

# 2024 Rule of Law Report - targeted stakeholder consultation

Fields marked with \* are mandatory.

## Introduction

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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<sup>[1]</sup> 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

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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**

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\* 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*

Zweites Deutsches Fernsehen

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*

www.zdf.de

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

320936197185

\* 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

Peter

Surname

Weber

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

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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

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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

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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

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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

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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 2022 - 2025 coalition agreement, the governing parties of the Federal Republic of Germany have set themselves the goal of creating "a legal basis for the right to information of the press from federal authorities". Preparations for the implementation have begun but we are currently not aware of any concrete legislative procedure.

However, according to established case law of the German Federal Administrative Court, the press already has a right to information at the federal level based directly on constitutional law (Article 5 (1) sentence 2 of the Basic Law) (BVerwG 6 A 2.12; BVerwG 6 A 10). According to the established case law of the Federal Administrative Court, the substantive content of this constitutional right to information of the press at federal level must not fall short of the essentially identical rights to information at state (Länder) level.

#### 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

In accordance with the German constitution (Article 5 (1) Grundgesetz) and the Federal State organisation the regulation of broadcasting, audio and audiovisual services fall under the jurisdiction of the "Länder". The Constitutional Court has taken several decisions regarding this article clarifying: (1) Public Service Broadcasters (PSB) must provide an exhaustive offer of media content to the public considering both technical and content developments. (2) PSB must picture the diversity of the society in an adequate manner ("Imperative of Pluralism"). (3) A governmental influence on the content of PSB is absolutely prohibited. Accordingly, PSB is organized as public-law institution. Independence and freedom of reporting are effectively guaranteed without any political or governmental influence.

Two separate regulators exist:

- (1) Supervision of PSB is twofold the Television Council (Fernsehrat FR) and the Administration Council (Verwaltungsrat VR). Even if they are not separate legal entities, they are functionally and effectively independent from the broadcaster in performing their tasks successfully.
- (2) Commercial broadcasters are supervised by the Regional Media Authorities (LMAs) as separate legal

entities under public law.

Independent supervision of PSB:

The FR is composed of 60 members from different sectors of state, society, and social groups (businesses, religious communities, etc.). They represent the pluralistic structure of society (§ 21 ZDF Staatsvertrag). The FR has the task of laying down guidelines for the programmes and to advise the Director General (DG) in content related questions. It monitors the compliance with the guidelines and the principles laid down in the Interstate Treaty on broadcasting/media. FR elects the DG and approves the budget. FR usually meets in public; the agenda and the main results of the meetings are published on the Internet. <https://www.zdf.de/zdfunternehmen/zdf-fernsehrat-sitzungen-beschluesse-100.html>

The competences of the VR (12 members: four representatives of the federal states and eight members elected by the FR) are mostly related to financial and management issues: The VR adopts the budget, approves the contracts of the DG and of the top management positions. In addition, VR supervises the activities of the DG.

In order to work independently, FR and VR have their own office and their own budget:

The 2024 budget foresees 1.574.000 € and further 80.500 € for the office's expenses (the change from the previous year is due to the amendment of the Interstate Media treaty described below).

The internal pluralistic supervision of PSB is the core to the German media system and a strong guarantee of independence not only from political interference but also from specific economic interests.

With the powers attributed to them by law, FR and VR ensure an effective and independent enforcement of the broadcasting/media rules.

The 4th amendment to the Media Interstate Treaty aims to further strengthen the independence and expertise of the supervisory bodies of all PSB in Germany. It came into force on 1 January 2024. It requires the members of VR to have in-depth knowledge in the fields of auditing, business administration, law and media management or media science. In addition, members of FR and VR will be required to attend regular training courses (§ 31d MStV).

## 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 composition of the FR (§ 21 ZDF Staatsvertrag) and the VR (§ 24 ZDF Staatsvertrag) is laid down by law (see also previous answer).

The different sectors of society and social groups are completely independent to nominate their representative for the FR. They are only limited by incompatibility rules and potential conflict of interests (in case they have any financial or other interests which may jeopardize the fulfilment of their tasks).

Once a representative is nominated, she/he is not bound to orders by her/his parent organisation. This means that the parent organisation cannot dismiss the member because of a specific position taken by that member. The dismissal is limited to very specific cases laid down by law (§ 21 (6) and § 24 (3) ZDF Staatsvertrag). The dismissal by the parent organisation is only valid if the FR accepts the dismissal. In the past, parent organisations tried to dismiss their representative. The FR refused these requests.

