

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

Generalitat de Catalunya – Government of Catalonia

Main Areas of Work

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

If "Other", please specify

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

500 character(s) maximum

<https://web.gencat.cat/en/inici/index.html>

Transparency register number

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

* Country of origin

Please add the country of origin of your organisation

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

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

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

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

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

First name

Surname

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

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

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

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

☒ I agree with the personal data protection provisions.

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

Questions on horizontal developments

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

Overview topics for contribution

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

Please provide any relevant information on horizontal developments here

5000 character(s) maximum

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

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

The Government of Catalonia, with regard to accessibility of courts would like to highlight the following:

The use of Catalan language in the Administration of Justice is a linguistic right of all Catalan citizens recognized in article 33.2 of the Statute of Autonomy of Catalonia and protected by the European Charter of Regional or Minority Languages, which Spain ratified in 2001.

The continuous decline in the total number of judgments written in Catalan is currently worrying (they gradually declined from 20.1% in 2005, to 6.7% in 2022). In this sense, the latest recommendations by the Council of Europe Committee of Experts of the European Charter for Regional or Minority Languages on 2021 pointed out at worrisome developments regarding lack of use of Catalan in the justice system. Also worrying is the almost generalized non-compliance (78.9% of non-compliance in 2022) of the language option, expressed by the citizen when receiving notifications in Catalan in civil, labour and commercial jurisdictions.

Article 102 of the Statute of Autonomy of Catalonia establishes that "Magistrates, judges and prosecutors who occupy a position in Catalonia must prove an adequate and sufficient knowledge of Catalan to make citizens' language rights effective". However, for officials of the different bodies working in Catalonia, knowledge of Catalan is a bonus but not a requirement. Consequently, this results in a lack of knowledge of Catalan among an important part of the staff of the Administration of Justice. Therefore, the fulfilment of linguistic obligations in the judicial sphere is a formality given that, in practice, the application of the regulations (especially the Organic Law of the Judiciary) prevents both the use of Catalonia's own language in a large degree, as well as the satisfaction of the associated linguistic rights.

To reverse this situation and to be able to guarantee linguistic rights and the right to effective judicial protection, it would be necessary to modify article 231 of the Organic Spanish Law of the Judiciary, including the review of defencelessness in situations related to Catalonia's own language ("In all judicial proceedings the judges [...] must use Spanish", "Judges [...] can also use the official language of the autonomous community, if none of the parties opposes it", which considers a cause of defencelessness the fact that one of the parties does not know Catalan. This article, in practice, prevents the actual use of Catalan in the Administration of Justice, despite its formal status as the official language.

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

In Catalonia, there has been a lack of judges and prosecutors for decades, attributable to causes that can range from the higher cost of living, the lack of tradition for studying to access the judicial career or the fact that Catalonia has a language and a civil law of their own. This was recognized in the Agreement unanimously approved on November 26, 2021 by the plenary of the Government Chamber of the Superior Court of Justice of Catalonia.

In this Agreement, besides recognizing the problem, the Superior Court of Justice of Catalonia urges the adoption of effective measures to encourage the stability of the judicial workforce, specifying them in the following terms: "about encouraging greater stability of the judicial workforce in the territory of this Superior Court of Justice of Catalonia, the plenary of the Government Chamber of the Superior Court of Justice of Catalonia requests the General Council of the Judiciary to urge the Ministry of Justice to establish a specific destination supplement — similar in concept and amount to what exists in other territories, with which it would be equated— for judges and magistrates destined for Catalonia". This agreement has the full support of the General Council of the Judiciary, which adopted it on December 1, 2021, with the equally unanimous support of the presidents of the National Court and the higher courts of justice. These measures have not been implemented.

On the other hand, in global figures, the number of judges and magistrates per 100,000 inhabitants has remained fairly constant over the years in Catalonia and in Spain as a whole, but in Catalonia this ratio has always been lower than the national average. So in 2022, the ratio for Catalonia was 10.90, while the national average is 11.60. (Source: Justicia dato a dato 2022. CGPJ). So in Catalonia, to reach the average state ratio, 55 more judges and magistrates would be needed.

