

2024 Rule of Law Report - targeted stakeholder consultation

Fields marked with * are mandatory.

Introduction

The annual Rule of Law Report lies at the centre of the Annual Rule of Law Cycle, which acts as a preventive tool, deepening multilateral dialogue and joint awareness of rule of law issues. So far, four editions of the Rule of Law Report have been published in 2020, 2021, 2022 and 2023.

The Commission would like to invite stakeholders to provide contributions to the 2024 Rule of Law Report. This survey provides information on the type of information and topics that will be covered in the 2024 Rule of Law Report, in order to allow stakeholders to provide input. More targeted input may be requested at a later stage of preparation of the 2024 Rule of Law Report, including in the context of country visits, or bilateral contacts.

The 2024 Rule of Law Report will continue to deepen the assessment under the existing four pillars, and will also follow-up on the implementation of the recommendations to Member States, that were issued as part of the 2023 Rule of Law Report. The contribution to be provided should include **(1) information on measures taken to implement the recommendations addressed to the Member State in the 2023 Rule of Law report, as well as developments with regard to the points raised in the respective country chapter and (2) any other significant developments since January 2023^[1] falling under the ‘type of information’ outlined in section II.**

The input should consist of a short summary, if possible in English, covering the areas referred to below. Legislation or other documents may be referenced with a link. Contributions should focus on significant developments since the last Rule of Law Report both as regards the legal framework and its implementation in practice.

[1] Unless the information was already submitted in the input for the previous Rule of Law Reports.

Type of information

The topics are structured according to four pillars: I. Justice system; II. Anti-corruption framework; III. Media pluralism; and IV. Other institutional issues related to checks and balances. The replies could include aspects set out below under each pillar. This can include challenges, current work streams, positive developments and best practices:

A) Legislative developments

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

B) Policy developments

- Implementation of legislation
- Evaluations, impact assessment, surveys
- White papers/strategies/actions plans/consultation processes
- Follow-up to reports/recommendations of Council of Europe bodies or other international organisations
- Important administrative measures
- Generalised practices

C) Developments related to the judiciary / independent authorities

- Important case law by national courts
- Important decision/opinions from independent bodies/authorities
- State of play on terms, nominations and expired mandates for high-level positions (e.g. Supreme Court, Constitutional Court, Council for the Judiciary, heads of independent authorities included in the scope of the questionnaire[2])

D) Any other relevant developments

- Respondents are free to add any further information, which they deem relevant; however, this should be short and to the point.

Please also indicate whether the developments reported are linked to the implementation of reforms and investments under the RRP, where applicable.

If there are no changes, it is sufficient to indicate this and the information covered in the contributions for the previous Rule of Law Reports should not be repeated.

[2] Such as: media regulatory authorities and bodies, national human rights institutions, equality bodies, ombudsman institutions, supreme audit institutions and, where they exist, transparency authorities.

About you

* I am giving my contribution as

- ☐ Academic/research institution
- ☐ Business association
- ☒ Civil society organisation/NGO

- ☐ International organisation
- ☐ Judicial association or network
- ☐ Media organisation or association
- ☐ Public authority or network of public authorities
- ☐ Other

*** Organisation name**

250 character(s) maximum

Main Areas of Work

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

If "Other", please specify

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

500 character(s) maximum

Transparency register number

Check if your organisation is in the transparency register. It's a voluntary database for organisations seeking to influence EU decision-making

*** Country of origin**

Please add the country of origin of your organisation

- ☐ Afghanistan
- ☐ Albania
- ☐ Algeria
- ☐ Andorra
- ☐ Angola
- ☐ Antigua and Barbuda
- ☐ Argentina
- ☐ Armenia
- ☐ Australia
- ☐ Austria