The rules on the dismissal and the end of the membership were revised in 2016 due to a ruling of the Constitutional Court.

The aim was to further increase the independence of the work of the FR and VR from political influence and ensure full transparency. "As an expression of the principle of ensuring diversity, the organisation of public broadcasting must adhere to the principle of detachment from state authority (Staatsferne). Accordingly, the influence of the members who are part of state authority or close to it must be strictly limited." [https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/EN/2014/03/fs20140325\\_1bvf000111en.html](https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/EN/2014/03/fs20140325_1bvf000111en.html)



The FR and the VR elect the respective chairperson and their deputies amongst its members in a secret ballot. Only 1/3 of the elected persons can be representatives who were delegated by the state or who are holding a public or political position.

The FR and the VR represents the interests of the general public vis-à-vis ZDF. Its members are only accountable to the public at large and not bound to orders by their parent organization. Therefore, they are only responsible to their conscience.

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

*5000 character(s) maximum*

German Press Council is the body responsible for enforcing the voluntary self-regulation of the press in Germany. Through addressing complaints about press behavior, they monitor compliance with the ethical rules for the daily work of journalists laid down in the German Press Code.

## 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*

Any state influence on the content of the programmes of PSM is forbidden by constitutional law and accordingly by media law. Therefore, there is no possibility for state advertising. There is only one exception: In case of disasters or other comparable substantial risks for public safety or order, PSM must grant reasonable broadcasting time free of charge for official announcements. (§ 10 ZDF Staatsvertrag).

According to § 11 ZDF Staatsvertrag "ZDF must provide broadcasting time for political parties before elections for the German Bundestag and the European Parliament. The DG shall refuse the broadcast if the contents do not concern election advertising, or the contents obviously and seriously violate the general laws."

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*

The freedom of broadcasting is enshrined in Art. 5 of our Constitution Law. The important element in Germany is the Constitutional Court that ensures the respect of the German Constitution in general and

media freedom in particular. On several occasions, the Constitutional Court criticized national media rules and requested a revision of these rules to guarantee freedom of the media and freedom of speech. The Constitutional Court has taken several decisions regarding Article 5 of the Constitutional law clarifying that a governmental influence on the content of broadcasting is absolutely prohibited. Independence and freedom of reporting are effectively guaranteed and without any political or governmental influence. The Court stated that the organization of public broadcasting must adhere to the principle of Staatsferne ("detachment from the state"/"independence from state intervention"). The supervisory bodies of the public broadcasting corporations must be shaped in a way which effectively prevents that reporting is influenced by actors from the political sphere or actors close to state authority. The composition of the supervisory bodies must effectively prevent the possibility of such an abuse. [https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/EN/2021/07/rs20210720\\_1bvr275620en.html](https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/EN/2021/07/rs20210720_1bvr275620en.html)

In 2021 the Constitutional Court took again important decisions: Regarding public broadcasting, the court has reiterated basic principles of a free media system, such as the separation of remit and financing as well as the obligation to justify any deviation from the concrete level of financing. In addition, it pointed out the task of public broadcasting to counterbalance fake news and filter bubbles through responsible journalism. [https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/EN/2021/07/rs20210720\\_1bvr275620en.html](https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/EN/2021/07/rs20210720_1bvr275620en.html))

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*

We would like to reflect on this issue in the light of the objects of the rules on transparency of media ownership and in the light of the objectives of rules on media ownership.

Information concerning the ownership structure of media service providers allows users to make an informed judgement about such content. This is very important in cases where such ownership results in the control of - or the exercise of a significant influence over - the content of the services provided. This knowledge is of course important in order to understand the content and put the content in the context.

In addition, there must be clear rules on media ownership in order to limit effectively dominant control and influence over content. The aim is to limit the opinion-forming power and to ensure the availability of the plurality of opinion. This goal can be reached by rules on limiting the ownership (external pluralism) and/or by rules requesting the availability of different opinion within an offering of a media company (internal pluralism).

ZDF is organized as a non-profit public service entity without commercial interests. ZDF has a concrete remit to serve the society and ensure plurality of opinion (internal pluralism): ZDF must provide information to all citizens in a balanced manner and convey plurality of opinions. The major political, ideological and social forces and groups shall be granted adequate opportunity for expression, minority views shall be considered.