In terms of litigation rates, Catalonia and Spain as a whole have experienced an incremental trend since 2017, taking into account the global pandemic in 2020. This trend has intensified very noticeably from 2021 until reaching historical maximum values at the end of 2022 (and even more during 2023). In Catalonia, the litigation rate has been traditionally below the national average, but in the last year 2022, the litigation rate (144.6) exceeded the national average (140.8) for the first time.

Additionally, the Government of Catalonia offers scholarships and grants for the preparation of competitive examinations to promote professional profiles related to the administration of justice (judges, prosecutors and lawyers; magistrates of the fourth round and lawyers of the Catalan government).

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

The Spanish Ministry of the Interior carries out practices, in the sphere of legal process of migrants and conditions pending deportation, which may affect and question the efficiency and proper administration of justice while colliding with fundamental rights protected by the EU in its Charter of Fundamental Rights.

In Spain the Immigrant Detention Centers (Centros de Internamiento de Extranjeros or CIE) are managed in full by the Spanish Ministry of the Interior, not by the Autonomous Communities of Spain. There is one in Catalonia in the Zona Franca region in Barcelona.

Firstly, in this regard, the situation of deprivation of freedom pending deportation in these centres is particularly serious. It can last weeks and often months and constitutes the most worrying element of the deportation system for foreigners in Spain. Indeed, the Committee Against torture indicated that "Some reports indicated a prolonged length of stay for migrants in these centres prior to their expulsion." local NGO Iridia, who regularly visits these centers, raises several concerns particularly the fact that solitary confinement is not subject to precise regulation, with several cases of detainees with a mental health situation being placed under prolonged solitary confinement.

Local NGO Iridia, which regularly visits these centers, raises several concerns particularly the fact that solitary confinement is not subject to precise regulation, with several cases of detainees with a mental health condition being placed under prolonged solitary confinement. The Government of Catalonia believes monitoring provided by external organizations is key in preventing ill-treatment or torture.

Secondly, when it comes to the deportation system the Government of Catalonia is also particularly concerned about the system of deportation of migrant people arriving to Catalonia. In most cases, these citizens have already established strong roots in the country, often with extensive social networks, who for various reasons, especially political or simply administrative, are deported with poor legal guarantees. While commending Spain's progress, the Committee Against Torture has already pointed to limited resources to evaluate new arrivals, as authorities are often unaware if an individual has made an international protection claim or not. Instances of summary returns were reported by the UNHCR, whereby individuals were denied the opportunity to request international protection in Ceuta, Melilla, or the Canary Islands.

Lastly, the conditions of unaccompanied and accompanied child migrants in migrant centres are still a cause of concern in Spain, as also highlighted by the United Nations Committee Against Torture in its July 2023 report.

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

When it comes to the capacity to fight against corruption, the Government of Catalonia has a good practice to share:

The Anti-Corruption framework of the Government of Catalonia has been strengthened by the creation of new areas of oversight of corruption, including: The enactment of Decree 57/2023, restructuring the Directorate General of Police, the Central Anti-Corruption Area was created (ACA for its acronym in Catalan). The new Central Anti-Corruption Area (ACA) is entrusted with the following functions:

- a) Investigate corruption cases of special relevance or complexity in the public and private sectors of Catalonia.
- b) Investigate the requests issued by the Special Prosecutor for Corruption and Organized Crime and respond to them.
- c) Promote and support investigations in this field carried out by other services.
- d) Any other function of a similar nature entrusted to it.

It is further planned that two or three new units will be created in the Central Anti-Corruption Area, which will increase its staff to up to 30 officers.

Additionally, a series of joint teams have been established within the framework of various operations and cooperative efforts in the last three years with the following authorities:

- o The Anti-Fraud Office of Catalonia.
- o The Central Operational Unit (attached to the Anti-Corruption and Organized Crime Prosecutor's Office of the Spanish Civil Guard)
- o The Central Information Unit UCE 3 of the Civil Guard.
- o A group attached to the Prosecutor's Office of the Civil Guard in Lleida.

