

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 (RSF)

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

In the light of our information, we cannot assert that the recommendation made to France to step up its efforts to improve the transparency of media ownership has been acted upon.

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

To our knowledge, no legal or regulatory initiative was taken concerning the independence, enforcement powers and adequacy of resources (financial, human and technical) of media regulatory authorities and bodies.

However, the role and powers of the audiovisual media regulatory authority ARCOM has been questioned for several years. It must be noted in this regard that on 8 November, the National Assembly's Cultural Affairs Committee approved the creation of a parliamentary committee of enquiry into "the allocation, content and control of authorisations for national television services on digital terrestrial television" (TNT), as requested by the opposition group La France Insoumise.

In particular, its purpose will be to determine whether the channels broadcasting on TNT are complying with their obligations, particularly as regards control over broadcasting and the ethics of TV programmes (e.g. respect for human dignity, respect for the right to privacy, honesty and independence of information, safeguarding public order, etc.), and whether the French regulator (ARCOM) is exercising sufficient control in this respect.

https://www.assemblee-nationale.fr/dyn/16/dossiers/alt/TNT_ARCOM_controle

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

No substantive changes to report. For further information, please consult RSF's contributions to the previous Rule of Law reports.

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

5000 character(s) maximum

No substantive changes to report. For further information, please consult RSF's contributions to the previous Rule of Law reports.

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

No substantive changes to report. For further information, please consult RSF's contributions to the previous Rule of Law reports.

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

1-Safeguards to ensure editorial independence of media (private and public)

Following the appointment of far-right journalist Geoffrey Lejeune as editor-in-chief of Le Journal du Dimanche (JDD), the newspaper's editorial staff embarked on a massive and historic strike, which was called off following an agreement reached with the management after 40 days of wrangling.

The strike, unprecedented in its duration, led to a variety of political comments and reactions, including bills tabled in the National Assembly and the Senate.

In total, four proposals were put forward in response to the strike, with the aim of strengthening the editorial independence of newsrooms, through provisions of various kinds:

a-Cross-party bill to protect the editorial freedom of media seeking state subsidies (tabled on 12 September at the National Assembly), which aims to establish a "right of approval." The bill says that, for any print or online media outlet to be able to qualify for state aid, or for any broadcast media to be able to qualify for the use of public broadcast frequencies, "any appointment of a director or editorial director must be subject to a vote of approval by the journalists employed by the media."

https://www.assemblee-nationale.fr/dyn/16/textes/l16b1638_proposition-loi.pdf

b-Bill to make the appointment of an editorial director subject to approval by the editorial team (tabled in the Senate on 12 September)

The bill that the Socialist Party senators submitted to the Senate on 12 July also gives journalistic staff a “right of veto/approval” over the appointment of their director. It says the proposed new director must receive 60% of the votes of at least 50% of the members of the editorial staff. In the explanatory memorandum to the bill, the Senators argued a “right of approval” is needed because of an increase in “attacks on the independence of the media” by owners “who refuse to limit themselves to playing an economic role in the media they buy, but want to play an increasingly political role in them, even if it means exerting pressure that limits the staff’s editorial independence and journalists’ freedom of conscience.”

<https://www.senat.fr/dossier-legislatif/ppl22-883.html>

c-Bill to guarantee the legal protection of newsrooms (tabled in the Senate on 16 July)

This bill aims to enshrine in law the existence of journalists' guilds (SDJ) in order to better protect them, in particular by granting them legal personality, giving them a consultative right over appointments to editorial management positions, and making it a criminal offence to hinder their establishment or functioning.

<https://www.senat.fr/leg/ppl22-889.html>

d-Bill to strengthen requirements with regard to information and the independence of the media (tabled in the Senate on 30 June)

Among other provisions, this bill suggests making State subsidies to the press and the allocation of audiovisual frequencies conditional on a right of veto conferred on journalists by the shareholder of their media outlet over the appointment of the editor-in-chief. It also provides for a tax system for issuing vouchers supporting the independence of the media, which would make it possible to correct the shortcoming of subsidies to the press, which also go to the major media groups.