- ☐ Azerbaijan
- ☐ Bahamas
- ☐ Bahrain
- ☐ Bangladesh
- ☐ Barbados
- ☐ Belarus
- ☒ Belgium
- ☐ Belize
- ☐ Benin
- ☐ Bhutan
- ☐ Bolivia
- ☐ Bosnia and Herzegovina
- ☐ Botswana
- ☐ Brazil
- ☐ Brunei Darussalam
- ☐ Bulgaria
- ☐ Burkina Faso
- ☐ Burundi
- ☐ Cabo Verde
- ☐ Cambodia
- ☐ Cameroon
- ☐ Canada
- ☐ Central African Republic
- ☐ Chad
- ☐ Chile
- ☐ China
- ☐ Colombia
- ☐ Comoros
- ☐ Congo
- ☐ Costa Rica
- ☐ Côte D'Ivoire
- ☐ Croatia
- ☐ Cuba
- ☐ Cyprus
- ☐ Czechia
- ☐ Democratic Republic of the Congo
- ☐ Denmark
- ☐ Djibouti
- ☐ Dominica
- ☐ Dominican Republic
- ☐ Ecuador
- ☐ Egypt
- ☐ El Salvador
- ☐ Equatorial Guinea
- ☐ Eritrea
- ☐ Estonia
- ☐ Eswatini

- ☐ Ethiopia
- ☐ Fiji
- ☐ Finland
- ☐ France
- ☐ Gabon
- ☐ Gambia
- ☐ Georgia
- ☐ Germany
- ☐ Ghana
- ☐ Greece
- ☐ Grenada
- ☐ Guatemala
- ☐ Guinea
- ☐ Guinea Bissau
- ☐ Guyana
- ☐ Haiti
- ☐ Honduras
- ☐ Hungary
- ☐ Iceland
- ☐ India
- ☐ Indonesia
- ☐ Iran
- ☐ Iraq
- ☐ Ireland
- ☐ Israel
- ☐ Italy
- ☐ Jamaica
- ☐ Japan
- ☐ Jordan
- ☐ Kazakhstan
- ☐ Kenya
- ☐ Kiribati
- ☐ Kuwait
- ☐ Kyrgyzstan
- ☐ Laos
- ☐ Latvia
- ☐ Lebanon
- ☐ Lesotho
- ☐ Liberia
- ☐ Libya
- ☐ Liechtenstein
- ☐ Lithuania
- ☐ Luxembourg
- ☐ Madagascar
- ☐ Malawi
- ☐ Malaysia
- ☐ Maldives

- ☐ Mali
- ☐ Malta
- ☐ Marshall Islands
- ☐ Mauritania
- ☐ Mauritius
- ☐ Mexico
- ☐ Micronesia
- ☐ Monaco
- ☐ Mongolia
- ☐ Montenegro
- ☐ Morocco
- ☐ Mozambique
- ☐ Myanmar
- ☐ Namibia
- ☐ Nauru
- ☐ Nepal
- ☐ Netherlands
- ☐ New Zealand
- ☐ Nicaragua
- ☐ Niger
- ☐ Nigeria
- ☐ North Korea
- ☐ North Macedonia
- ☐ Norway
- ☐ Oman
- ☐ Pakistan
- ☐ Palau
- ☐ Panama
- ☐ Papua New Guinea
- ☐ Paraguay
- ☐ Peru
- ☐ Philippines
- ☐ Poland
- ☐ Portugal
- ☐ Qatar
- ☐ Republic of Moldova
- ☐ Romania
- ☐ Russian Federation
- ☐ Rwanda
- ☐ Saint Kitts and Nevis
- ☐ Saint Lucia
- ☐ Saint Vincent and the Grenadines
- ☐ Samoa
- ☐ San Marino
- ☐ Sao Tome and Principe
- ☐ Saudi Arabia
- ☐ Senegal