In the same vein, it is worth highlighting that:

- o Regular working meetings have been held with members of the Anti-Corruption Prosecutor's Office in Barcelona, as well as with two prosecutors attached to the Anti-Corruption Prosecutor's Office based in Madrid.
- o There is an ongoing coordination with the Chief Prosecutor of the Anti-Corruption and Organized Crime Prosecutor's Office.
- o Work is being carried out under the supervision of different judicial authorities that have initiated various cases falling under the jurisdiction of the ACA, both at territorial level (Catalonia) or under the jurisdiction of the Central Investigation Courts of the Spanish National Court (Audiencia Nacional).

Furthermore, the preamble of the Decree 57/2023, restructuring the Directorate General of Police, states that:

"The Directorate General of Police must be accountable for its actions before the competent institutions and the citizenry and must subject its information to the transparency and data protection regime as provided by law. In addition, it must adhere to the ethical and professional principles and norms in police and public service matters, with special reference to those of the Council of Europe and the European Union".

For these purposes, the General Commissariat of Internal Investigation and Disciplinary Affairs (CGIID) integrates:

- o The Division of Disciplinary Affairs (DAD for its acronym in Catalan). Within the Division of Disciplinary Affairs, the Disciplinary Investigation Area aims to process confidential information as a result of the commission of disciplinary infractions by the civil servant and probationary personnel of the Police of the Government of Catalonia (PG-ME).
- o The Division of Internal Investigation. This division includes the Police Anticorruption Area, whose function is to investigate acts susceptible to be considered constitutive of police corruption. Especially in the areas of public health, felony and organized crime, as well as the economic crimes that may derive from them, and the Internal Investigation Area, whose mission is to carry out criminal investigations including the investigation of complaints or reports from which possible responsibility of members of the PG-ME may arise.

Moreover, the Independent Whistleblower Protection Authority (according to the Law 2/2023, of February 20, regulating the protection of persons who report on regulatory violations and the fight against corruption) is integrated within the Antifraud Office of Catalonia, established by the seventh additional provision (Protection of persons who report regulatory violations) of Law 3/2023, on fiscal, financial, administrative and public sector measures for 2023).

With regard to measures to enhance integrity in the public sector, the Directorate-General for Good Governance, Innovation and Democratic Quality would like to highlight that the anti-fraud plans of the Recovery and Resilience Mechanism funds have been put in place (<https://fonseuropeus.gencat.cat/ca/detalls/article/art-pla-antifrau-mmr-catalunya>) This has meant improving the management of conflicts of interest, the establishment of an anonymous complaint channel and the strengthening of control bodies.

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

5000 character(s) maximum

With regard to the safeguards for the functional independence of the authorities preventing and detecting corruption, the Government of Catalonia would like to make 2 contributions: best practices put in place by the Catalan Police (Mossos d'Esquadra) and voice its concerns with regard to the independence of the Spanish Tribunal de Cuentas (Court of Auditors):

1)

The Catalan Police would like to highlight several best practices regarding the functional independence of the Central Anti-Corruption Area (ACA).

In that regard, the ACA is integrated under the umbrella of the new Central Criminal Investigation Division. It therefore maintains autonomy from the hierarchical structure of the police force, which is why it only issues operational reports to the immediately higher-ranking officers.

To guarantee functional independence, the ACA uses the software available to the PG-ME with specifically designated profiles of high confidentiality that restrict access to other users within the corps.

In parallel, it is worth mentioning that the Parliament of Catalonia approved on in 2021, the Resolution 50 /XIV creating the Study Commission on the Police Model (CEMP for its acronym in Catalan). This Commission aims to analyze and assess the mechanisms to control, evaluate, and assess police actions, with the possibility of implementing independent mechanisms to control and oversee these actions. It also reviews the model of public order and considers possible changes, ensures transparency in information and data by the Department of the Interior, and analyzes the actions of the General Comissariat for Information of the PG-ME and the mechanisms to control and oversee police actions.