<https://www.senat.fr/leg/ppl22-821.html>

As of 8 December, none of these bills had been voted on in Parliament. The issue of safeguarding editorial independence will also be one of the priorities of the Etats généraux de l'information, which were launched in October 2023 and will run until the summer of 2024.

More information can be found at: <https://rsf.org/en/rsf-welcomes-bills-defending-editorial-independence-french-media-outlets>

2-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

No substantive changes to report. For further information, please consult RSF’s contributions to the previous Rule of Law reports.

3 Information on specific legal provisions and procedures applying to media service providers, including as regards granting/renewal/termination of licences, company operation, capital entry requirements, concentration and corporate governance

No substantive changes to report. For further information, please consult RSF’s contributions to the previous Rule of Law reports.

(Cf. Response to A1)

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

No substantive changes to report. For further information, please consult RSF’s contributions to the previous Rule of Law reports.

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

The 39 hours that French investigative reporter Ariane Lavrilleux spent in police custody in late September and the search of her home have highlighted the inadequacies of France's 2010 law protecting the confidentiality of journalists' sources. Lavrilleux also claims that according to an official document that was shown to her by the authorities she had been under surveillance prior to the arrest.

The reporter of the investigative news site Disclose was finally released on the evening of 20 September from police headquarters in Marseille, where she was held for nearly two days and questioned for allegedly obtaining and revealing information that constituted a "national defence secret."

On 21 September 2023, Ismaël Halissat, Fabien Leboucq et Antoine Schirer, three journalists for the daily Libération, were summoned for questioning by the criminal brigade of the Lille judicial police on charges of 'violation of the secrecy of an investigation', 'concealment of a violation of the secrecy of an investigation' and 'public defamation by reason of the office or position of a public official'. The charges stem from the publication of a series of articles on the death of Amine Leknoun, who was killed by a police officer in August 2022. In those articles, the journalists had alleged shortcomings in the conduct of the investigation into the death of Leknoun by the investigating judge and the General Inspectorate of the National Police (IGPN). Under France's Law on Press Freedom (also known as the "1881 law"), no journalist can be forced to reveal their sources. And data obtained in a search targeting a journalist has to be sealed and could only be opened and added to the investigators' case file if authorised by a special "judge of freedoms and detention". But, under a 2010 amendment, investigators are allowed to violate the confidentiality of journalists' sources "directly or indirectly" if there is an "overriding requirement in the public interest."

RSF calls for an overhaul of the legislation protecting the confidentiality of journalists' sources in France. The law on press freedom should include much stricter safeguards to ensure that journalists can effectively protect the identity of their sources when investigating stories in the public interest.

Despite repeated calls from RSF, no legal reform appears to be under consideration.

A few weeks after the "Ariane Lavrilleux scandal", as part of the Justice Ministry's 2023-2027 orientation and programming bill, the two chambers of Parliament adopted a mechanism enabling the remote activation of mobile phone microphones and cameras to locate or spy on people under investigation.

As a result, among other things, of these contentious provisions, the bill approved by both chambers was declared partially unconstitutional by the Constitutional Council on 16 November 2023. Consequently, the bill was only enacted after these provisions, which were declared unconstitutional on the grounds that they unreasonably infringed the right to privacy, had been removed.

<https://rsf.org/en/rsf-demands-overhaul-frances-law-confidentiality-journalists-sources>

<https://www.senat.fr/dossier-legislatif/pjl22-569.html> (in French only)

<https://rsf.org/fr/rsf-appelle-les-d%C3%A9put%C3%A9s-%C3%A0-renforcer-les-garanties-contre-la-surveillance-des-journalistes-dans-le> (in French only)

<https://fom.coe.int/en/alerte/detail/107639904;globalSearch=false>

For more information on police abuses against journalists , please see: <https://rsf.org/en/rsf-files-joint-complaint-two-french-journalists-who-were-threatened-gendarmes-forced-delete-video>

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

5000 character(s) maximum

Although the much welcomed National Law Enforcement Plan (SNMO), released in December 2021, stipulates that law enforcement officers must protect journalists and prohibits any abusive measures in the context of public protests and demonstrations, several cases of illegitimate use of force against journalists were reported in 2023, particularly during demonstrations and riots.

