

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

Reporters Without Borders

Main Areas of Work

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

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

500 character(s) maximum

<https://rsf.org/en>

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

612547127497-45

* 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

Julie

Surname

Majerczak

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

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

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

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

Contrary to the recommendations, Germany has not advanced with the plan to create a legal basis for a right to information of the press as regards federal authorities (« Presseauskunftsrecht gegenüber Bundesbehörden »), taking into account European standards on access to official documents. Even though there is a clear commitment to this in the government's coalition contract, we do not know of any, even preparatory, activities related to this, which makes it unlikely to be achieved before the end of the current legislative term.

Also contrary to the recommendation, Germany has not come forward with a law adapting the tax-exempt status for non-profit organisations, but at least the Federal Ministry of Finance (BMF) has committed to drafting a late Annual Tax Act 2023, which would have to be passed by the Bundestag before spring 2024. The law is expected to formally enter the Bundestag at the end of the year. Currently, there is a working group at state secretary level working specifically on the question on how far political activities by non-profit organisations should in the future profit from tax exemptions and on how far such a privilege should be extended to other non-profit causes. However, the current budget crisis in the German government calls into question the feasibility of the envisaged timeframe.

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

German Media authorities are generally independent, thus complying with AVMSD requirements. The scandal around personal enrichment and mismanagement at the German State Broadcaster RBB that started in 2022 and is still subject to legal proceedings has resulted in improved compliance rules for the Länder broadcasters (<https://www.faz.net/aktuell/feuilleton/medien/ard-und-zdf-laender-verschaerfen-regeln-fuer-oeffentlich-rechtliche-18514829.html>).

However, political influence on the composition of supervisory bodies is a persistent problem. Since the Federal Constitutional Court verdict on the ZDF state treaty in 2014 (https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/DE/2014/03/fs20140325_1bvf000111.html), only 1/3 of the positions of the supervisory bodies may be held by representatives from the political sphere. This has resulted in inflationary

large supervisory bodies with up to 60 members, as the quota was often met by enlarging the bodies. Notably, the supervisory bodies of German state broadcaster Deutsche Welle do still not meet the requirements of the Federal Constitutional Court verdict (however, as DW is not a public service broadcaster, but a state-owned one, the rules are not directly applicable).

On 30 November 2023, Heike Raab, State Secretary in the State Chancellery and Representative of the Land of Rhineland-Palatinate to the Federal Government, with responsibility for Europe and the Media, was forced to leave the supervisory body of regional broadcaster SWR after allegedly having tried to pressure the director of the broadcaster about the content of a live reporting criticising one of her political allies (<https://www.sueddeutsche.de/medien/heike-raab-ruecktritt-swr-beschwerdebef-spd-1.6312192>).

With a new period for the German broadcast fee (a household fee) starting in 2025, the independent Commission for the Financing of the Public Service Broadcasters (Kommission zur Ermittlung des Finanzbedarfs der Rundfunkanstalten) has already announced that it is going to recommend raising the payment per household to 18,94 euro per month (<https://www.wiwo.de/politik/deutschland/auf-18-94-euro-rundfunkbeitrag-soll-ab-2025-steigen/29509202.htm>). The German Länder have very little room to not follow that recommendation in their next Interstate Treaty on Broadcast Fees (Rundfunkbeitragsstaatsvertrag), as it is the result of a calculation supposed to ensure sufficient resources for public service broadcasters (« funktionsgerechte Finanzierung »), which is embedded in the German constitution and has only recently been confirmed by a Constitutional Court ruling (https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/DE/2021/07/rs20210720_1bvr275620.html). However, in 2023, various federal states (Bundesländer) have declared that they do not intend to agree to raising the fee, but rather aim for its « stability ». If no agreement is found, it will be up to the Constitutional Court to enforce the increase with another verdict.

The supervisory bodies can generally be seen as independent. However, notably in Berlin and Sachsen, the members of the « Medienrat » are directly appointed by the Länder parliament, which is at odds with the general « distance to the state » requirement of the German constitution.