- ☐ Serbia
- ☐ Seychelles
- ☐ Sierra Leone
- ☐ Singapore
- ☐ Slovakia
- ☐ Slovenia
- ☐ Solomon Islands
- ☐ Somalia
- ☐ South Africa
- ☐ South Korea
- ☐ South Sudan
- ☐ Spain
- ☐ Sri Lanka
- ☐ Sudan
- ☐ Suriname
- ☐ Sweden
- ☐ Switzerland
- ☐ Syrian Arab Republic
- ☐ Tajikistan
- ☐ Tanzania
- ☐ Thailand
- ☐ Timor-Leste
- ☐ Togo
- ☐ Tonga
- ☐ Trinidad and Tobago
- ☐ Tunisia
- ☐ Turkey
- ☐ Turkmenistan
- ☐ Tuvalu
- ☐ Uganda
- ☐ Ukraine
- ☐ United Arab Emirates
- ☐ United Kingdom
- ☐ United States of America
- ☐ Uruguay
- ☐ Uzbekistan
- ☐ Vanuatu
- ☐ Venezuela
- ☐ Viet Nam
- ☐ Yemen
- ☐ Zambia
- ☐ Zimbabwe

First name

Surname

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

*** Publication of your contribution and privacy settings**

You can choose whether you wish for your contribution to be published and whether you wish your details to be made public or to remain anonymous.

- ☒ Anonymous - Only your type of respondent, country of origin and contribution will be published. Organisation name, URL, transparency register number, first name and surname given above will not be published. **To maintain anonymity, please refrain from mentioning the name of your organisation and any details from which your organisation can be identified in the rest of your contribution.**
- ☐ Public - Your personal details (name, organisation name, transparency register number, country of origin) will be published with your contribution).
- ☐ No publication - Your contribution will not be published. Elements of your contribution may be referred to anonymously in documents produced by the Commission based on this consultation.

☒ I agree with the personal data protection provisions.

[Specific privacy statement targeted stakeholder consultation 2024 rule of law report.pdf](#)

Questions on horizontal developments


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

Overview topics for contribution

[List of topics 2024 RoL Report.pdf](#)

Please provide any relevant information on horizontal developments here

5000 character(s) maximum



The developments encompassed in this submission point to systematic attacks on the fundamental rights of LGBTI people enabled by the weakening of rule of law and democratic structures. We have kept our inputs relevant to the content asked for by the consultation, and therefore we have not included all fundamental rights violations against LGBTI people, or all restrictions experienced by LGBTI civil society in the respective countries. We have only included them where there is a clear link to the issues of rule of law contained in the consultation.

Throughout 2023 we continued to see the manipulation of judicial processes to attempt to erode the human rights of LGBTI people and their access to justice, in particular in Poland and Hungary, but also increasing in Italy too. In Poland the Prosecutor General being also the Minister of Justice continued to result in the misuse of the prosecutor's office to repeatedly appeal verdicts in favour of LGBTI defendants, and the use of prosecutors to intimidate LGBTI people undergoing judicial processes, or the outcome of said processes, for the most part of 2023, while Zbigniew Ziobro remained the Minister of Justice. Despite a change of power later in the year, the issue of the separation of powers remains a vulnerability.

Particularly stark among this year's submissions is the continual problem of non-implementation of European court judgments, especially around the right of LGBTI people to respect for their private and family life, and the best interests of their children. This was an issue in five of the seven countries responding to the survey this year. In Hungary, despite the anti-LGBT amendments to the Child Protection Act being subject to an EU infringement procedure due to breaching EU law, the implementation and chilling effect of this law only increased this year, spreading further into media, as well as the cultural sector. In Italy, new legal attacks on LGBTI people include proposed amendments to the asylum law that would breach EU law.

LGBTI civil society from four of the seven countries included in this submission have highlighted the fact that their countries' legal gender recognition (LGR) procedures are not in line with international standards, including case law of the European Court of Human Rights which states that LGR should be quick, transparent, and accessible, without abusive requirements. LGR procedures in these countries expose trans people to inconsistent measures and decisions depending on the court, including as regards fees, required documents and/or length of proceedings which are often as a result unnecessarily drawn out, presenting a further barrier to accessing justice.

In five of the seven countries LGBTI civil society reported inadequate or insufficient consultation processes for the preparation of laws, and legal restrictions to the functioning of civil society were reported in Hungary and Romania, the latter legislation being dropped after significant protest from civil society, while Hungary's law opens the door to arbitrary governmental investigation of civil society organisations, with as of yet unclear repercussions.

