Rule of Law Report Belgium- Questions to the Ministries

Pillar I – Justice System

1. The written input that we received from you mentions the increased budget for justice, and initiatives to increase the human and financial resources available to the justice system. Could you elaborate in more detail:

   a) The amount of additional resources, via either the State budget or RRF?

Concerning the Justice Department, the Council of Ministers of 23 October 2020 notified, amongst other things, that :

"An amount is included in the Interdepartmental Provision for the strengthening of Justice. This reallocation will be carried out by distribution decree deliberated in the Council of Ministers.

A monitoring of the spending related to this Provision is foreseen by the services of the Secretary of State for the Budget. Once the distribution has been carried out, the budget will be included in the base for the following years.

Costs:
2021: 125.000 kEUR
2022: 175.000 kEUR
2023: 225.000 kEUR
2024: 250.000 kEUR"

This decision resulted in allocating additional staff appropriations for the judicial Order.
2021 20.793.391
2022 56.759.980
2023 73.388.489

   b) How will these resources be allocated?

On the one hand, these appropriations are aimed at ensuring that vacant positions fixed by law for magistrates and court staff are better filled and, on the other hand, they are focussed on a certain number of substantive initiatives. These appropriations have been distributed in close consultation with the College of courts and tribunals and the College of the public prosecutor's office, as well as with the Court of Cassation, for matters that concern them.

   c) Which additional human resources will be created (notably in terms of public prosecutors and court staff) and by when are the individuals concerned expected to be operational?

In 2021-2022, 119 vacant positions for magistrates were planned, 102 of which have been filled in the meantime. Regarding court staff, 800 positions were planned, 690 of which have already been filled.
For the years 2023-2024, 96 vacant positions for magistrates are planned again, as well as 266 vacant positions for judicial staff.

   d) To the extent they are dedicated to the criminal justice area, will the resource focus on specific areas of criminality?

A number of initiatives aim indeed at providing additional support for certain fields, including, in particular, the fight against drug-related crime, cybercrime, domestic violence, the fight against tax evasion, road traffic offences, environment.

2. The written input refers to the Law of 26 December 2022 *laying down various provisions on judicial organisation II*. Could you provide us with more details on the concrete aspects of this law that address the recommendation on resources in the 2022 Rule of Law Report?

As previously mentioned, the numbers of magistrates per entity are fixed by law.

The adoption of a Royal decree will make it possible to more rapidly address the need to increase the fixed number of staff of a court, provided that all the positions are not filled in another court and that filling that vacancy is not necessary for the proper functioning of that other court.

Therefore, if it appears that an entity requires more magistrates than foreseen in the numbers of staff fixed by law and that another entity requires less of them, the aforesaid Colleges may propose to the King to deviate from the numbers of staff fixed by law, within certain limits, by using the so-called flexible numbers of staff.

Moreover, the law of 26 December 2022 reforms the rules for case distribution.

As a result of the deletion of the list of matters that may be centralized in one or more division(s), corps chiefs can use their court resources in a more efficient and rational way, in particular by increasing the number of specialized magistrates.

The possibility to centralize certain procedural steps such as initial hearings or hearings before the Council chamber within one or more division(s) will also allow for a better use of the available human resources, in terms of staff or infrastructure.

The proposal of the presidents of the courts to apply such a redistribution must be ratified in a Royal Decree that has been discussed in the Council of Ministers. This proposal must ensure that citizens have access to justice and the proper administration of justice.

3. Could you provide us with further updates regarding the autonomous management of courts and tribunals, as foreseen in the Act of 18 February 2014?

The question of the transfers of magistrates and court staff within the Belgian legal order was indeed first included in a draft law that is referred to. It is a kind of internal mobility between different jurisdictions and the position that the legislator currently assigns to the Minister of Justice. At the moment there are far-reaching discussions between the judiciary and the Minister of Justice about further autonomy of the judicial order. In this global reflection exercise, the assignments are included in the conversations. This should ensure that all aspects of the P&O policy, including the assignments, can be coherently laid down in legal provisions.

4. Is there a specific mechanism in place to monitor and/or ensure the follow-up by public authorities to final court decisions by national courts (and if yes, could you elaborate on its functioning)?

We hope that this will provide an adequate answer to your rather broad question. Today, it has not been considered necessary to establish a specific monitoring mechanism of the respect of judicial decisions by public authorities insofar as our authorities are careful to respect their binding nature and to do everything possible to execute final decisions within a reasonable time.

In addition, there are binding mechanisms, such as the recourse to penalty payments and seizures, which make it possible to ask the competent judge to note a possible faulty non-performance and to ask him for the forced execution by the public authorities just as it could be asked with regard to an individual.

5. The written input mentions that the eligibility thresholds for legal aid continue to be raised. Could you elaborate on any effect of these changes already noticed in terms of accessibility of courts?

The eligibility thresholds for legal aid were recently raised (in September 2020 by 200 euros; and then by 100 every year until 2023).

The Bar associations (Flemish and French bar) supplied us with some recent statistics regarding the number of designations (or numbers of cases allocated to lawyers). The designation gives an idea of the number of lawyers who have been appointed for a case under the legal aid system. You can then compare years with years to see if more people had accessed to legal aid.
Last year, we gave you some numbers to compare year 2020-2021 with year 2019-2020. There was an increase of 10, 5 % in comparison with the previous year.

The recent numbers are the following:
2020-2021 : 279.874
2021-2022 : 289.906
If you compare the year 2021-2022 with 2020-2021, there is an increase of 3.6%.

The increase in designations can be explained to some extent by the increase of the threshold. But only to some extent because you have to keep in mind that the majority of people who benefit from legal aid don't need to pass a means test because they benefit from a presumption (detainees; asylum seeker; people with the minimum wage; people who are entitled to housing estate…) those people are presumed to have insufficient means so usually legal aid is granted without any test. So only a small number of people who were granted legal aid had to pass a means test.
The increase can also be explained by the asylum crisis or energy crisis.

We received other statistics on the number of cases by categories of people eligible to legal aid (based on the completed cases per year- when a lawyer has finished his services and give a closure report to the bureau of legal aid):
Number of completed cases by categories of people (those who had to take the means test – isolated person or cohabitant or isolated with dependants):
2019-2020: 20547
2020-2021: 21883
2021-2022: 23093

If you compare 2021-2022 with 2020-2021, there was an increase of 5.5 %. The previous year it was an increase of 6.5%.