French police violence against the media had fallen significantly in the past two years but, since the adoption of the pension reform on 16 March, several journalists covering protests have been victims of violent behaviour by the security forces, or even abusive measures, such as unjustified arrest and other arbitrary measures. Incidents were reported in Paris and other cities. In each of the cases registered and verified by RSF, the journalists were clearly identified as members of the “press.”

Notable cases include those of Raphaël Kessler, Angéline Desdevises, Rémy Buisine, Clément Lanot, and Amar Taoualit.

In the two-month time span from May to July, RSF has tallied 15 cases of illegitimate police violence against journalists, as many as during the previous two years. Most occurred during protests against the government's pension reform, but cases of abuse were also reported during the 8 July demonstration of the “Truth for Adama” committee, among others.

So far, only one of the 22 complaints filed jointly by RSF and journalists since 2019 led to a trial that ended in a conviction: on 21 February, the Toulouse criminal court handed down a suspended €2,000 fine and ordered the police officer who unlawfully threw a sting-ball grenade at journalist Kevin Figuiet at a “Yellow Vests” demonstration in April 2019 to pay €800 in damages to the journalist. The court ruled that RSF's civil action was admissible, recognising that the collective interests of the journalistic profession had been infringed in this case.

In addition to the police violence, journalists suffered in 2023 attacks from rioters after the death of the young man Nahel in Nanterre during a police control. At least 18 media professionals covering the riots were assaulted.

<https://rsf.org/en/french-interior-minister-must-stop-police-violence-against-reporters-covering-pension-reform>

<https://rsf.org/en/much-police-violence-france-past-two-months-previous-two-years>

<https://rsf.org/fr/violences-polici%C3%A8res-contre-les-journalistes-dans-les-manifestations-enfin-un-proc%C3%A8s>

<https://rsf.org/en/rsf-files-complaint-huffpost-reporter-who-was-victim-new-wave-police-violence-france>

<https://rsf.org/en/rsf-condemns-physical-attacks-journalists-covering-unrest-france>

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

No substantive changes to report. For further information, please consult RSF's contributions to the previous Rule of Law reports.

On 30 June, the Conseil d'État upheld the refusal of the Commission Nationale de l'Informatique et des Libertés (CNIL) to allow the French news magazine Le Point to access data from the Medicalisation Programme for Information Systems (Programme de Médicalisation des Systèmes d'Information - PMSI). This set of anonymous data on the medical activity of healthcare establishments is essential for the magazine to compile its annual ranking of hospitals. This reversal by the CNIL - which had been providing access to this data without difficulty for 20 years - prevents the magazine from publishing its survey, the only one of its kind, which is of undeniable public interest.

In refusing to grant Le Point access to the PMSI, last October, the CNIL followed the advice of the Ministry of Health's Comité éthique et scientifique pour les recherches, les études et les évaluations dans le domaine de la santé (CESREES). This committee took the liberty of assessing "the relevance of the information provided to the reader", and Le Point's methodology, to consider that the weekly's "purpose" was not "in the public interest". While CESREES does have the power to rule on the purpose of a request for access to data, the regulations do not authorise it to assess the relevance of any publication or the methodology used in the use of data. This is fundamentally a matter of editorial freedom for the media, and cannot be left to an administrative body to decide.

As PMSI data is anonymised, it is difficult to argue that the CNIL is fulfilling its role of ensuring the protection of personal data. On the contrary, it is legitimate to fear, as Le Point does, that the real reasons behind this refusal are political, and that CESREES' aim is "to bring to heel those journalists who dare to assert that not all healthcare establishments are equal in quality and to indicate those where it is best to be treated".