Across the board issues with smear campaigns and hate speech in the media were reported, with lack of follow-up from relevant authorities in particular when it comes to perpetrators who are politicians or religious leaders. In Poland the authors of the Atlas of Hate are still facing three SLAPP cases, the rest having been dismissed by courts or won by the defendants, while LGBTI human rights defenders in Bulgaria have started to become the target of SLAPPs also for denouncing discrimination against LGBTI people. In a number of countries LGBTI civil society reported inadequate follow-up to hate crime and discrimination cases, showing systemic inadequate implementation of their anti-discrimination and hate crime laws. In some cases, the police even discourage reporting.

Questions for contribution

The following four pillars (I.-IV.) are sub-divided into topics (A., B., etc.) and sub-topics (1., 2., 3., etc.). For each of the topics and sub-topics, you are invited to provide (1) information on measures taken to implement the recommendations addressed to the Member State in the 2023 Rule of Law report, as well as developments with regard to the points raised in the respective country chapter of the 2023 Rule of Law Report and (2) any other significant developments since January 2023[3]. Please always include a link to and reference relevant legislation/documents (in the national language and/or where available, in English). Significant developments can include challenges, positive developments and best practices, covering both legislative developments or implementation and practices.

If there are developments you consider relevant under each of the four pillars that are not mentioned in the sub-topics, please add them under the section "other - please specify". Only significant developments should be covered.

Information provided in reply to the first question under each pillar, related to the follow-up to the recommendations, does not need to be repeated in subsequent parts of the questionnaire, but can be cross-referenced in the subsequent questions, where relevant. All other questions are not limited to the recommendations, but as in previous years, cover the entire scope of the Report.

[3] Unless already covered in the input for the previous Rule of Law Reports.

Member State covered in contribution [only one choice possible]

If you wish to submit information concerning several Member States, please fill in the questionnaire separately for each Member State. There is no limit to the number of contributions submitted by a single participant.

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

- ☐ Malta
- ☐ Netherlands
- ☐ Poland
- ☐ Portugal
- ☐ Romania
- ☐ Slovak Republic
- ☐ Slovenia
- ☐ Spain
- ☐ Sweden

I. Justice System

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

5000 character(s) maximum

A. Independence

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

(The reference to 'judges' concerns judges at all level and types of courts as well as judges at constitutional courts)

5000 character(s) maximum

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

5000 character(s) maximum

Promotion of judges and prosecutors (incl. judicial review)

5000 character(s) maximum

Allocation of cases in courts

5000 character(s) maximum

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

5000 character(s) maximum

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

5000 character(s) maximum

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

5000 character(s) maximum

Independence/autonomy of the prosecution service

5000 character(s) maximum

Independence of the Bar (chamber/association of lawyers) and of lawyers

5000 character(s) maximum

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

5000 character(s) maximum

Over a 5 year period the Commission Against Discrimination in Bulgaria received over 2500 court cases on discrimination and of these only 400 were based on sexual orientation and no case was opened on gender identity and/or expression. Of these 400 cases the Commission did not find discrimination in any of them.

B. Quality of justice

(Under this topic, you are not required to give statistical information but should provide input on the type of information outlined under section 2)

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

5000 character(s) maximum

Based on the aforementioned interpretive ruling of the Supreme Court of Cassation the access of trans people to justice has been limited and denied in many cases.

Resources of the judiciary (human/financial/material)

(Material resources refer e.g. to court buildings and other facilities. Financial resources include salaries of staff in courts and prosecution offices.)

5000 character(s) maximum

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

5000 character(s) maximum

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

5000 character(s) maximum

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)

5000 character(s) maximum

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

5000 character(s) maximum

C. Efficiency of the justice system

(Under this topic, you are not required to give statistical information but should provide input on the type of information outlined under section 2)

Length of proceedings

5000 character(s) maximum

Proceedings before the Commission take more than 3 years. Currently, Deystvie is the lead on two court cases against political leaders and a political party which were submitted to the Commission in 2019 and still are pending.