Reaffirming this commitment to the mandate of the Parliament and the importance of the CEMP's Report and Conclusions as an opportunity for improvement in the future, the PG-ME established a monitoring group in April 2023 to implement the given recommendations in the various areas of action that have been the subject of parliamentary work. The newly created monitoring group consists of a total of nine working subgroups: seven within the PG-ME, one at the Catalan Institute for Public Security (ISPC) and one at departmental level.

2)

The Directorate-General for the Promotion and Defence of Human Rights would like to highlight that it is not the first time that the Government of Catalonia has voiced its concerns about the independence and functions of the Tribunal de Cuentas (Court of Auditors) in Spain.

The Spanish Court of Auditors is an audit body, tasked with overseeing public spending. Apart from being an audit body, it also has jurisdictional and sentencing power, and this has generated much criticism both at national and international level.

When it comes to its jurisdictional capacities, people under investigation by the Court of Auditors cannot defend themselves with full judicial guarantees in the pre-trial phase. This is specially concerning considering that it is at this phase in which liquidation and seizure of assets and accounts are carried out. Victims tried by the Spanish Court of Auditors are helpless, because 99% of appeals are rejected and because the Court itself is the authority deciding over appeals. The final judgment can only be appealed to the third room of the Supreme Court.

The general principles of law and the guarantee of the right to the defence must be protected in all cases, also when there is no criminal procedure and, above all, when the claimed amount is particularly high and the impact on the individuals and their environment is severe.

In several cases, and especially when it supervised the external action of the Catalan Government in the period 2011-2017, the Spanish Court of Auditors was granted interpretive power over the Statute of Catalonia. This competence in no way corresponds to an administrative body dedicated to overseeing public accounts. Even more so, because the external action activities of the Government of Catalonia are not linked to any judicial process nor were notified at the time. This is a worrying precedent of extralimitation that would enable this Court to claim accounting responsibilities from any public office or political leader, without committing any crime or illicit enrichment of any kind. This broad vision of the political participation, which goes beyond the explicit obligations of each elected office, is not only perfectly legal, but also enriches and strengthens the democratic quality of a society.

The lack of clear criteria and excessive margin for interpretation facilitates politicized biases in the application of the law. Even more, if we take into account that the politicized system of selection of the members of the Spanish Court of Auditors and the body's jurisdictional function detached from ordinary justice make it an almost unique case in Europe.

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

Still on anti-corruption and the measures foreseen, the Catalan Police (Mossos d'Esquadra) would like to highlight that the Central Anti-Corruption Area (ACA) works within the framework of investigations opened to clarify conducts that have been reported, determine the existence of crimes, and identify the perpetrators.

A series of indicators have been established to scrutinise the activity of the ACA. These include, among others:

- o Number of Complaints
- o Number of Open Investigations
- o Number of Investigation Procedures (Prosecutor's Office)
- o Number of Preliminary Investigations
- o Number of Completed Investigations
- o Number of Individuals under Investigation
- o Number of Arrests

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

The Government of Catalonia would like to highlight the anti-fraud plans of the Recovery and Resilience Mechanism funds have been put in place. This has meant improving the management of conflicts of interest, the establishment of an anonymous complaint channel and the strengthening of control bodies.

For more information on the anti-fraud plans of the Recovery and Resilience Mechanism funds:
<https://fonseuropeus.gencat.cat/ca/detalls/article/art-pla-antifrau-mmr-catalunya>

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

As regards the general transparency of public decision-making, the regulatory plan of the Government of Catalonia for the years 2021-2023 includes, as an initiative, the draft law on the activity of influence towards the public administrations of Catalonia. In this regard, a public consultation procedure was carried out between 25.05.2023 and 26.06.2023, and with these contributions from interested stakeholders, a follow-up report was produced, which drew from several ideas stemming from these contributions. The Government of Catalonia has carried out an activity to assess the current regulatory models of various state and sub-state entities. As a result of the assessment, the convenience of setting up a model based on the traceability of public sector decisions is being considered, including the reasons why public sector decisions are taken and who, what, how, when and why internal and external actors (representatives of interests or lobbies) are influencing them.

