

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



Our organisations work to defend the rights and freedoms of women and LGBTI+ people, including sexual and reproductive rights. The below submission highlights how the deterioration of the rule of law in Poland continued in 2023 to impact the enjoyment of fundamental rights and the challenges facing those who defend these rights, including through actions by the courts, the media and other judicial bodies and processes. The interference of political interests in these fields clearly targeted LGBTI+ individuals, women, and human rights defenders and shows how human rights defenders and civil society have been subjected to violence, misinformation, and legal repression as a result of the weakening of democratic institutions and safeguards.

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

Throughout 2023, the lack of independence of the Constitutional Tribunal and its illegitimate rulings had harmful impacts on human rights. Both the European Commission (infringement procedure launched on 22 December 2021 and referred to the Court of Justice of the EU on 15 February 2023) and the European Court of Human Rights (*Xero Flor v. Poland* (App. no. 4907/18)), have clearly found that the legitimacy and independence of the Constitutional Tribunal have been compromised and that its composition is unlawful, due to irregularities in the election of its judges dating back to 2015.

The 2020 regressive ruling by the Constitutional Tribunal that removed a legal ground for abortion access contrary to Poland's international human rights obligations continued to have grave and deadly consequences for women in 2023. Since the ruling took effect in January 2021, at least six women have died after being denied life-saving terminations of pregnancy in obstetric emergencies, as a result of medical professionals being hesitant and fearful of providing legal and necessary care due to the criminalization of abortion [see: <https://tvn24.pl/katowice/smierc-30-letniej-izabeli-w-pszczynie-lekarze-bali-sie-oskarzen-o-nielegalna-aborcje-nagrania-uwagi-tvn-5566049>; https://walbrzych.wyborcza.pl/walbrzych/7,178336,27773934,historia-izy-z-pszczyny-nie-jest-jedyna-w-swidnicy-zmarla-kobieta.html#S.embed_link-K-C-B.1-L.1.zw; <https://tvn24.pl/katowice/katowice-marta-zmarla-po-porodzie-w-20-tygodniu-ciazy-po-dwoch-dniach-pobytu-w-szpitalu-sprawa-badaja-prokuratura-regionalna-i-rzecznik-praw-pacjenta-6121598>; <https://www.poradnikzdrowie.pl/aktualnosci/34-letnia-justyna-zmarla-na-skutek-sepsy-byla-w-piatym-miesiacu-ciazy-kazali-jej-rodzic-naturalnie-aa-mvUS-yGUJ-bKLK.html>; <https://rzeszow.wyborcza.pl/rzeszow/7,34962,28071903,prokuratura-bada-smierc-kobiety-po-porodzie-rodzina-lekarze.html>; <https://tvn24.pl/krakow/smierc-kobiety-w-ciazy-w-szpitalu-33-letnia-dorota-z-bochni-zmarla-na-sepse-protest-w-krakowie-7165926>]. Many others have been denied quality care and have experienced long delays before obtaining legal abortion care.

On 14 December 2023 in *M.L. v Poland* (App. No. 40119/21), the European Court of Human Rights held that the 2020 ruling issued by the illegitimate Constitutional Tribunal constituted an unlawful interference in M.L.'s private life and violated Article 8 of the European Convention for Human Rights. The ECHR found that "given that the irregularities in the election procedure of the above-mentioned judges compromised the legitimacy of the Constitutional Court's bench which introduced the impugned restriction as a "tribunal established by law", its ruling fell short of what the rule of law required." It held that the "the interference with the applicant's rights cannot be regarded as lawful in terms of Article 8 of the Convention because it was not issued by a body compatible with the rule of law requirements."

In 2023, the strict abortion legislation in Poland had stark impacts on refugees from Ukraine in need of abortion care. In particular, for refugees who are survivors of sexual assault the obligation to obtain a certificate from a prosecutor attesting to the crime and the 12-week deadline are especially severe barriers. A 2023 report documented how refugees from Ukraine are seeking abortion care outside the health care system or even travel to other countries including back to Ukraine, to overcome the barriers they confront in accessing legal abortion care [see: <https://reproductiverights.org/ukraine-report-care-in-crisis/>].