Other - please specify

5000 character(s) maximum

II. Anti-Corruption Framework

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

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

5000 character(s) maximum

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

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

5000 character(s) maximum

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

5000 character(s) maximum

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

5000 character(s) maximum

B. Prevention

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

5000 character(s) maximum

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

5000 character(s) maximum

Rules and measures to prevent and address conflicts of interest in the public sector. Please specify the features and scope of their application (e.g. categories of officials concerned, types of checks and corrective measures depending on the category of officials concerned)

5000 character(s) maximum

If available to you, for the three preceding questions, you are also invited to provide figures on their application, such as number of detected breaches/irregularities of the various rules in place and the follow-up given (investigations, sanctions, etc.).

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

5000 character(s) maximum

Sectors with high-risks of corruption in your Member State:

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

5000 character(s) maximum

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

5000 character(s) maximum

C. Repressive measures

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

5000 character(s) maximum

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

5000 character(s) maximum

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

5000 character(s) maximum

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

5000 character(s) maximum

Other - please specify

5000 character(s) maximum

III. Media pluralism and media freedom

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

5000 character(s) maximum

A. Media authorities and bodies

(Cf. Article 30 of Directive 2018/1808)

Measures adopted to ensure the independence, enforcement powers and adequacy of resources (financial, human and technical) of media regulatory authorities and bodies

5000 character(s) maximum

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

5000 character(s) maximum

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

5000 character(s) maximum

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

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

5000 character(s) maximum

Safeguards against state / political interference, in particular:

- safeguards to ensure editorial independence of media (private and public)
- specific safeguards for the independence of heads of management and members of the governing boards of public service media (e.g. related to appointment, dismissal), safeguards for their operational independence (e.g. related to reporting obligations and the allocation of resources) and safeguards for plurality of information and opinions
- information on specific legal provisions and procedures applying to media service providers, including as regards granting/renewal/termination of licenses, company operation, capital entry requirements, concentration and corporate governance

5000 character(s) maximum

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

5000 character(s) maximum

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

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

5000 character(s) maximum

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

5000 character(s) maximum

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

5000 character(s) maximum

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

5000 character(s) maximum

Human rights defender Denitsa Lyubenova (of LGBTI CSO Deystvie) has had three different SLAPP cases levied against her. Criminal complaints were filed against Lyubenova at the Regional Police Department, at the General Directorate for Organized Crime and at the Supreme Bar Council. The first two were filed by far-right groups with close ties to far-right political parties including the groups who organized the protest during the movie screening of the movie "Close" (see under IV. D. Enabling Framework for Civil Society) and the groups which gathered in support of the ex-punk singer Milena Slavova who Deystvie were suing for discrimination. The third case at the Supreme Bar Council is filed by a Bulgarian woman whose former wife Lyubenova was helping in her capacity as a lawyer to get access to their child. The child was abducted to Bulgaria from Denmark and the Danish mother never saw her child again. Since 2017 the Bulgarian mother is constantly submitting complaints against Lyubenova. All these cases are still pending decision by the police and in the last case by the Regional Bar Council whether they will open criminal/administrative proceedings.

Other - please specify

5000 character(s) maximum

IV. Other institutional issues related to checks and balances

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

5000 character(s) maximum

A. The process for preparing and enacting laws

Framework, policy and use of impact assessments and evidence based policy-making, stakeholders'[1] /public consultations (including consultation of judiciary and other relevant stakeholders on judicial reforms), and transparency and quality of the legislative process both in the preparatory and the parliamentary phase

[1] This includes also the consultation of social partners

5000 character(s) maximum

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)

5000 character(s) maximum

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

5000 character(s) maximum

Regime for constitutional review of laws

5000 character(s) maximum

B. Independent authorities

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

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

5000 character(s) maximum

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

5000 character(s) maximum

C. Accessibility and judicial review of administrative decisions

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

5000 character(s) maximum

Judicial review of administrative decisions:

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

5000 character(s) maximum

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

5000 character(s) maximum

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

5000 character(s) maximum

On 1 March 2023 the Supreme Administrative Court disregarded the judgement of the Court of Justice of the EU on C-490/2020 V.M.A. v. Pancharevo municipality, Bulgaria on the recognition of birth certificates of children born in same-sex families [<https://en.deystvie.org/baby-sara-court-of-justice-eu>], leaving the child born to a Bulgarian mother and Spanish mother stateless. The CJEU had found in December 2021 that it is contrary to the fundamental rights guaranteed by Articles 7 and 24 of the EU's Charter of Fundamental Rights for the baby of same-sex parents to be deprived of the relationship with one of her parents when exercising her right of free movement or for her exercise of that right to be made impossible or excessively difficult on the ground that her parents are of the same sex. The ruling effectively said that if one EU country recognises a child's parental relationship, then all EU countries should do the same to guarantee the child its freedom of movement across the region, a right enjoyed by all EU citizens. In its judgement, the Supreme Administrative Court claimed that the child is not a Bulgarian citizen because she has no proven biological relationship with her Bulgarian mother. The court incorrectly asserted that a written defense submitted to the second instance court contained a statement that the child was born to a British mother. In fact, nowhere is such information provided. Nowhere in the CJEU's judgement is the condition of a biological link to the parent in order to establish a legal one addressed. As the refusal of the Supreme Administrative Court was final and contradicts the EU law and the CJEU case-law, an application for violation of Articles 8, 12 and 14 of the ECHR has been filed before the ECtHR. Additionally, a complaint before the European Commission has been submitted for the violation of EU law.

In February 2023 the Supreme Cassation Court closed the way to trans and intersex people to change their legal gender. Due to previously conflicting judgments from the Supreme Court on legal gender recognition (LGR) requirements, the General Assembly of the Civil College (SC) of the Supreme Court of Cassation (SCC) issued an interpretative decision in late February 2023 <https://defakto.bg/2023/02/20/%d1%82%d1%8a%d0%bb%d0%ba%d1%83%d0%b2%d0%b0%d1%82%d0%b5%d0%bb%d0%bd%d0%be-%d1%80%>

d0%b5%d1%88%d0%b5%d0%bd%d0%b8%d0%b5-%d0%bd%d0%b0-%d0%b2%d0%ba%d1%81-%d0%bd%d0%b5-%d1%80%d0%b0%d0%b7%d1%80%d0%b5%d1%88/. The decision stated that since gender is an unchangeable biological factor, legal gender recognition should not be possible in Bulgaria <https://www.bghelsinki.org/bg/news/2023-02-21-scc-legal-gender-recognition>. This is despite a significant body of ECtHR cases ruling that lack of access to legal gender recognition is a violation of Article 8 ECHR. The most recent is from December 2022 against Georgia (A.D and others v. Georgia). The court found violation of Article 8 ECHR because of not having a fast, accessible and transparent legal gender recognition procedure in place. Seemingly other courts in Bulgaria are indeed following ECtHR case law, as in early March, the Supreme Court of Cassation ruled that the European Convention on Human Rights is the legal basis for LGR in Bulgaria <https://singlestep.bg/en/%d0%bf%d1%80%d0%b8%d0%b7%d0%bd%d0%b0%d0%b2%d0%b0%d0%bd%d0%b5-%d0%bd%d0%b0-%d0%bf%d0%be%d0%bb%d0%b0/>. In May, the Sofia City Court also decided to process a trans person's LGR case.