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

The procedures are laid down in the media laws of the Länder. None of them give the government the power to arbitrarily dismiss directors or heads of the collegiate body of a media regulatory authority.

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

5000 character(s) maximum

Both the public service broadcasters and the private broadcasters have supervisory bodies that are independent. Civil society stakeholders are appointed as members, along with representatives from the political sphere (see above). The press sector is only governed by self-regulation. The German Press Council has the two main journalists' unions and the two main publishers' organisations in its board. There is a press codex that is widely accepted in the journalism sector (<https://www.presserat.de/pressekodex.html>). If violations of this codex appear, the press council can approve of complaints and issue reprimands. However, it has long been criticised that some media (notably the well-known tabloid « Bild ») hardly ever publish them, even if they are encouraged to. And as a self-regulatory body, the press council can not in any way sanction violations of its codex.

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

In 2022, the German government spent 194.631.794,50 for advertising and information campaigns (<https://dserver.bundestag.de/btd/20/066/2006676.pdf>). Since 2018, it also paid more than 1.5 million euros to individual journalists moderating government events or interviewing government members at e.g. industry fairs, with payments in some cases going up to 12.000 euro to a single journalist within a year (<https://www.tagesschau.de/investigativ/ndr-wdr/journalisten-honorare-regierung-101.html>). However, private media in Germany are generally not depending on state advertising to an extent that it would endanger their independence.

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

While some public service broadcasters have editorial statutes guaranteeing editorial independence, it is an exception in the press sector. But many press publications have at least editorial guidelines or transparency rules. Editorial independence of individual journalists is usually limited in the sense that the publisher or owner reserves for himself the right to determine the editorial line or political « tendency » of the publication. It is not a common practice, however, to interfere with editorial decisions in the daily newsroom work. The German Länder Media Treaties contain provisions safeguarding the independence of heads of management and governing boards both for private and public service broadcasting media. They also contain rules on obtaining broadcasting licences. While obtaining a broadcast licence is rather a formal requirement for media service providers, it comes with the obligation of respecting the rules of the Interstate Media Treaty (Medienstaatsvertrag), which has recently been reformed to include rules intended to restrict fake news. For instance, the regulatory authority can act in cases of « neglecting journalistic scrutiny » (Verstöße gegen die journalistische Sorgfaltspflicht) (https://www.die-medienanstalten.de/fileadmin/user_upload/Rechtsgrundlagen/Gesetze_Staatsvertraege/Medienstaatsvertrag_MStV.pdf). Media Concentration Law includes thresholds as to when media ownership concentration is considered to have a negative impact on media pluralism (30%) (Zuschaueranteilsmodell, cf. <https://www.kek-online.de/medienkonzentration/mediennutzung/fernsehnutzung>). However, these rules apply only to the broadcasting world; there has been a long ongoing discussion on how far digital intermediaries should be addressed within this legal framework as well (https://www.bidt.digital/wp-content/uploads/sites/2/2022/08/bidt_Working-Paper_Vielfaltssicherung.pdf).

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

The Commission on Concentration in the Media (Kommission zur Ermittlung der Konzentration im Medienbereich, KEK) has an excellent media concentration database, covering broadcast as well as print and online media (<https://www.kek-online.de/medienkonzentration/mediendatenbank#/>). In general, media ownership has to be disclosed when applying for a licence which is obligatory for TV media, while radio stations only need to notify the regulator and online media are exempted from the licensing obligation. To safeguard media pluralism, predominant power of opinion (« vorherrschende Meinungsmacht ») is assumed when programmes attributable to a specific media service provider exceed an audience reach of 30%.