So, at this stage, we can see an small increase in the number of people who are eligible to legal aid. This increase is due to a small part to the rise of threshold but is mainly due to the asylum crisis and other crisis. So it is still a bit early to draw any definite conclusion from the statistics. Hopefully in a few years' time we will have a clearer and full overview on the effect the rise of threshold might have had on access to justice.

6. Could you inform us on any progress made in the area of the digitalisation of justice? Are there plans to ensure assistance to those who do not have access to or are having difficulty with digital systems?

The digital transformation of justice is being piloted by the Digital Transformation Office. A platform (JustTalk) has been created early 2022 to involve all stakeholders.

In general, the digital transformation is being executed following 5 steps:

Step 1: modern hardware as the basis for a user-driven approach

The last 2 years, new lap- and desktops have been purchased and distributed within the entire organisation. Other examples are the purchase of second screens and headsets, or the launching of a pilot project on hybrid IT-tools (Microsoft Surface) for some more mobile functions, such as investigating judges ("juges d'instruction"/"onderzoeksrechters"), to answer existing needs in the field.

A fixed cycle for the renewal of all hardware will be put in place during 2023, to ensure that no hardware being used in the organisation will be older than 5 years.

On the software level, Office 365 has been implemented, which allows for a more responsive and efficient collaboration, in the office and from home. The Jupiter-program is being continued with the renewal of other collaboration tools such as SharePoint. Several security aspects of the suite are improved.

During 2022, different videoconferencing solutions for use by our jurisdictions have been tested, and our College of Courts and Tribunals has selected one system as the best. 115 sets of this system have been purchased, and their installation is foreseen for this autumn.

As we announced in the context of our country report last year, a law project allowing for the virtual hearing (videoconference) in judicial proceedings in civil and criminal matters, has been drafted. This draft was approved by the Council of Ministers and is now following its legislative path. We're currently awaiting a number of advices, such as from our Council of State (legislative section) and our Data Protection Authority. Once all advices received, the text will undergo its last modifications before being submitted to Parliament for discussion.

Step 2: single digital case file

The last 2 years, different aspects of the digital case file have been digitalised.

In June 2022, the **JustConsult**-application went live on the Just-on-Web-portal. This tool, at this moment already available for criminal court ("correctionele rechtbank/tribunal correctionnel") cases, allows victims, relatives, lawyers and all involved in (first instance) judicial proceedings in criminal matters to get online access to the relevant judicial case file, with an initial prioritising of case files concerning sexual violence, intrafamily violence, murder and manslaughter. In a second stage, other types of judicial case files will be opened up digitally.

To speed up the digitalisation of paper case files, 150 new scanners have been purchased and job students were hired to perform the scanning. This work continues unabated.

Last year, the justice department started to use the electronic inbox of Enterprises (eBox Enterprise), e.g. for the communication/notification of "immediate recovery of police fines for minor traffic infractions", or of amicable settlements (also in criminal matters).

The further roll-out of the application allowing for the electronic signature of judicial decisions and other documents (**JustSign**), already in place for the justices of the peace, will be continued.

A first version of **JustSend**, an application allowing for the digitalisation of the postal services of the justice department, is already in use in a number of places. This year, other functionalities will be added to this app, and it will be rolled out to the different Justice entities.

The current e-inventory is being modernised, taking into account the needs of the different entities of our judiciary. A pilot project on the **JustView**-application is being run at one labour court (Antwerp). This application will be rolled out to other Courts of appeal and Labour Courts in the coming months.

The issue of the different old or ageing case file management systems is also being tackled. The common workflows of the civil and criminal judicial chain have been identified, defined and described in a fundamental, 1000 page document, called "the **Common Base**", validated by the College of Courts and Tribunals and the College of the Public Prosecution. This document will offer a clear basis for the development of a future uniform case file management system for the Judiciary.

The first to receive this new case file management system, will be the Court of Cassation, as well as the Sentence Enforcement Courts and their Public Prosecutors' offices. This first stage will allow to further refine the Common Base. After this first stage, roll-out to other jurisdictions will follow.

The MaCH-case file management system, which is the currently used by half of all Belgian magistrates and their collaborators, will be thoroughly renewed and made more user-friendly. The much-needed transfer from Open Office to MS Office for all documents created, has been finalised. For this year, more improvements are in the pipeline, such as a renewed user interface. Important in this respect is the **JustOne**-application, allowing for the clear and simple drafting of summonses and final claims, that will initially be implemented in the Public Prosecutors' offices of the criminal courts of first instance. The new version of MaCH will also replace, before the end of 2023, the current PAGE-application, used by the Prosecutors-generals' offices.

A first version of the **JustRestart**-platform will be launched this year, a digital register for collective debt settlement that will allow for the electronic deposition and management of the collective debt settlement procedure before the labour tribunals.

This year, the payment of the second-line legal aid will also be digitalised. The request to obtain such legal aid can already be deposited electronically via the **JustDeposit**-application, accessible via de Just-on-Web-portal. An automatic transfer to a digital payment environment will be provided.

The "I+ Belgium"-platform for communication between police and justice on "persons under conditions" will disappear and will be replaced by **JustSignal**, that will be more performant and offer enhanced possibilities. There will be a real-time link with "POV", the new application for all police services.

In 2023, we will work on **JustCourt**, that will allow for the digital organisation and management of court hearings.

Step 3: linking all databases

Current and to be developed databases are being digitalised.

As to the access to the Belgian judicial decisions given by our courts and tribunals, a project is being run for the creation of a **Central Register for judicial decisions**. The legal basis of and framework for that register, the drafting of which was one of the objectives of said project, has been published in the Belgian Official Gazette on the 24th of October of last year

(https://www.ejustice.just.fgov.be/mopdf/2022/10/24_2.pdf#Page47). Entry into force of the first part of this law (relating to the non-public component of the Central Register, containing the authentic, non-pseudonymised judicial decisions) is foreseen for the 30th of September 2023. Entry into force of the second part of this law (relating to the public component of the Central Register, containing the pseudonymised versions of the judicial decisions registered in the Central Register) is foreseen for the end of 2023.

The creation of the **digital National Register for Judicial Experts, Translators and Interpreters** in March 2022 answers a need that existed in these sectors since several years. It allows citizens, companies and other authorities to consult this database – containing more than 4500 persons – in a user-friendly and efficient way to find a high-quality expert. This Register is consulted more than a 1000 times a day. Before its existence, these visitors had to go to their local jurisdictions. In collaboration with the Professional Society of Flemish Sign Language Interpreters, efforts have been done to register more Flemish sign language interpreters in the National Register, with success. This initiative will be repeated for the French speaking part of the country.