D. The enabling framework for civil society

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

5000 character(s) maximum

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

5000 character(s) maximum

On 10 June, a group of far-right extremists held up hateful banners outside the screening of Close during the Sofia Pride Film Fest and allegedly assaulted a woman [<https://sofiaglobe.com/2023/06/11/lgbti-activists-send-open-letter-to-mayor-after-extremists-disrupt-sofia-pride-film-fest/>]. The group then went inside to disrupt the event [<https://sofiaglobe.com/2023/06/11/bulgaria-far-right-demonstrators-block-screening-at-sofia-pride-film-fest/>], took photos of the attendees, called them “paedophiles”, and chanted “LGBT virus”. The event was cancelled. The police were present, but allegedly shook hands and saluted protesters. Several of the extremists, wearing shirts of the pro-Kremlin Vazrazhdane party, went to the nearby Cosmic Craft Beer shop and blocked the entrance. Civil society called on Sofia’s mayor to prohibit hateful actions and ensure that future screenings can go ahead and enjoy police protection [<https://www.bghelsinki.org/bg/news/2023-02-21-scc-legal-gender-recognition>].

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

5000 character(s) maximum

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

5000 character(s) maximum

E. Initiatives to foster a rule of law culture

Measures to foster a rule of law culture (e.g. debates in national parliaments on the rule of law, public information campaigns on rule of law issues, contributions from civil society, education initiatives etc.)

5000 character(s) maximum

Other - please specify

5000 character(s) maximum

Bulgaria is still struggling with institutional discrimination against its LGBTI community. While many institutions are established and operating, there is constant evidence suggesting that they may not be adhering to the recommendations and goals of the EU directives. According to the 2019 FRA LGBTI Survey II, over half of LGBTI respondents in Bulgaria experienced discrimination in the previous 12 months, the second highest rate of the whole EU. Bulgaria is consistently the lowest ranking country when it comes to the general public's tolerance of LGBTI people, according to the December 2023 Eurobarometer [<https://europa.eu/eurobarometer/api/deliverable/download/file?deliverableId=88556>].

According to LGBTI organization Deystvie from 23 court cases which were filed by the organization's legal team to the Commission against discrimination, to Police, Prosecution and Courts in Bulgaria concerning hate speech, none of these court cases finished with a judgment sanctioning hate speech. This is accompanied by physical attacks against LGBTI community events and claims before prosecution and police against LGBTI organisations and activists. This hostile environment is supported by political dependence and corruption in Bulgarian courts.

Deystvie has observed a persistent pattern of decisions and actions that negatively target the LGBTQ community. In 2023 there were several judgments by Supreme courts in Bulgaria which target and restrict the rights of the LGBTI community, these include the two aforementioned judgements running contrary to CJEU and ECtHR decisions. Other examples include:

- In October 2023 the Supreme Administrative Court dismissed the discrimination claim filed by Deystvie against a famous Bulgarian rock singer stating that freedom of expression is more important [<https://www.deystvie.org/post/%D0%B2%D0%B0%D1%81-%D0%BC%D0%B8%D0%BB%D0%B5%D0%BD%D0%B0-%D1%81%D0%BB%D0%B0%D0%B2%D0%BE%D0%B2%D0%B0-%D0%BD%D0%B5-%D0%B5-%D0%BE%D1%81%D1%8A%D1%89%D0%B5%D1%81%D1%82%D0%B2%D0%B8%D0%BB%D0%B0-%D0%B4%D0%B8%D1%81%D0%BA%D1%80%D0%B8%D0%BC%D0%B8%D0%BD%D0%B0%D1%86%D0%B8%D1%8F-%D0%BF%D0%BE-%D0%BF%D1%80%D0%B8%D0%B7%D0%BD%D0%B0%D0%BA-%D1%81%D0%B5%D0%BA%D1%81%D1%83%D0%B0%D0%BB%D0%BD%D0%B0-%D0%BE%D1%80%D0%B8%D0%B5%D0%BD%D1%82%D0%B0%D1%86%D0%B8%D1%8F>].
- Two of the most prominent LGBTI activists in Bulgaria were sentenced to pay 1500EUR fine for suing the leader of a neo-nazi party who was requesting to ban Sofia Pride in his election campaign in 2019. The activists have filed a complaint to the Supreme Administrative Court. In case the latter confirms this judgment they will be sanctioned to an even higher fee.

Contact

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