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

In April 2023, RSF lodged a constitutional complaint in Karlsruhe against the use of state trojans authorised by the Article 10 Act (<https://www.reporter-ohne-grenzen.de/themen/internetfreiheit/kritik-am-bnd-gesetz/>). Using this spyware, the German secret intelligence service BND can penetrate a target's smartphone and computer and retrieve encrypted messages. In January, an RSF lawsuit against this was rejected as inadmissible by the Federal Administrative Court. The court argued that the organisation could not prove that it was itself affected. In January 2023, the organisation also filed a constitutional complaint against the amended BND Act together with the Gesellschaft für Freiheitsrechte (GFF) and potentially affected journalists. RSF is calling for a new regulation that generally excludes the surveillance of media professionals as a means of pursuing suspects. The different levels of protection for domestic and foreign journalists and the evaluation of "machine-to-machine communication", which enables the tracking of hotel bookings or money transfers, for example, should be removed.

With the latest reform of the legislation concerning intelligence services of German Bund and Länder (Bundesnachrichtendienst und Verfassungsschutz) in november 2023 (<https://www.bundesregierung.de/breg-de/service/gesetzesvorhaben/bnd-gesetz-2216648>), Germany has failed to take the 2020 ruling of the Federal Constitutional Court on the BND-Law into account, but rather aimed for circumventing the constitutional safeguards that would have been necessary to achieve a proportionate regulation and balance the rights of secret services with the protection of journalists and their sources.

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

5000 character(s) maximum

After attacks on journalists increasing with the demonstrations against Corona measures in Germany, journalists' and publishers' associations have engaged in talks with the Conference of the Ministers of Interior on the Länder level that is responsible for the police in Germany, in order to adjust the already existing « Guidelines for journalists and police to avoid obstructions of the work of the police and safeguard free reporting » (Verhaltensgrundsätze für Presse/Rundfunk und Polizei zur Vermeidung von Behinderungen bei der Durchführung polizeilicher Aufgaben und der freien Ausübung der Berichterstattung(https://www.presserat.de/downloads.html?file=files/presserat/dokumente/download/Verhaltensgrundsaeetze_Presse_Polizei.pdf)). This was a result of many complaints by journalists that felt not sufficiently protected by the police at demonstrations. RSF Germany is involved in the talks, but without right of vote, as the organisation will not be a partner of the final MoU. Unfortunately, progress is very slow, due to an extensive need of reassurance about the legal implications of the MoU's content.

RSF Germany is continuously monitoring attacks on journalists, but the data for 2023 is not consolidated at this point, so we can only give information about the year 2022.

For the calendar year 2022, RSF documented a total of 103 attacks on media professionals. This is the highest number since the census began in 2015. The extent of violence against media professionals is likely to be even higher in reality, and a high number of unreported cases can be assumed. In many cases of assaults and attacks, no investigations or court proceedings follow up. In 2022, kicks and punches, including with objects (such as posters, drumsticks or quartz gloves), were the most common offences. Media professionals were also pelted with objects (e.g. eggs, glass bottles or mud), held down, pulled by the hair or choked. In other cases, attackers held a megaphone with loud noises to the ears of journalists, tore off their coronavirus masks or pushed them so that they fell or were injured.

The vast majority of attacks (87 out of 103 cases) took place in an ideological, anti-Semitic or extreme right-wing context. Since the beginning of the Covid pandemic, extreme right-wing individuals and groups have taken part in events organised by the Querdenken movement and attacked journalists. These events are now often organised by well known right-wing extremists, meaning that it is no longer possible to make an analytical distinction between extreme right-wing and other motives.

Demonstrations are currently the most dangerous place for journalists in Germany. Around 84% of all attacks (86 out of 103 cases) were recorded in the context of a public protest. Most of the 103 verified attacks occurred in Saxony (24), followed by Berlin (17), Thuringia (13), Bavaria (10), Baden-Württemberg (9), Saxony-Anhalt (7), Rhineland-Palatinate (5), Mecklenburg-Western Pomerania (4), Lower Saxony (4), Hesse (3), North Rhine-Westphalia (3), Schleswig-Holstein (2), Hamburg (1) and Saarland (1). Almost half of the attacks (48 out of 103 cases) were committed in the eastern German states of Saxony, Thuringia, Saxony-Anhalt and Mecklenburg-Western Pomerania, where a particularly large number of right-wing extremist events took place.