The possibility to obtain an extract from the judicial record via the cities and communities has been used for the delivery of 2 million extracts last year. The preparations for the further data exchange for non-EU citizens with other government services and European Member States, have been completed. This will allow police services to directly consult the criminal records and will also allow for an automatic exchange of non-EU citizens' data with other EU-Member States.

Current "eGriffie"-application, that allows for the creation of not-for-profit associations or certain types of corporations, has been thoroughly renewed. It is now, under the name "**JustAct**", available on the Just-on-Web-portal. This year, more functionalities will be added, such as the modification of executive mandates, or seat relocations. This will considerably improve the user-friendliness for SME's and not-for-profit associations.

Since May 2022, **JustInvoice** allows judicial experts to digitally upload and follow-up on their statements of expenses. This will improve service and allow for quicker payment. In the next stage, interaction with taxation and liquidation offices will be improved to avoid double inputs. Another addition will be a clear overview of the judicial costs per criminal file. This will allow the Justice department a better mapping and recovery of recoverable costs.

The website of the Belgian Official Gazette is being modernised. The procedure for demanding publication is being digitalised, as well as the internal case management system, in order to fasten the publication process.

The Justice department will be provided with a modern integration platform in order to be able to use reusable data connectors (APIs). This will make it easier to cater to future needs for connected databases.

The web application **PacOs**, that serves as a digital database for the management of evidence, is being used by police services and Justice alike and will be prepared to exchange data, not only with the MaCH judicial case file management system, but also with Navision (the system used by the Belgian Central Office for Seizure and Confiscation) and the system used by the National Institute for Criminalistics and Criminology. Since 2022, PacOs is being used by the registries of the tribunals of first instance, the courts of appeal, the police tribunals and in juvenile matters.

Step 4: Just-on-web as single access-gate to Justice

The online portal **Just-on-web** has been launched in October 2021 as the single access-gate to Justice. Step by step, this portal will grow into the central place where all Justice-applications can be found.

A number of already existing online services (such as the aforementioned **JustDeposit** application) received a place on Just-on-web, were restyled to a new look and feel and were adapted to the needs of users. Last year, a number of new services have gradually been added to the offer:

Via **JustFines** citizens as well as enterprises can get an overview of their fines of the last 36 months, check the details and the file progress per fine, consult documents in the file of their fine, and pay or contest their fine online.

Since November 2021, interested parties receive a digital notification of a non-signed copy of the decision of the police tribunal. They are thus informed that the decision in question can be digitally consulted via Just-on-web. This automatic notification will be extended to the civil section of police tribunals and to the justices of the peace.

Since May and June 2022, respectively, the aforementioned applications JustInvoice and JustConsult are available via Just-on-web. Once their development will be finalised, the JustAct and JustRestart applications, mentioned above under step 2, will also be added to the offering.

Soon, the Database of Civil Registry Records will also be available via Just-on-web.

Several services of which guardians of non-accompanied foreign minors make use, will also be offered digitally via the portal.

Other services in the pipeline for being digitalised as an online service, are the obtaining of an installment plan, or the demand of sentence enforcement modalities.

Currently, work is done to create the possibility of a single sign-on solution for all online services on the portal, via a secured identity and access management system.

Step 5: a more performant Justice to obtain results

Finally, every effort is being made to maximise efficacy gains through a faster digital functioning of Justice.

Last year, a pilot project has been launched to diminish the workload associated with court letters. The administrative drafting process of court letters is being digitalised. The new IT-system developed with that purpose is currently being linked with the existing infrastructure to allow for a broader roll-out.

The digital follow-up of case files now also allows for the sending of an automatic information letter to the civil parties mentioned in a final judgement containing an imprisonment sentence. A so-called “victim sheet” is now also added, with the necessary explanation, allowing the victims to exercise their rights more quickly.

To allow for a more swift electronic payment, pay terminals are being installed in the court registries. By the end of this year, electronic payment should be possible in every court registry of our country. Once this step taken, a next step will be the considerable simplification of the court registry’s accounts, which will lower the current administrative burden. Once payment possibilities and accountancy will be modernised, the use of cash should disappear, because of the workload it creates for the registries, and the risks that come with it. Nonetheless, care should be taken to continue to allow persons that don’t dispose of modern payment means, to pay.

The digitalisation of Justice will also allow to develop data dashboards that give an overview of the workflows, certain phenomena and workload. A number of them are already operational, and they were for example crucial in the context of the creation of the new Public Prosecutor's office for Road Safety. This approach will in the future e.g. also be used for the protection of victims of partner violence, and the follow-up of immediate fines ("Lik-op-stuk boetes"/"transactions immédiates").

As to the **question of assistance to those who do not have access to or are having difficulty with digital systems**, the digital transformation described above tries to take this into account. The virtual hearing, mentioned above under step 1, for example, will in principle never be an obligation. Only in very specific, rare circumstances, when a number of conditions, provided for in the law, are met, judges will be able to order virtual hearing (i.e. serious and concrete risk to public health, such as pandemic, or serious and concrete risk to the Public Safety).

Practically, there will also be modern so-called "Kiosk PCs" in the different court buildings. The PCs already in place today are currently being replaced by new ones. These PCs will allow that also people with limited digital literacy or without the necessary IT means, can access online tools on the Just-on-web-portal (see higher, step 4).

User-friendliness of the different platforms, applications, databases,… is also an important and continuous point of attention in the operationalisation and implementation stage, for professionals and persons seeking justice alike.

7. Could you elaborate on potential further measures foreseen regarding the implementation of GRECO recommendation on distribution of cases between judges in appeal courts and courts of first instance?

We would like to refer here to the explanations provided by the High Council of Justice (CSJ):

With regard to Recommendation xii, no development can be reported concerning the content of the Third Interim Compliance Report of June 2022.

Information collected by the High Council of Justice on that matter from the First Presidents of the Courts of Appeal show a harmonization of practices deemed sufficient regarding case distribution to chambers with a single judge among the different jurisdictions. This is furthermore demonstrated by the convergence of figures.