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

The existence of neo-judges, i.e. judges who were appointed or promoted in processes contrary to Polish law by the Polish government, continued to affect Polish Women Human Rights Defenders (WHRDs) and LGBTI rights defenders and civil society organisations.

Judges handling the cases of protestors and WHRDs were most of the time close to the ruling party in power in 2023, PiS. Justyna Wydrzyńska denounced that the judge assigned to her case was appointed by the general prosecutor in the Ministry of Justice, and was therefore not independent [see: <https://defendthedefenders.eu/justyna-i-may-be-sitting-alone-but-i-am-not-alone/>]. Marta Lempart, leader of the Polish Women's Strike, also warned that the Polish government appointed judges who were not independent to cases against human rights defenders [see: <https://defendthedefenders.eu/marta-updates-people-moving-more-towards-love-and-not-hate/>]. Her lawyers systematically had to file motions to seek to replace the judges appointed to her cases, because they were neo-judges.

LGBTI civil society has also observed that the presence of neo-judges affects their cases. For example, in the case of KPH versus TVP on violation of personal rights because of the airing on prime time TV of a homophobic show called "Inwazja", the chosen judge in the second instance was neo-judge Adam Jaworski. KPH are currently waiting for a final decision on his removal (he was removed by the Court of Appeal, but appealed this decision to the Supreme Court).

In another case, which is currently in the Supreme Court, a neo-judge was also chosen and KPH submitted a claim to remove her. The judge was removed by the Supreme Court, but then the Court chose another neo-judge to replace her. KPH submitted another claim for removal, which is still pending.

Polish authorities should now remove these neo-judges from their positions all together.

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

The National Council of the Judiciary, the body responsible for nominating judges in Poland no longer matches the institution enshrined in the Constitution due to changes made by the government, which increased political influence over the body, as recognized by the Supreme Court since on 2 June 2022 [see: <https://notesfrompoland.com/2022/06/02/polands-judicial-council-is-no-longer-consistent-with-the-constitution-finds-supreme-court/>].

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

Throughout 2023, the Minister of Justice Zbigniew Ziobro (now replaced by Adam Bodnar) continued to also fulfill the function of Prosecutor General. The fact that these two functions are merged greatly undermines the independence of the prosecution service from the government.

As such, Zbigniew Ziobro continued to abuse his power by specifically intervening in LGBTI+ related cases.

In July 2023 Ziobro granted Marika an interruption in imprisonment, which was not justified by any circumstances [see: <https://tvn24.pl/polska/prezydent-andrzej-duda-ulaskawil-marika-byla-skazana-za-atak-na-kobieta-z-teczowa-torba-7537199>]. Marika had been found guilty of a robbery and of attacking a woman with a rainbow handbag. In December 2023, President Andrzej Duda, due to pressure from fellow politicians and far-right organisation Ordo Iuris, pardoned her. By this act, the President removed the criminal effects of the court decision, i.e. he removed the penalty and any criminal measures.

The case of an IKEA manager [see: <https://www.money.pl/gospodarka/kierowniczka-z-ikei-uniewinniona-final-glosnej-sprawy-6951043213204320a.html>] who fired a worker after his homophobic statement, was ended at the Supreme Court after the prosecution's cassation and a statement from Ordo Iuris, which was also involved in the case. Even though the manager was found innocent, the prosecution overused their power by submitting this additional remedy.

The then-Prosecutor General was still overusing his power by submitting extraordinary complaints to the Supreme Court in LGBTI+ related judicial proceedings, e.g. he submitted an extraordinary complaint [see: <https://kph.org.pl/teczowa-maryjka-na-celowniku-ziobry/>] in the lawfully finished case of an activist alleged to offend religious belief by presenting a portrait of Saint Mary with a rainbow halo. The Supreme Court's verdict has not been delivered yet.