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

Journalists and publishers have long spoken out in favour of a federal law regulating access to information from federal authorities for press representatives (« Presseauskunftsrecht gegenüber Bundesbehörden »). While such laws exist at the Länder level, they have not yet been put in place at the federal level. The need for such regulation appeared to be uncontroversial in the government coalition, as all three involved parties had previously drafted such legislation when they were in opposition. The coalition contract also clearly stated that such a law would come. However, nothing has happened since, for no clear reason.

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 number of SLAPPs in Germany appears to be relatively low, especially in comparison to Eastern European countries. Unfortunately, there is no comprehensive documentation of SLAPP cases in Germany, which is partly due to the difficulty of categorising legal proceedings as abusive or manifestly unfounded in a waterproof way. This does not mean, however, that legal actions against journalists do not represent a problem in Germany. For instance, in January 2023, investigators searched the editorial offices of the independent radio station Radio Dreyeckland in Freiburg and the private homes of two of the station's editors. One of the editors is accused by the public prosecutor's office in Karlsruhe of having supported the banned organisation "linksunten.indymedia" by posting a link to its archived website as part of his reporting. The searches were ruled to have been unlawful in August 2023 (<https://netzpolitik.org/2023/indymedia->

razzia-bei-radio-dreieckland-war-rechtswidrig/).

A journalist of the Berlin daily Tagesspiegel became the target of investigations into « politically motivated left-wing crime » after reporting about a police officer who had misused an emergency call because he was denied access to a health institution when he refused to wear a Covid mask (<https://www.tagesspiegel.de/berlin/nach-bericht-uber-berliner-afd-beamten-plotzlich-linksextremist--tagesspiegel-reporter-im-visier-des-staatsschutzes-9923594.html>).

The lawyers of German singer Till Lindemann (Rammstein) have started several lawsuits against different German media about their reporting on allegations of sexual abuse against Lindemann claiming that the necessary balance of interest had not sufficiently been respected in the reporting on the basis of mere allegations (« Verdachtsberichterstattung ») (One example of a lot of reporting on this case: <https://www.faz.net/aktuell/feuilleton/medien/lindemann-und-rammstein-erfolgreich-gegen-sz-ndr-und-taz-19098564.html>).

The freelance journalist Marco Bras dos Santos who had reported about protests against the occupation of an opencast mine in Lusatia in 2019 and been convicted for trespassing the private property of the "Mitteldeutsche Braunkohlegesellschaft" in 2022 has filed a complaint with the Constitutional Court in Karlsruhe in 2023(<https://perspektive-online.net/2023/10/karlsruhe-bundesverfassungsgericht-prueft-beschwerde-von-leipzig-journalisten-ueber-verletzte-pressefreiheit/>).

The German weekly Kontext has been charged with a fine of 6.000 euros in September 2023 for denouncing a police officer with the term « Penis-Polizist » (penis policeman) who had been charged with sexual assault. The term, however, had been used before many times in various German media, most prominently by the tabloid Bild, but Kontext was the only media outlet to be dragged before the courts for using the expression (<https://www.deutschlandfunk.de/streit-um-penis-polizist-polizeibeamter-verklagt-wochenzeitung-kontext-dlf-a3066f10-100.html>).

In October 2023, the Landgericht Hamburg issued a preliminary injunction against a book publication by Russian journalist Andrei Soldatov on the grounds of urgency and allegedly false facts, resulting in the e-book being banned from the German market three years after publication. Alexei Kozlov, a Russian businessman who had secured the injunction, is claiming to only recently have read parts of the book containing the allegedly false facts. Hachette, Soldatovs publisher, is currently appealing the injunction(Landgericht Hamburg 324 O 405/23).

These are just a few examples of legal proceedings against journalists that clearly have an intimidating effect, but would probably not fall under SLAPP definition as laid out in the upcoming EU directive.

The German government has not yet taken any steps to implement the EU Recommendation on strategic lawsuits against public participation (SLAPP).

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

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

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

Contact

rule-of-law-network@ec.europa.eu