The High Council of Justice does not find it appropriate at the moment to take measures. They will include this matter in the follow-up at the Courts of Appeal…

It seems the High Council of Justice therefore not necessary to carry out a specific assessment of the methods of case distribution which will be included in the (general) follow-up of the particular survey which will be conducted subsequently at the level of the courts of appeal.

8. Could you elaborate on the latest developments regarding the law that provided for the publication of all court judgments?

As to the access to the Belgian judicial decisions given by our courts and tribunals, a project is being run for the creation of a Central Register for judicial decisions. The legal basis of and framework for that register, the drafting of which was one of the objectives of said project, has been published in the Belgian Official Gazette on the 24th of October

(https://www.ejustice.just.fgov.be/mopdf/2022/10/24_2.pdf#Page47). Entry into force of the first part of this law (relating to the non-public component of the Central Register, containing the authentic, non-pseudonymised judicial decisions) is foreseen for the 30th of September 2023. Entry into force of the second part of this law (relating to the public component of the Central Register, containing the pseudonymised versions of the judicial decisions registered in the Central Register) is foreseen for the end of 2023.

On the legislative plan, drafts of the necessary Royal Decrees for the execution of said law are being prepared.

9. Could you inform us whether there is any progress on the gathering and presentation of statistical data on the disposition time in civil proceedings?

Statistical data on the number of civil proceedings and the disposition time in civil proceedings are publicly available on the website of the Federal Public Service Justice (in Dutch and French): EU Justice Scoreboard - Federale overheidsdienst justitie (belgium.be). Currently, the most recent data available are for 2021. The statistical support service of the College of Courts and Tribunals, responsible for the collection of these data, announced that an **update with the data for 2022 is foreseen for mid-2023.**

Data for 2021:

In 2021, mean disposition time (in days) in civil cases (**first instance**) was 220 days.

- Civil cases pending (first instance) on 1/1/2021: 504.546
- New civil cases (first instance) in 2021: 585.618
- Output 2021, civil cases (first instance): 595.073
- Civil cases pending (first instance) on 31/12/2021: 495.091
- In 2021, mean disposition time (in days) in civil cases (**second instance**) was 553 days.
- Civil cases pending (second instance) on 1/1/2021: 44.091
- New civil cases (second instance) in 2021: 23.736
- Output 2021, civil cases (second instance): 24.931
- Civil cases pending (second instance) on 31/12/2021: 42.896

For more context and remarks on the methodology, see the shared link.

Pillar II – Anti-Corruption Framework

1. Could you update us on any progress in implementing the two recommendations made in the Rule of Law report as regards the fight against corruption? [a. *Complete the legislative reform on lobbying, establishing a framework including a transparency register and a legislative footprint, covering both members of Parliament and Government* and b. *Strengthen the integrity framework, including by adopting a Code of Conduct covering all members of ministerial private offices, rules on gifts and benefits for members of Parliament and Government and rules on revolving doors for government and their private offices.]*
    a. With regards to lobbying, we understand that a legislative proposal in Parliament remains pending on the issue (proposal 55-2394)? Is there a political agreement to proceed with this proposal?

In the Chamber of Representatives, an evaluation was done by the parliamentary groups on the current transparency register. On the basis of that evaluation, which was re-discussed at the parliamentary working group on political parties at the beginning of February, bills have been introduced (such as proposal 55-2394) which are being refined through negotiations.

A specific challenge has been the inter-institutional co-operation as the goal of a common transparency register for both the legislative and executive level appears difficult to achieve, considering the effects and working methods of the register would be different for parliament and government.

In order to advance on this recommendation, the government – in accordance with the explicit government agreement on this point – will put forward a proper transparency register with specific reporting responsibilities by ministers for the executive power, allowing also the Chamber to tailor their register to their own needs as a legislative branch. The government will discuss a text for a legislative basis for their transparency register at the beginning of March. This should also allow the Chamber to pick up its legislative work in the next months, including the proposals to include a legislative footprint.

b. Have discussion on a Code of Conduct covering all members of ministerial private offices, rules on gifts and benefits for members of Parliament and Government advanced?

On the 27th January, the Council of Minister approved – in a first reading – a draft bill that will extend the application of the existing Code of Conduct for Public Office Holders (2014) to the members of the ministerial private offices (https://news.belgium.be/nl/uitbreiding-van-de-deontologische-code-voor-openbare-mandatarissen-naar-de-leden-van-de). The bill is now under review by the Federal Commission on Deontology and the Council of State, and will then be introduced in Parliament for approval.

As for a Conduct of Conduct for Ministers, the government considered that the constitutional role of ministers is different from that of those of targeted by the existing Code of Conduct for Public Holders or the Code of Conduct for members of parliament, and that it would not be possible to simply extend the application of those codes to the ministers.

The code of conduct for ministers is at present regulated by constitutional traditions and internal letters have been sent out by successive Prime Ministers. In order to ensure that the framework is clear to all parties concerned, an initiative is underway to codify these existing rules and to also include relevant provisions of the existing Codes that would also apply to ministers. A first draft of such a codified code of conduct will be put forward in March.

As for the rules on gifts, and the rules on revolving doors, it must be noted that the existing codes already include provisions on these matters. By extending the Code of Conduct for Public Office Holders to all staff of the ministerial private offices, these rules will receive a much broader application within the federal government. These provisions will also be addressed in the codified ministerial conduct that is under preparation.

2. We note from the written input of the BE authorities that a minor amendment to the asset and mandate declaration laws was approved by the Parliament during 2022
    a. Could you clarify the changes made? We understand the main goal was to include "liabilities" among those things needing to be included in the declaration?

According to the Legal Service of the Federal Parliament the adopted law contains essentially a series of (technical) amendments that address difficulties raised by the Court of Audit in the application of the regulations concerning the asset declaration (but that not implement any GRECO recommandation).The only other goal of the bill was to include liabilities in the asset declarations (there was no agreement between the different Belgian parliamentary assemblies to implement the GRECO recommandations concerning the estimation of the value of the various assets or the update of information in the course of a parliamentary mandate).

b. Could you clarify why it was chosen to focus on implementing recommendation iii of the GRECO 4th Round Evaluation (on liabilities) through this amendment, but that (seemingly)

no steps were taken to address recommendation iv (concerning the transparency of the asset declaration system) of the same GRECO report?

According to the Legal Service of the Parliament there is no political majority in Parliament for making the asset declarations accessible to the public.