As corroborated by other civil society organisations, in many cases on legal gender recognition, prosecutors continue to be unnecessarily involved, which is traumatising for the people undergoing the process and can have a chilling effect both on judges and parties involved.

As described in the section on the enabling environment for civil society below, politically-appointed Prosecutors have also been targeting women human rights defenders with politically-motivated charges, which constitutes judicial harassment.

In addition, the tightening of the abortion ban has recently resulted in a notable increase in women being reported to the authorities on suspicion of having an illegal abortion, despite criminal law not imposing any penalties on women themselves for having an abortion outside the legal framework. Cases from 2022 [see: <https://www.politico.eu/article/poland-abortion-probe-outrage-prosecutors-drain-cesspit/>; <https://jezebel.com/polish-police-search-sewage-for-fetus-to-prove-woman-is-1850683797>] and April 2023 [see: <https://www.dw.com/en/police-at-the-hospital-abortion-battle-heats-up-in-poland/a-66319325>] recently came to light, in which two women were reported to the police, following which their homes were searched by the police to retrieve

evidence of an abortion. In both cases criminal proceedings were opened against the women, and one of the cases remains pending [see: <https://tvn24.pl/krakow/krakow-w-asyscie-policji-trafila-do-szpitala-miala-sie-rozebrac-sie-kucac-i-kaszlec-policja-o-wynikach-kontroli-7416474>] while the other was dropped by the prosecutor. As part of this latter case, proceedings are ongoing for potential excess of powers by police officers as well as before the Data Protection Authority. Internal disciplinary proceedings within the Police have not revealed any violations of the law.

These abusive investigations have no legal basis and only serve to instill a climate of fear among women in Poland who may be reluctant to seek life saving medical help in obstetric emergencies.

There has also been an uptick in investigations into the practices of medical professionals on the basis of the provisions criminalizing anyone who assists women in obtaining an abortion outside the narrow scope of the law (Art. 152 para 2 of the Criminal Code). Most recently on 9 January 2023, officers from the anti-corruption bureau confiscated medical records of a gynecologist from the last 30 years at her private practice, which were used as a basis by the Szczecin District Prosecutor for the opening of an investigation against her for assisting with abortion. On 25 November 2023 the gynecologist was charged with five offenses of assisting in the termination of a pregnancy [see: <https://natemat.pl/526981,szczecin-ginekolog-maria-kubisa-z-zarzutami-ws-pomocnictwa-w-aborcji>]. The targeting of medical professionals reinforces the chilling effect of the regressive ruling, as they risk further denying women legal abortion care including life-saving terminations of pregnancy in obstetric emergencies.

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

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

Since 2015, when Law and Justice became the ruling party, Poland has been experiencing a serious rule of law crisis. The Polish judiciary system after some reforms made by Ziobro and the Law and Justice party faces many challenges, which are due to the lack of legal regulations and bad practices by law enforcement officers.

When it comes to LGBTI+ specific cases, the lack of legal protection of SOGIESC based hate crimes and hate speech results in difficulties in access to justice. The prosecutor's offices very often dismiss these cases or the investigation procedure is extremely long. For example, in one case of online homophobic hate speech, which started in 2017, the investigation has not ended yet, even though the court has stated the excessive length of procedures.

Also, the legal gender recognition procedure in Poland is unregulated and is based only on the Supreme Court judgements and transgender people are obliged to sue their parents. Therefore legal gender recognition cases can be very different depending on the court and region in Poland, in some of them the prosecutors are present, and very often the courts request many psychological, psychiatric or sexological opinions. These variables result in many of the legal gender recognition cases becoming lengthy, multi-year proceedings. In 2023, we did not observe any positive change in this aspect.