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

The Government of Catalonia uses the definition of "conflict of interest" as stated in the Spanish Ministerial Order HFP/1030/2021, upon which the management system of the Recovery, Transformation and Resiliency Plan is based. It includes the definition of the Directive (EU) 2017/1371, on the fight against fraud affecting the financial interests of the Union (PIF Directive), and Regulation (EU, Euratom) 2018/1046 on the financial rules applicable to the general budget of the Union (EU Financial Regulation).

Additionally, the Government of Catalonia also uses the public manual on conflict of interests of the Anti-Fraud Office of Catalonia as a primary reference.

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

The Government of Catalonia, also committed to the protection of whistleblowers, would like to highlight two best practices put in place:

The Internal Alert System of Communication of Infractions of the Generalitat (Catalan name of the Internal System of Communication of Infractions of the Law 2/2023,) has been put in place by the Government of Catalonia by means of the Catalan Governmental Agreement ACORD GOV/160/2023, of 25 July, which establishes the Internal System of Alerts in the Matter of Normative Infractions and Conduct Contrary to Public Integrity of the Administration of the Generalitat.

The Catalan model has a wider material scope than the national one (it incorporates minor offenses and conduct contrary to integrity) and has a common technological application for all Catalan administrations facilitated by the Open Administration Consortium of Catalonia. Also, as stated above, it endows the Anti-fraud Office of Catalonia with the competences of an independent authority. The Open Governments Network (collaboration space between the Government of Catalonia's Administration and Catalan local administrations) has drawn up regulatory models for the implementation of the internal alert system in local administrations, and has set up an assistance service in small municipalities at provincial council level. The formulation of a draft law on the protection of individuals who alert on regulatory infractions is underway. The public consultation phase of this draft law has been completed.

Data on the Government of Catalonia's Internal Alert System: from June 28 to December 18 of 2023, 47 alerts were received, of which 17 were accepted)

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

As regards to measures taken for the monitoring and prevention of conflict of interests in public procurement, the Government of Catalonia would like to highlight that the Code of Ethics and Conduct in Public Procurement has been adopted. Furthermore, the Ethics Commission in Public Procurement has been created with the Catalan Government Agreement ACORD GOV/226/2023, of November 7, which approves the Code of Ethics and of conduct in public procurement and creates the Ethics Commission in Public Procurement.

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

5000 character(s) maximum

C. Repressive measures

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

5000 character(s) maximum

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

5000 character(s) maximum

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

5000 character(s) maximum

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

5000 character(s) maximum

Other - please specify

5000 character(s) maximum

III. Media pluralism and media freedom

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

5000 character(s) maximum

A. Media authorities and bodies

(Cf. Article 30 of Directive 2018/1808)

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

5000 character(s) maximum

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

5000 character(s) maximum

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

5000 character(s) maximum

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

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

5000 character(s) maximum

Safeguards against state / political interference, in particular:

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

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

5000 character(s) maximum

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

5000 character(s) maximum

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

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

5000 character(s) maximum

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

5000 character(s) maximum

The Catalan Police– Mossos d'Esquadra (PG-ME) has a standardized Working Procedure (217/05/19) for Police Action in Demonstrations and Gatherings, which establishes that:

- o Members of the communication department of the PG-ME will be present at demonstrations /gatherings (on the street) in order to:

Detect the presence of media at the scene, acting as the reference point and official source of information.

In case of conflict or a journalist's complaint, act as mediators and quickly receive on-site information to promptly relay it to the Coordination Center (CECOR).

- o Ensure that, whenever possible, the deployed journalists are fully identified according to the agreement established with the Catalan Journalists' Association. It is important to note that the agreement signed with the Catalan Journalists' Association on April 1, 2009, indicates that its members commit to wear visible orange reflective vests and orange armbands visibly displaying the membership card. However, it is also worth noting that this is a voluntary agreement, and not all journalists are members of the association; therefore it can't be compulsory.