3. We note the adoption of the new Whistleblowing legislation aiming to transpose the relevant EU Directive.
    a. Could you elaborate on the legislative process and the timeline for the transposition of the Whistleblowers directive? Are you conducting specific awareness-raising activities?

End of 2022 the following federal acts on whistleblowers were adopted:

- Law of 28 November 2022 on the protection of reporters of breaches of Union or national law established within a legal entity in the private sector (BS 15 December 2022)
- Law of 8 December 2022 on the reporting channels and protection of reporters of integrity violations in the federal public authorities and the integrated police (BS 23 December 2022).

    b. In particular, could you confirm if, in your view, GRECO recommendation xiv from the 5th Round Evaluation is implemented with this legislation (ie. The whistleblowing system applies also to cabinet members?)

Cabinet members are explicitly included in the scope of the law, so this indeed fulfils recommendation xiv of the 5th evaluation cycle.

4. Are there plans for creating an overarching anti-corruption strategy and action plan? Has the prevention and/or the fight against corruption been included in any other strategies (eg. State Security Strategy, etc.)?

There is no overarching anti-corruption strategy for the moment, however anti-corruption is mentioned in already existing strategies:
In the framework document on integral security (Kadernota Integrale Veiligheid) it is stated that Belgium will implement the international recommendations on corruption to the maximum extent with all relevant partners. At the same time, through its own initiatives, our country will also ensure that detection and prosecution are maximised. The thorough approach to corruption is not only a necessity from a democratic point of view, but will also be achieved through the application of the 'follow the money' principle which will bring budgetary benefits.
National Security Plan (Nationaal Veiligheidsplan)
Corruption has its individuality in terms of investigation per se, but corruption within drug offences is characterised by drug groups getting a complete grip on the bribed.
In the General policy note Minister of Justice (Algemene beleidsnota) it is stated that in the fight against corruption a profit-driven criminal investigation is applied.

5. In relation to the financing of political parties, we understand that, on one hand, legislation was approved in Parliament to lower political party subsidies by 5.3%. On the other hand, we understand that discussions on a broader reform of transparency of political party financing remain stalled in Parliament. Could you outline the latest state of play in this regard?

The Constitution and Institutional Renewal Commission of the House of representatives decided on 1 February 2023 to seek additional external expert advice from academics and the civil society. Hearings are currently taking place.

The hearings follow up the report drafted by the control commission on party financing, consisting of 70MPs and 4 experts. This report consists of a comparative analysis and brief recommendations. These recommendations are a first step but more hearings on different topics were deemed necessary. The report will be taken into account but will not be the only basis.

6. We note the increasing use of both the penal transaction law (*loi de transaction penale / "afkoopwet"*), and the possibility to conclude a plea deal (*Spijtoptantregeling/regime des repentis*) in a number of high-profile corruption cases. Could you outline how these tools contribute, in your view, to the successful prosecution of high-level corruption cases?

Information was asked from the Advocate General from the Court of Appeal but no response was received in time.

7. In the 2022 Rule of Law report, we noted in general the phenomenon of infiltration of public institutions by organised criminal groups through corruption (e.g. customs officials, port workers). Could you outline if you are taking any specific policy measures in this regard? Will the recently appointed drugs coordinator also have a role in these sort of related corruption offences?

Yes. The national drug commissioner will work on various axes in close cooperation with the ACD, inter alia on the coordination of prevention of drug trafficking-related crime in relevant public and private sectors: increasing resilience, integrity and anti-corruption policies.

In the next months the consultation committee (that brings together all governments in Belgium) will discuss a Flemish proposal to assist local governments with integrity assessments in public procurement.

8. We understand the proposals to introduce integrity checks during the entire career of the police officer (not only at the start) still remain pending in Parliament (proposal 55-1497). Could you update us on the state of play of this file? Is it expected to be adopted during 2023?

Federal Police has no knowledge of the state of play of the proposition of law for integrity checks. However the Minister of Interior has asked Federal Police to perform an analysis and a new procedure for Integrated Police Belgium. The Working Committee is composed by members of Commissioner General, Judicial Police, Administrative Police, the legal department, the department of Screening and Clearance, the department of Integrity of Federal Police and a representative of Committee of Local Police Services (VCLP – CPPL). A proposal for integrity checks for every police officer every two years and during important moments in the career: post- and pre detachment, after a period of out-service and out-service activities, pre-promotion,… A vision text for the Integrated Police is in the final process and a feasibility check for cross-tabulation of existing databases and instruments is the next step. Several police control activities: terroristic activism, extremism, conflict of interest, corruption, drugs,… will be subject of the integrity checks. These topics were subject of several State General Assemblies with experts from police, universities and NGO's.

<u>Pillar III – Media Pluralism and Media Freedom</u>

[*The question below is relevant for both Pillar I and III*]

1. Regarding the Recommendation in the 2022 RoL Report as to public access to documents:
    a) The Flemish Legislator introduced a ground of refusal for public access if the application concerns "internal communication". This ground raised concerns among stakeholders and the 2022 RoL Report recommends, "limiting the grounds for rejection of disclosure

requests". The Flemish Government informed us end of last year that a complaint had been lodged against that provision at the Constitutional Court. Is any decision or preliminary assessment of the Court known and if yes, could you share the findings with us?

No decision has been made, nor is there any preliminary assessment available

b) At Federal level, stakeholders had complained about lacking a central point of access, too lengthy procedures and the fact that the Commission for Access to Administrative Documents (CTB) would act as a mere advisory body; the 2022 RoL Report had recommended to address these issues. Could you tell us if any steps have been taken in this respect?

Only some stakeholders are complaining about the fact that de Commission for Access to and Reuse of Administrative documents, section freedom of information has no decision making powers but is only an advisory body. In the first half of 2021 there were introduced in Parliament two proposal to adjust the Law of 11 April 1994 regarding freedom of information. The Commission brought out two advices out of proper movement where she has a lot of remarks and also dealt with giving decision making powers to the Commission. She gives an more nuanced approach than in the past: giving decision powers to the Commission can only when certain conditions are fulfilled and it doesn't guarantee a better decision making on access to documents.