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

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

Under the ruling of the Law and Justice party (PiS), the public media - as well as a state-controlled Polska Press Consortium, the largest regional media publisher in Poland that reaches 19 mln users every month - were used as a propaganda machine for mobilising PiS voters for the election campaign. They were actively attacking political opponents, monopolising the broadcasting time and marginalising the visibility of other parties.

Until the autumn elections won by the democratic opposition, the PiS government was making appointments of public media staff and Polska Press staff, that later had to follow specific top-down guidance e.g. concerning LGBTI+ related issues, having e.g. a clear command not to talk about or “promote LGBT” as

stated in Helsinki Foundation's report [see: <https://hfhr.pl/upload/2023/07/od-prasy-regionalnej-do-orlen-press-raport-hfpc.pdf>].

In the media [see: <https://fundacijabasta.pl/2023/05/13/raport-fundacji-basta-z-monitoringu-mediow/>] the number of negative mentions of the LGBTI+ community is significantly higher than positive ones, most of which was presented on public television. The LGBTI+ community was smeared as being related to pedophilia and misinformation was spread claiming that LGBTI+ people are a threat to children, Christianity and traditional Polish values. The LGBTI+ community is not protected from hate speech, therefore the hate speech in the media was not investigated.

As previously, TVP (public television) played an important role in this year's national election campaign and was used to spread hate speech against migrants and other minorities, including LGBTI+ people (although significantly less than in previous years).

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

The SLAPP cases against the creators of the Atlas of Hate, an online map tracking anti-LGBT resolutions, continued again this year. Following the withdrawal of the case of Przysuski powiat, and the defendants' win in the case of Przasnysz powiat, only three SLAPP lawsuits remain: those of Tatra, Tarnów and Łowicz counties.

As regards so-called "LGBT-free zones" (anti-LGBT resolutions and Family Charters), 58 have been withdrawn. This is more than half of the total number of zones. 13 remain, encompassing 0.9% of Poland's territory.

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

Civil society organisations are not informed well enough about public consultations, and their timeframe is usually too short. CSOs experienced difficulties with access to recruitment processes to the Monitoring Committees for the EU funds both on local and national level, and the calendars of these processes were often not updated resulting in many formal problems for CSOs.

Until the autumn elections won by the democratic opposition, LGBTI+ organisations did not have access to the authorities nor could establish dialogue with them. The only area in which CSOs had the opportunity to talk to higher-ranking government officials was via the framework for EU funds.

The new Minister of Equality, Katarzyna Kotula, has already informed that the draft bill on civil unions for same-sex couples will be consulted with CSOs, a declaration which constitutes both a symbolic and practical qualitative change in the attitude and accessibility for LGBTI+ activists to the decision-making processes.

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

The Commissioner for Human Rights kept working with SOGIESC issues this year and sued several new local governments for their anti-LGBT resolutions, but leaving without answer a specific demand of CSOs to sue the ones with the discriminatory Family Rights Charter.

The previous Plenipotentiary for Equal Treatment, Anna Schmidt, who was delegated by PiS, maintained her anti-LGBT attitude until the end of the mandate this year.

Following the recent parliamentary elections, the LGBTI+ community in Poland has regained access to the necessary protection of all statutory national human rights institutions. Both the newly appointed Minister for Equality, Katarzyna Kotula, and the new Commissioner for Children's Rights, Monika Horna-Cieślak, are well known allies and embody a positive outlook for future developments in the area of LGBTI+ human rights. However, Minister Kotula does not have adequate personal or financial resources to carry out her activities, which needs to be regularised in the near future so that the tasks and competences assigned to her mandate can actually be implemented. In January 2024 the Minister for Equality met with LGBTI+ CSOs [see: <https://www.facebook.com/photo?fbid=780357400802996&set=a.145011754337567>].

