universal Periodic Review – Bulgaria**

“Introduce the legal framework necessary to effectively investigate and prosecute persons engaged in high-level corruption” (recommendation 134.79, by Denmark); [A/HRC/46/13 - E - A/HRC/46/13 -Desktop \(undocs.org\)](#)

*27. Data on investigation and application of sanctions for corruption offences (including for legal persons and high level and complex corruption cases) and their transparency, including as regards to the implementation of EU funds.*

No FRA data available for the reporting period

*28. Potential obstacles to investigation and prosecution of high-level and complex corruption cases (e.g. political immunity regulation)*

No FRA data available for the reporting period

Other – please specify

No FRA data available for the reporting period

## **III. Media pluralism**

A. Media regulatory authorities and bodies (Audiovisual Media Service Directive)

No FRA data available for the reporting period

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

**European Court of Human Rights – Hungary**

“Art 10 • Freedom of expression • Lack of adequate safeguards for suspending journalists’ accreditation to enter Parliament on account of interviews and video recordings with MPs outside designated areas • Allegedly disruptive conduct occurring outside plenary sessions or other political discussions within Parliament • Parliaments entitled to some degree of deference in regulating conduct in Parliament • Impugned sanction supported by relevant reasons • Procedural safeguards to be adapted to parliamentary context, in absence of any external control over a sanction imposed by organs of Parliament • Lack of domestic assessment of the potential impact of the sanction or the relevance of the journalistic activity giving reason for it • Lack of possibility to be involved in decision-making procedure or to challenge the sanction • Duration of the sanction not specified either in domestic law or in the impugned decision” [MÁNDLI AND OTHERS v. HUNGARY \(coe.int\)](#)

**European Court of Human Rights – Hungary**

“Article 10 • Freedom of expression • Television company prohibited from describing political party as “far-right” on the basis of unforeseeable application of statutory ban on the communication of any “opinion” by a newsreader • Domestic legislation lacking precision and absence of domestic courts’ common practice • Courts’ failure to demonstrate, in light of the aim of the ban, whether the impugned term was capable of upsetting balanced and unbiased presentation of a matter of public interest • Courts’ failure to consider factual circumstances of the case and arguments based on the veracity and factual accuracy of the impugned term • Courts required to ensure that the statutory ban did not turn into means of suppressing free speech” [ATV ZRT v. HUNGARY \(coe.int\)](#)

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

No FRA data available for the reporting period

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

No FRA data available for the reporting period

**B. Transparency of media ownership and government interference**

*32. The transparent allocation of state advertising (including any rules regulating the matter); other safeguards against state / political interference*

No FRA data available for the reporting period

*33. Rules governing transparency of media ownership and public availability of media ownership information*

**United Nations Human Rights Council, Universal Periodic Review – Bulgaria**

“Ensure compliance with laws requiring public disclosure of media ownership to improve transparency” (recommendation 134.97, by Ireland)  
[A/HRC/46/13 - E - A/HRC/46/13 -Desktop \(undocs.org\)](#)

C. Framework for journalists’ protection

*34. Rules and practices guaranteeing journalist's independence and safety*

No FRA data available for the reporting period

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

**United Nations Human Rights Council, Universal Periodic Review – Bulgaria**

“Ensure full and effective freedom of the media and protection of journalists and media operators” (recommendation 134.85, by Italy)

“Investigate all forms of attacks, threats and violence against journalists and ensure full accountability” (recommendation 134.86, by the Netherlands)

“Put an end to political pressure on the media and combat violence against journalists” (recommendation 134.94, by France)

[A/HRC/46/13 - E - A/HRC/46/13 -Desktop \(undocs.org\)](#)

**United Nations Human Rights Council, Universal Periodic Review – Croatia**

“Take all measures to preserve a free, safe and enabling environment for journalists and media workers, ensure that they can do their work without facing intimidation or harassment, and investigate and prosecute incidents of attacks on journalists and the media” (recommendation 137.100, Slovakia)

“Strengthen and enforce laws protecting journalists against physical attacks and threats and ensure due prosecution of the perpetrators of such acts” (recommendation 137.101, by Lithuania)

“Ensure a safe and enabling environment for the work of journalists and the media and effectively investigate threats against journalists” (recommendation 137.103, by Austria)

“Guarantee freedom of expression and the freedom of the press and open investigations into attacks against journalists and the media and bring

perpetrators of these acts to justice” (recommendation 137.104, by Luxembourg)

“Effectively investigate all acts of intimidation and attacks on journalists and the media and bring those responsible to justice” (recommendation 137.107, by Czechia)

“Change civil defamation laws where needed to deter frivolous lawsuits against journalists” (recommendation 137.108, by Denmark)

“Guarantee freedom of expression and freedom of the press and ensure better protection of journalists, in particular by revising the legislation on defamation” (recommendation 137.109, by France)

[A/HRC/46/16 - E - A/HRC/46/16 -Desktop \(undocs.org\)](#)

*36. Access to information and public documents*

No FRA data available for the reporting period

*37. Lawsuits and convictions against journalists (incl. defamation cases) and safeguards against abuse*