Also the minister of the Interior has the intention to reform the Law of 11 April 1994. She has already asked an advice to the Commission for her reform plans. In that advice the Commission goes further in on the subject of the attribution of decision power to the Commission. She stresses that it is not necessary a good solution. The expertise on the content of the documents is located with the administrative bodies and not in the Commission. The Commission has only expertise in freedom of information. Therefore the legislator chose for the solution that the Commission advises the administrative body when the citizen introduces an administrative appeal procedure to have a sound decision. That advice is not without obligation. If the administrative body doesn't respect the advice of the Commission, it must give reasons why it doesn't respect that advice. Also on the European level with Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission there is also a somewhat similar approach with the confirmatory application. Also in that case it is the same institution that decides on the administrative appeal. A change of the model would have big consequences: the responsibility moves from the administrative body to the Commission, the Commission needs to be strengthened, the Commission has to deal also with procedures before the Court without always assuring that the decision making is better. The Minister has the intention to reform the freedom information act in two phases: in the first phase she addresses some issues: broadening the personal scope of the law of 11 April 1994 and expanding active open government. The government will decide in a second phase what the other adjustments would be appropriate. The discussion is still going on within government.

The Minister of the Interior is also preparing a reform of the Council of State towards a more solution-oriented approach. That could be also beneficial for the jurisdictional appeals in the cases of freedom of information.

The procedure is not lengthy. Compatible terms can be found in the freedom of information legislation of the Communities and of the Regions and when the period is shorter, the way of calculate of the term is different. In practice there is not real difference. The basic principle is as a matter of fact that the decision of the handover of the documents should be done as soon as possible.

c) Also regarding the Federal level, we have received information that due to the temporary vacancy of the CTB no opinions would have been issued regarding requests made between 1 September 2021 and 29 June 2022. Could you confirm whether this is accurate and elaborate on this situation? Have you taken any measures to make sure such a situation does not happen again?

Indeed, the mandate of the members of the former Commission was ended in June 2022. The Commission has worked temporary on base of the principle of continuity of public services till end of August 2022. Because the members of the Commission have a different main job and, moreover, do not receive any remuneration for their contribution as a member, their commitment is limited until the period to which they have agreed when they accepted their mandate. It takes always some time for finding members for the Commission because the expertise on freedom of information demands for a specialised knowledge that is hard to find. The fact there was no Commission doesn't take away the possibility for the citizens to introduce an administrative appeal and when they don't agree with the new decision to go to the Council of State (Conseil d'Etat).

A solution is not easily to find and finding members is always difficult.

d) How is the situation related to public access to documents in Wallonia?

En région wallonne, le principal texte applicable en matière d'accès aux documents publics est le décret wallon du 30 mars 1995 'relatif à la publicité de l'Administration'. Ce texte contient des dispositions en matière de publicité active et de publicité passive.

Ce même décret du 30 mars 1995 prévoit la création d'une Commission d'accès aux documents administratifs (CADA wallonne). Outre une compétence d'avis, la CADA wallonne peut être saisie sur recours dans le cas où une autorité administrative régionale, provinciale ou locale wallonne refuse l'accès à des documents administratifs ; elle dispose en ce cas d'une compétence décisionnelle. Ses décisions peuvent être contestées devant le Conseil d'Etat.

En communauté française, il y a également une CADA. Il s'agit d'une autorité administrative, présidée par un magistrat.

Elle reçoit le recours de toute personne qui rencontre des difficultés à consulter ou à obtenir copie d'un document administratif. Elle juge, à la lumière du décret du 22 décembre 1994 relatif à la publicité de l'administration, de la pertinence de l'éventuel motif de refus opposé par l'autorité administrative. Notez qu'une absence de réponse dans les 30 jours équivaut à un refus.

Avant sa révision par le décret du 14 mars 2019, le décret ne confiait qu'une mission d'avis à la CADA. Ses pouvoirs sont donc aujourd'hui renforcés et l'autorité administrative est liée par la décision de la CADA.

La CADA est aussi l'instance de recours en matière de réutilisation des informations du secteur public.

2. Stakeholders have raised the point that the lack of a sector-specific assessment of media market concentrations has contributed to the high degree of concentration in the media market. Could you share your views on this?

Flanders:
Mergers, acquisitions and joint ventures between companies (in competition law concentrations) of a certain size must be approved in advance by the Belgian Competition Authority or in some cases by the

European Commission. These checks on concentrations of companies take place respectively in accordance with Book IV of the Code of Economic Law and The EC Merger Regulation.

In Belgium the Competition Authority is not obliged to consult the media regulator when a concentration of media companies is notified. It is also not obliged to take into account media pluralism concerns. However, in several recent decisions, both the Belgian Competition Authority and The European Commission did acknowledge media pluralism concerns and therefore consulted i.e. the Flemish Media Regulator on their own in initiative.

One example is the 2013 decision on the Mediahuis merger. The collaboration between Corelio and Concentra was approved at the end of October 2013. The decision provided that Mediahuis complies with a number of conditions for a period of five years. For example, each title had to have a sufficiently developed editorial staff with its own editor-in-chief, commentator, chief of final editing, chief of politics or chief of the region and someone responsible for the design. In addition, the Gazet van Antwerpen was promised to ensure the distribution area of the newspaper in the province of Antwerp to readers and advertisers, including through sufficiently developed regional and local coverage. Academic research has concluded that these conditions have had some positive effects on the media diversity of Mediahuis' newspapers.

However, these considerations are only voluntary and there is no structural methodology. That is why, in the media concentration report of the Flemish Media Regulator, it was recommended to policymakers for several years to apply a public interest test in this context. Accordingly the Flemish Media Regulator supports the proposed provision regarding the 'assessment of media markets concentrations', in (Article 21 of) the European Media Freedom Act-proposal.

To conclude, it is our view that there are several reasons why the media concentration in Flanders is this high. The small language area and international competition explain a large part of this. In our opinion, the Mediahuis case proves that it is important to include media pluralism in the assessment of media concentrations.

French Community:

Since 2018, the decree on audio-visual media services provides for an obligation for the regulator to perform an assessment on pluralism every two years. The CSA has hired new staff to carry out these studies. The first study should be published sooner. I invite you to ask questions at the regulator.

Moreover, there is a special procedure in the decree to impose measures in the situation where the regulator establishes a "significant position» of a media service provider. The significant position is assessed in function of the aggregate audience of media services (radio or television) which are owned by one entity.

There is of course a procedure before the Belgian competition authority in case of merger and acquisition of media companies, as it was the case with the acquisition of RTL by Rossel and DPG media. In such a case, the competition authority can consult the media regulator in order to evaluate the concentration in the light of pluralism. The competition authority has not an explicit obligation to take into consideration media pluralism aspects, but the Authority has made due regard for media pluralism aspects in its interventions. The analysis is limited, however, to consumer welfare and accessibility analyses.