Consequently, the supervision of ZDF is equally organized as an internal independent supervision (see question above).

In contrast, rules on transparency and media ownership (external pluralism) apply to commercial media services. They are free to choose their form of company in the framework of the civil law. In general, one commercial broadcaster can have different shareholders, to which it is accountable.

The interstate broadcasting/media treaty includes rules on media ownership and limits dominating influence on public opinion. According to these rules, an undertaking (natural person or legal entity or partnership) may itself or through undertakings attributable to it provide an unlimited number of television services transmitted nationally in the Federal Republic of Germany unless this results in the undertaking acquiring dominant power of opinion.

The LMAs and more specifically the Commission on Concentration in the Media (KEK) verify this provision to secure diversity of opinion of national private television.

In addition to the control of external pluralism, the supervision through the LMAs also reflects the internal pluralism of private television, but to a lesser extent than the rules on PSB.

## 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*

Constitutional law:

The freedom of the press enshrined in Art. 5 Constitution Law gives journalists a special role and protection. The journalists must not be influenced by the state, and as other professions (doctors, lawyers, priests) they can rely on the right to refuse to testify (protection of sources and the protection of editorial secrecy).

Criminal law:

It is a key task of the press and media to ensure independent reporting. In order to secure this mission, the protection of journalistic research, including the protection of sources and the protection of editorial secrecy, are indispensable. The legislator has enshrined several rules in the criminal law (StGB) and in the criminal procedural law (StPO) in order to protect journalists and their sources. This protection includes the right to refuse to testify (Art. 28a StGB and Art. 172 StPO). Accordingly, persons who professionally deal with the publication of information in the editorial part of a periodically published medium, as well as their auxiliary persons, can equally refuse to testify about the identity of the author or about the content and sources of their information.

Importance of a strong independent public service broadcaster that ensures journalistic independence from the state and from commercial interests:

Due to its clear remit and due to the fact that PSB is independent from political influence and has no economic or commercial interests, PSB is an important public source of unbiased information and diverse political opinions. PSB ensures that its journalists can work in full independence applying high quality standards of journalism.

The Constitutional Court (see: [https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/EN/2021/07/rs20210720\\_1bvr275620en.html](https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/EN/2021/07/rs20210720_1bvr275620en.html)) highlighted the increasing importance of public service broadcasters and its journalistic quality work in the light of digitalization and social networks: The digitalization and the development of these networks lead to a concentration and quasi monopoly of content providers, distributors and intermediaries. The distinction between facts and opinions as well as between editorial content and advertising become increasingly blurred. The trustworthiness of sources is challenged. Instead of having professional journalists that collect, filter, check and edit information, the user has nearly unlimited access to non-verified information and is obliged to assess the trustworthiness himself. In the light

of this developments, independent and trustworthy PSB, financed through a public service fee (Rundfunkbeitrag) is more important than ever.

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

*5000 character(s) maximum*

ZDF Journalists are increasingly victim of hate speech and physical and defamatory attacks. In several cases ZDF has reported these attacks. The number of cases is increasing. In some cases, perpetrators were already convicted (see for example <https://www.zdf.de/nachrichten/panorama/kriminalitaet/prozess-angriff-zdf-team-berlin-corona-demo-heute-show-100.html>). But unfortunately, very often suspects cannot be identified.

Safety of ZDF's journalists is also threatened abroad (see for example <https://www.zdf.de/nachrichten/politik/ausland/charkiw-hotel-zdf-team-ukraine-krieg-russland-100.html>).

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*

The Freedom of Information Act (IFG) regulates the right to access official information vis-à-vis federal authorities and other federal bodies. The law grants every person an unconditional legal right to access official information from federal agencies provided it aims not at confidential information or legitimate interest withstands the disclosure. A justification based on interest of a legal, economic, or other kind is not necessary.

German law - to varying degrees - provide the press with a right to official information. The authorities are obliged to provide the representatives of the press with the information needed to fulfill their public function to the extent that no legitimate interest withstands the disclosure. See above.

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*

In our view, the German legal system contains already sufficient provisions in both material and procedural law to prevent SLAPPs. It has to be seen, how the implementation of the SLAPP Directive will change possible cross border cases.

Other - please specify

*5000 character(s) maximum*

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

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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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