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

Poland has failed to take any meaningful steps to implement three landmark judgments from the European Court of Human Rights regarding access to legal abortion and associated reproductive health care and information (Tysi c v. Poland (App. No. 5410/03), R.R. v. Poland (Appl. No. 27617/04) and P. and S. v. Poland (App. No. 57375/08)). In June 2023, the Council of Europe's Committee of Ministers, in charge of monitoring compliance with ECHR judgments, published its latest decision regarding these three cases, which are all subject to enhanced scrutiny. It expressed "profound concern at the absence of a clear picture on steps taken to ensure effective access to lawful abortion" and voiced deep concern at the "apparent absence of meaningful consideration at the highest decision-making levels of the Committee's previous decision, and consequent suggestions and recommendations provided by the Secretariat" on the key areas identified as requiring salient reforms for implementation of the judgments [CM/Del/Dec(2023)1468/H46-19]. Overall, the Committee concluded that there had been no substantial progress towards implementation of the three judgments, the first of which became final 16 years ago. This is especially concerning as Poland is legally obliged to abide by the final judgments of the Court and failure to do so undermines respect for the rule of law.

The Law and Justice government has also not implemented the judgments of the CJEU, e.g. the judgment of December 2021 [see: <https://kph.org.pl/14-teczowych-rodzin-walczy-z-polska-o-rowne-prawa-dla-swoich-dzieci/>] in the case STOLICHNA OBSHTINA, RAYON 'PANCHAREVO' [see: <https://www.ilga-europe.org/case-law/judgment-in-case-stolichna-obshtina-rayon-pancharevo/>] in which the CJEU found 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. However, this ruling has not yet

resulted in any changes in the Polish legal system and practice, deepening the existing rule of law crisis that is slowly being addressed by the new governing majority. Cases have been initiated at the local level (complaints to regional authorities) but the previous Ministry of Internal Affairs and Administration recommended local authorities not to reveal both parents in a child's documents (contrary to the CJEU case law). Three complaints have also been lodged at the European Commission this year.

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

In its 2023 chapter on Poland, the European Commission found there had been no progress to improve the framework for the country's civic space, including a lack of implementation of the 2022 report recommendations [p31]. It mentioned concerns about continued attacks on NGOs by representatives of public authorities, notably on abortion activists and representatives of the LGBTIQ community.

Throughout 2023, civil society and HRDs continued to operate in very challenging circumstances in Poland.

Those working on sexual and reproductive health and rights faced threats and attacks from non-State and State actors. HRDs notably continued to face SLAPPs and judicial harassment orchestrated by the government, which was enabled by the tightening of the abortion ban and the lack of independence of the prosecution service.

Examples of SLAPPS include leaders of the Polish Women's Strike who have been charged with a range of offences related to their role in organizing major abortion rights protests. In 2022, prosecutors filed an indictment against Marta Lempart, Klementyna Suchanow and Agnieszka Czerederecka-Fabin. They are accused of "causing an epidemiological threat," criminal charges which carry up to an eight-year prison sentence.

Marta Lempart in particular has been facing a total of up to 118 cases against her, by both the State and non-state actors. She was recently acquitted in a case filed against her by Ordo Iuris, an ultra-conservative Christian organisation opposing abortion rights [see: <https://wroclaw.wyborcza.pl/wroclaw/7,35771,30548082,marta-lempart-wygrala-z-ordo-iuris-sad-okreslenie-sadysci.html>].

There have also been a number of criminal complaints and investigations against HRDs on the basis of the provisions criminalizing anyone who assists women in obtaining an abortion outside the narrow scope of the law (Article 152 para 2 of the Criminal Code). In March 2023, Justyna Wydrzyńska, an activist with the Abortion Dream Team a grassroots civil society group, was sentenced to unpaid community service for providing another woman with abortion medication. The case is currently on appeal [see: <https://www.rp.pl>]

/prawo-karne/art38427071-to-nie-koniec-sprawy-aktywistki-skazanej-za-pomoc-w-aborcji].