Other Standardized Working Procedures establish that, in the event of critical incidents:

- o The operational leader must cordon off the area to a location out of sight of the person(s) causing the risk, using two security circles with sufficient separation to place the members of the team. They must set up a place outside the second security circle to position the press.
- o In high risk situations, it is advisable to position reporters at fixed points so that they can direct cameras toward areas of journalistic interest without facing danger.

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 Administration of the Government of Catalonia and its public sector entities, as well as the Catalan local administrations and their affiliated entities, apart from other public bodies, such as public law corporations or Universities, must guarantee their compliance with the transparency regulations. The Law 19/2014, on transparency, access to public information and good governance and the Decree on transparency and the right to access public information guarantee duly identified citizens their right to request access to the information held by the Catalan public administrations. Access requests are, as a general rule, free of charge and the corresponding administrative decisions may be subject to judicial review. At the same time, before accessing the jurisdictional route, there is a route of control of the administrative resolutions linked to the exercise of the right of access with a collegiate body with full organic and functional independence, and without any dependence or submission to hierarchical instructions of any kind (Commission to Guarantee the Right of Access to Public Information).

According to the latest available data, 551 requests for access to public information were submitted in 2022 and 1,959 in 2021.

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

Other - please specify

5000 character(s) maximum

The Directorate-General for the Defense and Promotion of Human Rights of the Government of Catalonia highlights that 3 articles of the Spanish penal code are considered to be unfounded and abusive towards citizens and journalists:

The Spanish penal code already includes articles that severely and unjustifiably limit the freedom of expression. This has been voiced by organizations in defence of Human Rights, included in several judgments of the European Court of Human Rights, and reported by the Human Rights Commissioner of the Council of Europe in its letter addressed to the Spanish Minister of Justice in 2021. Several articles of the Spanish penal code justify the limitations to the freedom of expression in 3 areas: Article 525th (Offense of religious feelings), the 485th, 490.3rd and 491st (defamations to the crown) and the 543rd (offenses or outrages against Spain, its autonomous communities, symbols and emblems).

At the same time, the Organic Law 2/2015, has toughened the penalties for the crimes of glorifying terrorism

and humiliating the victims of terrorist crimes (Art. 578 C.P.) resulting in abusive limitations of the right to protest and the principle of political pluralism.

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

The Regulatory Plan of the Government of Catalonia for the years 2021-2023 includes the will to promote a draft law on the procedure for drawing up rules and norms. In this regard, the public consultation phase of this initiative was carried out between 1.01.2020 and 31.01.2020. Then, a follow-up report was produced while taking into account the public contributions. The initiative was subject to a hearing and a public information procedure, from which numerous observations were made and answered as shown in this official document. Finally, the Bill was approved by the Government of Catalonia on 31.01.2023 and is currently undergoing parliamentary processing in the Parliament of Catalonia.

With regard to the assessment of the impact of regulatory initiatives, it is the responsibility of the Secretariat of the Government of Catalonia to promote and coordinate the public policy in relation to the improvement of the regulatory norms, including the promotion of a culture of good regulatory quality, in order to ensure the effectiveness and efficiency of Governmental actions.

For the exercise of these functions, the Secretariat of the Government of Catalonia counts on the support of the Regulation Improvement Unit, under the umbrella of the Department of the Presidency of the Government of Catalonia. This Unit ensures compliance with current requirements regarding regulatory impact assessment. Furthermore, it provides technical assistance and consultancy to the different Regional Ministries of the Government of Catalonia, in order to carry out regulatory quality assessments, with a special focus on regulatory impact of the draft general provisions and current rules. Among other aspects, it also promotes and coordinates the development of the aforementioned Government's regulatory plan.

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

The Government of Catalonia would like to highlight 2 best practices with regard to this topic:

1)

The Government of Catalonia gives voice and works cooperatively with entities committed to the fight against fraud grouped under the Citizen Observatory against corruption. These entities have promoted, with the approval of the Parliament of Catalonia and the Government of Catalonia, the summits against the structural causes of corruption. These summits adopt a series of agreements that the Government adopts and implements, and periodically reports on the progress and compliance with the agreements.