On the other hand, I would like to say a few words about the so-called "high degree of concentration" in the French-speaking community. This assessment must be qualified for different reasons that are explained in the last Media Pluralism Monitor.

1) The media market is relatively small.

2) It should not be forgotten that, in French-speaking Community, people are used to consume French media as well, which has to effect to foster the pluralism.
3) Finally, the government provides numerous subsidies to local media (radio, television, news media, etc.) to ensure effective pluralism.

3. Are there any relevant developments relating to the effective public availability of media ownership information (especially in light of the high risk identified in this regard by the Media Pluralism Monitor due to a lack of transparency for digital native news media)?

Flanders:
In the Flemish Community of Belgium a lot of information on media ownership is already publicly available and updated on a yearly basis via the media concentration report of the Flemish Media Regulator. This is also the reason why the Flemish Community did not transpose Article 5 (2) of the AVMD Directive (on transparency obligations for media service providers information concerning their ownership structure).

We also took note of the Commission Recommendation of 16 September 2022 on internal safeguards for editorial independence and ownership transparency in the media sector, in particular where it encourages the member States "to entrust a relevant national regulatory authority or body with developing and maintaining a dedicated online media ownership database". The Flemish media concentration report, which predates this recommendation, seems a prime example of such a media ownership overview.

Besides this, we are not aware of any further developments in this area. Furthermore, some of these digital native news media are foreign based.

French Community:
Compared to last year, there are no particular relevant developments relating to this topic. The audio-visual media providers based in the French-speaking community must declare information on their ownership to the CSA and must publish this information on their website. This obligation is controlled by the CSA.

Moreover, on its website, the CSA publishes and keeps up to date the relevant ownership information related to media companies based on French-speaking community.

Concerning especially the "digital native news media" which are considered "audio-visual media services" under the legislation, they have the same transparency obligation than the classic audio-visual media services.

4. Stakeholders report (via the Council of Europe Platform for the Protection of Journalists or elsewhere) attacks against journalists in the form of online hate speech (particularly against female journalists, intimidation by trespassing on private property, or the arrests of journalists that are covering riots or demonstrations. Are there any general measures addressing these issues that you want to report about?

Federal level (SPF Justice):
With regards to this question, we've received some input from our criminal law experts and they have communicated the following measures : first of all journalists are included among 'persons fulfilling a societal function' in the new criminal code in development.
This implies that they enjoy better protection because throughout the Code, crimes committed against persons with a societal function are punished more severely.
In addition, discriminatory motivation has been expanded to all crimes in general and the number of grounds for discrimination has been expanded.

Flanders:
The Flemish Association of Journalists (VVJ) launched an online platform (Persveilig.be) to raise awareness, both among journalists and society in general, about the increasing verbal and physical violence against journalists. The website serves as a hotline for journalists when they encounter harassment or violence but it also offers training courses, tools and information for both journalists and others in order to ensure the safety of journalists.

5. According to information received from stakeholders, we understand that the issue of the right to film law enforcement agencies has been an issue at various events, whether large scale or in everyday life, in view of several incidents of questionable, even illegitimate, police action against both professional journalists and citizens." Could you elaborate your views on this question (the right to film law enforcement agencies)?

The Belgian Federal Police condemns any violence against journalists and the freedom of expression. That is part of the protection of a Democratic Society. The federal Police is aware of recent increase of menace against press and defends articles 25 (the right on Freedom of press) and 26 (the right to assemble peacefully) of the Belgian Constitution. The right to film police intervention for journalistic purposes is also provided by law. Adequate directives are given to police officers (through training, notes, publications) in regards to respect the right to film.

We welcome the initiative of https://persveilig.be of VVJ and we wish to communicate internally in police. we also encourage formal complaints via police departments throughout the country. Violence from and against police was also a topic in two State General Assemblies. However 'Responsible protesting' is one of the projects that is running on the moment. Belgian Federal Police believe they have a important role to play in defending journalists against violence on the field.

6. In your written contribution you mention that the Belgian Penal Code has been amended to abolish the sanction of imprisonment for defamation; what is the possible sanction now? You also talk of a second amendment, being: "*l'ajout, selon le cas, soit d'une circonstance aggravante, soit d'un élement aggravant à certaines infractions, lorsque ces infractions sont commises à l'encontre d'une personne "exercant une fonction publique", en ce compris les journalistes*." Could you elaborate what kind of "infractions" are meant here and what constitutes the "*circonstance aggravante*" or "*élement aggravant*"?

The Criminal Code currently provides for an imprisonment sentence of eight days to one year (and for a fine of twenty-six euros) for slander and defamation (Articles 443 and 444 of the Criminal Code).

In the draft Criminal Code, where both offences are merged into only one offence in Article 227, no imprisonment sentence is provided for. In the reform of the Code, the incrimination of slander carries a sentence of level 1. The person prosecuted for slander is liable to: 1°A fine of 200 euros to 20 000 euros at most; 2° a community service sentence for a period of twenty hours to a hundred and twenty hours at most; a probation sentence for a period of six months to twelve months at most; 4° a confiscation sentence; 5° a pecuniary sentence set according to the expected profit or to the obtained profit from the offence; 6° a sentence upon conviction.
This offence still falls within the criminal field although the law does not provide for any imprisonment sentence any more.

In this reform, journalists are also included in the list of the people who fulfil a societal function. Committing acts against a person who fulfils a societal function is an aggravating element or an aggravating circumstance depending on the committed offence.

More specifically, for the offences of murder, torture, inhuman treatment, acts of violence committed against a person fulfilling a societal function, this status of the victim constitutes an aggravating element. As for the offence of incitement to suicide, the fact that the victim is a journalist, so a person fulfilling a societal function would be an aggravating circumstance.

The difference between those two things is that if there is an aggravating element, the sentence set for the basic offence is increased by one or several levels. This is not the case with aggravating circumstances, which the judge has to take these into account when he sets the sentence, but he has to keep it in the bracket provided for. In this case, the sentence level is not increased.

7. Journalist associations, like the VVJ, have made recommendations to address the phenomenon of SLAPPs (early rejection mechanism, obligation to pay full costs of defendant – respectively for civil and criminal cases). How do you assess the situation in this regard and are any actions planned in this respect?