<https://rsf.org/fr/le-conseil-d-%C3%A9tat-refuse-au-point-l'acc%C3%A8s-aux-donn%C3%A9es-n%C3%A9cessaires-%C3%A0-son-palmar%C3%A8s-des-h%C3%B4pitaux-une> (in French only)

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

No substantive changes to report. For further information, please consult RSF's contributions to the previous Rule of Law reports.

However, several cases illustrate a growing and concerning trend, that of the bypassing of the procedural guarantees of the press law by plaintiffs who seek to get judicial decisions that are in violation of the principles of freedom of the press to use common law mechanisms - instead of press law

On 29 September 2023, the president of the Rouen Commercial Court granted a request from French company Valgo to search the premises of one of its competitors and to allow access to private communications between that company and journalists working for Le Poulpe and its partner Médiapart. In its complaint, the company suspects that its competitor, Troletti TP, was behind the revelations relayed by Médiapart. Claiming "unfair competition by disparagement", Valgo lodged a complaint with the president of the Rouen Commercial Court, requesting - without any adversarial procedure - that bailiffs carry out a "search" of Troletti TP's premises.

The Court granted this request and ordered the seizure of "all correspondence" between Troletti TP and several journalists named in the complaint: the journalist Laurence Delleure, who initiated the investigation, the co-founder of Le Poulpe, Gilles Triollier, and the chairman of Médiapart, Edwy Plenel.

As it was not directly involved in the search, Le Poulpe was unable to oppose it. To date, therefore, Le Poulpe does not know whether the confidentiality of its sources has been violated, or what the consequences may have been. Le Poulpe is still considering the remedies available to it to prevent the seizure and protect its sources.

<https://rsf.org/fr/affaire-le-poulpe-instrumentalisation-choquante-du-tribunal-de-commerce-pour-permettre-%>

C3%A0-une (in French only)

This case comes after two other cases that illustrate the same trend :

On November 18, 2022, the President of the Paris Judicial Court preemptively prohibited Mediapart, without prior adversarial debate, from distributing certain information on the mayor of Saint-Etienne.

In October of the same year, it was the President of the Paris Commercial Court who prohibited the investigative website Reflets from publishing any article based on data revealed by hackers about the Altice group. Although each of these decisions was subsequently overturned, the fact remains that journalists were temporarily forced to censor their work, setting a dangerous precedent.

By deliberately bringing these cases before courts that do not specialize in press law - and are therefore less familiar with the legal regime applicable to journalists - the plaintiffs have succeeded in obtaining rulings that infringe press freedom and are manifestly contrary to the spirit and letter of the 1881 law. In the Mediapart and Reflets cases, such censures could never have been pronounced if the provisions of the 1881 law had not been opportunely circumvented by the litigants.

Other - please specify

5000 character(s) maximum

On 3 October, the French President launched a national conference on information in France (Etats généraux de l'information), initially scheduled for November 2022, with the stated aim of "establishing a diagnosis of all the issues linked to information today, anticipating future developments, and proposing concrete actions that can be deployed at national, European and international level".

The launch of the national conference on information has been eagerly awaited in journalistic circles and among those who fight for democratic safeguards in the digital domain.

This conference aims at questioning and reflecting on the considerable impact of technological innovations, the development of media and information education, the conditions under which journalists work, the economic model and regulation of the information sector and the role of the various stakeholders, as well as interference and manipulation in this field, to ensure that everyone's right to free, independent and reliable information is respected.

In full transparency and as part of an open and adversarial process, the Etats Généraux are intended to involve all stakeholders and citizens. To this end, the French President has commissioned an independent steering committee to organise and lead the process.

This committee will also work in liaison with the journalist and Nobel Peace Prize 2021 winner Maria Ressa. Each of these personalities will contribute in their own name and in complete independence to these "Etats généraux", which will have to submit their conclusions by the summer of 2024.

RSF secretary-general Christophe Deloire will serve as "delegate general" of the conference.

<https://rsf.org/en/national-conference-information-france-good-news-independent-trustworthy-journalism>

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

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