2)

The Police of Catalonia – Mossos d'Esquadra (PG-ME) participates in the European project VIGILANT (2022-2025), which focuses on disinformation and fake news. The project aims to provide law enforcement authorities with a comprehensive framework and methodology that:

- o Integrates the latest developments in tools adapted to analyze, detect, mitigate, and prevent disinformation with security implications, guided by ethical and social considerations;
- o Implements best practices in data acquisition, processing, and storage that comply with General Data Protection Regulation (GDPR) and legal requirements for police investigations; and
- o Provides agents with training and knowledge about disinformation campaigns and appropriate actions to address them.

On a separate issue, as mentioned beforehand, the Parliament of Catalonia published on December 20, 2022 the Report and Conclusions approved by the Study Commission on the Police Model.

In this regard, it is worth mentioning that conclusion number 8 regarding the “Promotion of changes and improvements in the police model of the PG-ME”, section g) of block I (General perspective of police models), explicitly mentions “the consultation of organized civil society in the design of security policies”. This objective is extended in conclusion number 14, which states that: “Security policies in Catalonia must adopt a multisectoral approach in which the police is a fundamental actor but not the only one. Security policies must be co-designed, and the Department of the Interior must work together with other departments in designing these policies, while involving local governments, organized civil society and the general public”.

The monitoring group established by the PG-ME in April 2023 is tasked with implementing, among others, the above-mentioned conclusions.

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

The Government of Catalonia would like to highlight a best practice by the Catalan Police:

1)

The Technical and Proximity Area of Citizen Security (ATPROX) in the PG-ME carries out different functions of prevention and awareness in the areas of victim support and relationships with civil society organizations in Catalonia.

In that sense, different discussions are taking place throughout the territory about security measures. Those with the highest demand are related to the Internet, covering criminal aspects such as fraud, digital reputation or fake news. A generic sample of talks and topics includes:

- o Recommendations for senior citizens in order to perform activities in different areas (at home, on the street, when going to the bank, avoiding scams, etc.)
- o Little Red Riding Hood Online: aimed at primary schools to address the safe use of social networks free from dangers (grooming prevention).
- o Workshop on Hate and Discrimination against people with intellectual disabilities. Aimed at youth, explaining this type of crimes through practical cases.
- o Diversity "face to face." Project that involves peer training on hate crimes and discrimination in a high school. 3rd-year students become trainers and references for 1st-year students.
- o Safe Internet. Deals with the advantages, disadvantages, and different definitions related to the Internet, and provides safety tips for secure browsing and self-protection.
- o Peer-to-peer Safe Internet. Project that involves peer training on achieving a safe Internet space at high school. 3rd-year students become trainers and references for 1st-year students.
- o Social Networks Workshop. Aims to reflect and provide basic guidelines on how to enjoy social networks pleasantly, civically, and safely.
- o Share. Through a multimedia format, it addresses criminal responsibility, group pressure, empathy, positive and negative leadership, self-esteem, digital consent limits, digital reputation, self-protection on the Internet, the importance of communicating or sharing problems, and not generalizing behaviors.
- o #Respect Workshop. Peer bullying (primary school).
- o #TakeAStand Workshop. Peer bullying (secondary school).
- o Bullying Comic. It consists of three dynamics aimed at raising awareness about diversity in our current society and providing the necessary tools for young people to deal with possible problems related to bullying.
- o Female Genital Mutilation. Addressed to professionals and secondary school students to inform about the legal framework related to this issue, raise awareness about the physical, psychological, and sexual consequences of practicing FGM, and introduce elements for prevention.
- o Digital Male Violence.
- o Cyberviolence Workshop (Chat with mobile phones. Aimed at both girls and boys).
- o Sexual Violence Workshop. Definitions and examples of violence. Detection indicators of abuse are defined, and tools are provided to stop the process.
- o The Game Begins. Explanation of the legal framework for minors, risky situations, alcohol, drugs,

safety tips for mopeds and motorcycles.