#### **European Court of Human Rights – Greece**

“Art 10 • Freedom of expression • Suspended prison sentence imposed on journalist, in disregard of Convention standards, for calling a school headmaster a “neo-Nazi” in reply to his publicly expressed views”  
[BALASKAS v. GREECE \(coe.int\)](#)

Other – please specify

No FRA data available for the reporting period

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

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

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

No FRA data available for the reporting period

*39. 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)*

No FRA data available for the reporting period

*40. Regime for constitutional review of laws*

No FRA data available for the reporting period

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

- judicial review (including constitutional review) of emergency regimes and measures in the context of COVID-19 pandemic

- oversight by Parliament of emergency regimes and measures in the context of COVID19 pandemic

- measures taken to ensure the continued activity of Parliament (including possible best practices)

FRA's 2020 COVID bulletins are available here: [Products | European Union Agency for Fundamental Rights \(europa.eu\)](#)

## B. Independent authorities

42. Independence, capacity and powers of national human rights institutions ('NHRIs'), of ombudsman institutions if different from NHRIs, of equality bodies if different from NHRIs and of supreme audit institutions

### **United Nations Human Rights Council, Universal Periodic Review – Croatia**

"Step up efforts in responding diligently and promptly to the Ombudsperson's recommendations and requests" (recommendation 137.21, by Czechia)

"Ensure that the whistle-blower function of the Ombudsman of the Republic of Croatia is effective, not least by providing adequate funding" (recommendation 137.23, by Sweden)

"Take all necessary measures, including amending the respective legislation, to guarantee the full independence of the Children's Ombudsperson" (recommendation 137.24, by Slovakia)

[A/HRC/46/16 - E - A/HRC/46/16 -Desktop \(undocs.org\)](#)

### **United Nations Human Rights Committee – Portugal**

"While welcoming the A status of the Office of the Ombudsperson of Portugal, the Committee is concerned about reports that the office lacks the financial resources necessary to carry out its mandate effectively (art. 2). 7. The State party should review the financial resource needs of the Office of the Ombudsperson of Portugal and ensure that it has the financial resources necessary to implement its mandate effectively and independently." (paragraph 8.6)

<https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhshYSuxMUifRIy90VnAxQecFFu5LsMqLbK6DPLrapwcZGXfBBP%2bzn8vhH7bEXeRxYqBrwl8jTyJQesxx53Sgg%2bs%2fMpeEljV4dJlivNPUOTZbz>

### **United Nations Human Rights Council, Universal Periodic Review – Sweden**

"Establish an independent national human rights institution in accordance with the Paris Principles" (recommendation 156.32, by Senegal and Slovenia)



“Establish an independent national human rights institution with a broad mandate, in accordance with the Paris Principles, and provide it with adequate resources” (recommendation 156.37, by Greece)

“Establish an independent national human rights institution with a broad human rights mandate, fully compliant with the Paris Principles” (recommendation 156.45, by North Macedonia)

“Create an independent national human rights institution with a broad mandate and provide it with the necessary financial and human resources, in accordance with the Paris Principles” (recommendation 156.60, by Luxembourg)

“Take measures to ensure that children have accessible and effective complaint mechanisms and entities to turn to for information and for support when their rights are violated” (recommendation 156.69, by Belgium)

[A/HRC/44/12 - E - A/HRC/44/12 -Desktop \(undocs.org\)](https://undocs.org/A/HRC/44/12 - E - A/HRC/44/12 -Desktop)

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

*43. Transparency of administrative decisions and sanctions (incl. their publication and rules on collection of related data) and judicial review (incl. scope, suspensive effect)*

No FRA data available for the reporting period

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

No FRA data available for the reporting period

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

*45. Measures regarding the framework for civil society organisations (e.g. access to funding, registration rules, measures capable of affecting the public perception of civil society organisations, etc.)*

### **United Nations Committee on the Elimination of Racial Discrimination – Ireland**

“The Committee recommends that the State party intensify its efforts to ensure that no protection gaps exist in policy and institutional framework for any group of people experiencing racial discrimination. In particular, it recommends that the State party: (b) Ensure that all functions of the National Consultative Committee on Racism and Interculturalism, including the monitoring of racist incidents and the provision of anti-racism training, are subsumed by existing anti-racial discrimination bodies; (c) Expand the mandate of the Irish Human Rights and Equality Commission to include the prevention and prohibition of racial discrimination and racism; (e) Ensure the effective functioning of the anti-racism committee with a

comprehensive mandate and a sufficient budget.” (paragraph 14)

<https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsi%2fyrM1B9TT0oGmEKg0FjIFBaQQaO8bEZ9%2fjUMsKngxCaMmgpgGYMQhQE5n36ANxPo5h0sdiUX3IS8T9azvv%2bZme%2bdsMxQwPefayHIGLS4jD>

E. Initiatives to foster a rule of law culture

*46. Measures to foster a rule of law culture (e.g. debates in national parliaments on the rule of law, public information campaigns on rule of law issues, etc.)*

**No FRA data available for the reporting period**

Other – please specify

**No FRA data available for the reporting period**

Vienna, 8 March 2021