In its 2023 and 2022 chapters on Poland, the European Commission highlighted the crucial role played by civil society in providing help to refugees from Ukraine, following the Russian war of aggression against Ukraine [2023 p.33 and 2022 p.28]. In 2023, HRDs and civil society remained the main providers of direct assistance to women and girls from Ukraine who need sexual and reproductive health care and gender-based violence support. They continue facing serious threats, intimidation and harassment from both public and private actors.

Judicial harassment against reproductive rights defenders is not only gravely prejudicial to the individuals targeted, who are forced to dedicate significant time and resources to engage in judicial processes, but also has a broader chilling effect, seeking to diminish reproductive rights defenders' efforts to hold the government accountable and ensure legal entitlements are accessible in practice for all women in Poland. A 2023 report documented many HRDs' "sense of disbelief and disillusionment at the lack of a serious response by EU institutions [...] to the realities they are facing and the growing backlash in their societies" [see: <https://reproductiverights.org/ukraine-report-care-in-crisis/>].

Around 13 discriminatory resolutions targeting the LGBTI+ community still remain in force.

For most of 2023, leaders of the former government continued to target LGBTI+ people with smear campaigns and discriminatory speech. In January, Deputy Minister of Justice, Marcin Warchol, said that the TVP2's New Year celebration, which featured the Black Eyed Peas with rainbow armbands, was the "New Year's Eve of Abnormalities" [<https://www.rp.pl/komentarze/art37709481-zuzanna-dabrowska-where-is-the-love-to-prezes-promowal-lgbt>] In May, PiS leader Jarosław Kaczyński said that information on LGBTQI+ issues in schools exposes them to "practices that are certainly harmful to them and may cause serious damage to their psyche" [<https://www.tvp.info/69623487/chronmy-dzieci-wspierajmy-rodzicow-wystapienie-jaroslaw-kaczynskiego-i-elzbiety-witek-pis-przyspiesza-prace-nad-projektem>]. Also in May, Ombudsman for Children Mikołaj Pawlak said his inspection of LGBTQI-friendly schools is to protect children from "criminals" and "paedophiles" [<https://www.thepinknews.com/2023/05/25/poland-mikolaj-pawlak-schools-lgbtq-investigation/>]. In a statement in May, Education Minister Czarnek blamed the spread of "LGBTQ+ ideology" and "brainwashing" for the rise of suicide among minors [<https://www.thepinknews.com/2023/03/13/poland-przemyslaw-czarnek-lgbtq-brainwashing-child-suicide-rate/>].

Several groups organising Pride marches received violent threats this year.

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

In the Poland chapter of the 2024 Rule of Law Report, we urge the European Commission to:

- Call on Poland to revoke all rulings of the politicised Constitutional Tribunal that have a negative impact on human rights.
- Call on Poland to separate the function of the Minister of Justice from that of the Prosecutor-General and continue efforts to ensure functional independence of the prosecution service from the Government; as well as to ensure independent investigations and prosecutions.
- Call on the new Polish government to discontinue any ongoing judicial harassment of medical professionals, human rights defenders and civil society advocating for reproductive rights in Poland, and to create an enabling environment for civil society, taking into account European standards on civil society.
- Clearly include violations of reproductive and LGBTI+ rights resulting from rule of law deficits in Poland in its reporting.
- Unequivocally call on the new Polish government to reform the country's abortion legislation so as to ensure full compliance with European Court of Human Rights judgments and to ensure the safeguarding of women's lives by removing abortion-related offences from the criminal code, thereby allowing medical professionals to provide care, free from fear of prosecution.
- Call on the new Polish government to reform the country's legislation in order to create a proper legal framework for the formalisation of same-sex relations so as to ensure full compliance with European Court of Human Rights judgments (Przybylska and Others v. Poland - 11454/17, 11810/17, 15273/17 et al.).
- Call on the new Polish government to repeal all the remaining so-called "LGBT-free zones" (Resolutions against LGBT Ideology or Family Rights Charters).
- Call on Poland to take necessary steps to amend the Criminal Code in order to adequately protect LGBTI+ people from hate speech and hate crimes.

Contact

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