- o Safety and Self-Protection Recommendations. General recommendations at home and on public roads for the general adult audience.
- o Drugs and Laws. Explanation of the definition of drugs, legal and illegal drugs, effects on the body, alcohol tests, drug tests, legal framework.
- o Risks for Youth. Extensive and adaptable presentation on the aspects that most concern young people. Legal framework for minors, risky situations, alcohol, drugs, vehicles, assaults, weapons, harassment, etc.

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

The Government of Catalonia would like to put in consideration of the European Commission two more final aspects:

1)

The Directorate-General for the Defense and Promotion of Human Rights of the Government of Catalonia is concerned about the abusive application of anti-terrorist laws in Spain.

Like any state action that can affect citizens' fundamental rights, counterterrorism activities need a well-defined legal framework prepared in advance, and must be used only when strictly necessary while respecting the principle of proportionality. Such circumstances cannot be clearly asserted in the fight against terrorism in Spain today.

Many of the difficulties in maintaining a framework of counterterrorism in full respect of fundamental rights stems from the legal operators who play a prominent role in said framework (in Spain's case, the National

High Court and its Prosecutor's Office), which are not fully independent of political power and still use legal practices approved during the pre-constitutional period.

The criminal law prepared in recent years in Spain has been affected by excessively open juridical concepts that allow criminal law to be defined by political notions, which could lead to a criminalisation of certain political behaviours that should remain outside the scope of criminal law.

Examples of this are the alleged organizers and participants of peaceful public protests that have been accused of terrorism and/or spied on through the Pegasus spyware system. Among them we can identify grass roots activists or political leaders such as Carles Puigdemont, Marta Rovira or David Fernandez.

Spanish criminal anti-terrorist laws go far beyond the provisions of EU harmonised criminal law and incriminate behaviours that are only criminal in Spain. This could be viewed as the state's disproportionate interference in the sphere of citizens' personal autonomy in both political development and religious beliefs. There is a clear progressive expansion of criminal law.

The trial law applied in the fight against terrorism calls for the use of tools of exceptionalism which reduce, limit and eliminate the exercise of certain fundamental rights in an utterly unnecessary and unjustifiable way. Often, these laws allow the right to the presumption of innocence to be violated and do not provide for effective reparation mechanisms.

All of these factors mean that as long as certain conditions are obtained, it is possible, through the argument of fighting against terrorism, to create a framework of the criminal law of the enemy, which in theory is banned in democratic legal systems because it strips affected citizens of the right to a trial with full guarantees, and leads to a context of utter defencelessness.

2)

Back in 2019, the Government of Catalonia promoted the Catalan Charter for Digital Rights and Responsibilities. The Charter sets out a series of principles to respect fundamental rights in view of rapidly changing and emerging technologies.

In recent years, a number of government officials, Members of the European Parliament, defence attorneys, journalists and activists linked to the pro-independence movement in Catalonia were unlawfully targeted by malicious cyber-surveillance technologies, undermining democratic institutions, the right to political participation, the right to a fair trial, and individuals' privacy rights.

In view of the above, the Government of Catalonia calls for:

1. An effective investigation that sheds light on the case, restoration of the victims, and guarantees for non-recurrence.
2. An international moratorium on the use of targeted surveillance technologies. The Government of Catalonia already set this moratorium in place as of 4th April 2023, making it the second government in the world after the United States to implement concrete measures against surveillance spyware.
3. The creation of a regulatory framework protecting individuals against the lack of safeguards in situations of targeted surveillance, and that guarantees that the use of cyber-surveillance technologies always respects fundamental human rights. It should include:
 - Ex-ante prevention mechanisms for potential wrongdoing and abusive practices in cases where ex post restoration is not feasible.
 - Definition of the qualifying assumptions to grant judicial authorisation for the use of targeted surveillance technologies.
 - Public authorities' actions should always be guided by the principle of justice and proportionality. The notion of national security should not serve as a means to justify any breaches of fundamental rights by the

same public institutions.

- The creation of an independent and impartial EU legal body to monitor potential spyware incidents, guarantee wrongdoers' accountability, and ensure the reparation of damages for the victims of espionage.

Contact

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