We are participating in negotiations held at European level concerning the proposal for a directive on SLAPPs, which includes measures recommended by some national journalist associations. We will transpose this directive once it is adopted, taking into account the fact that the Recommendations of the EU on SLAPPs also contain a specific recommendation on the inclusion of protective measures against SLAPPs in the national law of the Member States, covering purely national cases. However, we believe it necessary to wait for the adoption of the European directive before amending our national law, in order to make sure that there will be no difference in treatment and that the legislation will be consistent.

In the meantime, article 780bis of the Belgian judicial code offers a solution to protect journalists to some extent against abusive procedures as it is a general provision allowing the initiator of a reckless and vexatious procedure to be sentenced to pay an administrative fine as well as damages. This general provision is, in practice, also used in the context of the SLAPP issue.

The recommendation of journalists associations to abolish prison sentences for slander and defamation was also followed for the reform of the criminal code.

Pillar IV – Other Institutional Issues related to Checks and Balances

1. Could you elaborate on the impact the Federal Human Rights Institution has had on the national system of checks and balances since its establishment and its future role, taking into account also its new tasks as regards the protection of whistle-blowers?

As far as we are concerned, the law of May 12, 2019 gives the FIHR tools that support and/or question the decisions of national authorities.
These tools include:

1) The Federal Institute for the Protection and Promotion of Human Rights is mandated to receive requests for opinions and has already been seized 16 times so far. The impact is already there, many governmental institutions and bodies request opinions and the FIHR responds. The Interior and the Chamber and other governmental institutions and bodies have requested opinions and I know that the Minister of Justice has asked the FIHR already to give an opinion on specific subjects. Two opinions have already been given:
   - One on the draft law reforming Book II of the Penal Code and, in particular, the offences of malicious traffic obstruction

- One on the mechanism of the penal transaction

In the context of these two requests, these opinions, once delivered, were considered during the political discussions that are still in progress on these two files. The impact of the FIRH opinion is therefore real and the opinion is taken into consideration. However, an opinion must be taken at its true value: it is not binding and - in legislative projects - several opinions from different bodies are often requested. The FIHR's opinion is therefore generally not the only opinion given by a specialised and/or independent body and it is thus difficult to assess the exact impact that each opinion has had in the final decision.

2) The FIHR also intervenes before the Committee of Ministers of the Council of Europe. The FIHR used rule 9 of the Committee of Ministers and has already made several communications in cases relating to Justice matters. There was for example a communication on the excessive length of civil proceedings before the courts of first instance and family tribunals. Another communication was linked to the material conditions in prisons during strikes. The most recent one concerned the execution of a case linked to the detention conditions of persons in pre-trial detention. Each and every time, the communication was taken into consideration by the Ministry of Justice, although a formal answer was only given in one case. In another case, the Ministry responded to the communication of the Institute in a broader submission to the Committee of Ministers. In the third case the Minister carefully considered the remarks made by the Institute so that they will have an impact on the future work on this file.
3) The FIRH also submitted a parallel report to the Committee on the Elimination of Discrimination against Women. Through this action, the Institute certainly influences the Committee in its adoption of recommendations. These recommendations later have an impact on the work done at national level. As far as the role in the context of whistleblowers is concerned, the Institute has been given a specific role to provide whistleblowers with professional, legal and psychological support. Since the Institute was given this competence no so long ago, we do not yet have the benefit of hindsight to have an opinion on this issue. In summary: the Institute has tools at its disposal, it exercises its competences and its impact is - in my opinion - real.

2. Could you elaborate on the state of play regarding discussions on a possible future state reform?

During the past 40 years, Belgium has established federal structures in which decision-making powers have been divided among the national State, the three Regions and the three Communities. The federated entities are competent for a number of policy areas that concern the people directly. As a result of this autonomy, a differentiated policy can be pursued adapted to the needs of the federated entities. However, there is a general political consensus that it is possible to improve the distribution of competences.

In the new federal government, two Ministers are in charge of State Reform and Democratic Renewal: the French speaking one is Minister (of the Middle Classes) Clarinval, and the Dutch speaking one is Minister (of Home Affairs) Verlinden. They want to make an important contribution to the modernization, the increase in efficiency and the deepening of the democratic principles of the state structure. Together, they presented their policy statement to the Parliament at the end of 2020.

Consequently, the federal government started with a broad democratic debate in which the citizens, the civil society, academics, experts and the local authorities were involved. For this purpose, an online-platform was launched in the first half of 2022. The final report regarding the online-platform will be delivered in February 2023. Discussions and dialogue between political representatives regarding this matter continue. The aim is to have a new state structure as of 2024 with a more homogeneous and efficient division of powers respecting the principles of subsidiarity and interpersonal solidarity.

Specifically in the area of foreign policy, as already mentioned last year, our Constitution introduced the principle of alignment between the internal and external competence. As a consequence of this principle, the federated entities have the power to create foreign policy in their own competences. They also have a treaty making power in matters under their exclusive jurisdiction. In "mixed matters", there are different entities competent. On the other hand, the international community -and the European Union in particular-, knows in principle only Belgium, a state as a whole. For Belgium, it required reconciliation between the logic and the European and international rationale of dealing formally only with the member state as a whole. In 1994 this balancing exercise resulted in the conclusion of cooperation agreements about the conclusion of mixed treaties, the coordination and representation of Belgium in the European institutions, the representation in international organisations and the mutual cooperation in diplomatic and consular missions. These foreign policy cooperation agreements are more than 25 years old and it is the ambition of the federal government to update them.

3. Could you briefly elaborate on the changes that the 2021 Federal Pandemic Law has brought from an institutional and rule of law perspective?

The "pandemic law" of August 14th 2021 was activated and applied for the first time on October 28th 2021. Its purpose is to enable the King, in the event of an epidemic emergency, to take administrative police measures that ensure the maximum protection of public health while preserving individual freedoms. This in accordance with constitutional and democratic principles. It states that the executive power can declare an epidemic emergency by royal decree, which has to be confirmed by the Parliament within 15 days. Subsequently, emergency measures are adopted by royal decree after deliberation in the Council of Ministers (except in cases of "imminent danger" which allows measures to be taken by ministerial decree after deliberation in the Council of Ministers) and are based on expert recommendations. The various administrative police measures that can be adopted in the context of the epidemic emergency are enumerated in an exhaustive list in this law. The epidemic emergency that was declared on October 28th 2021 on the basis of the Pandemic Law (and prolonged on January 27th 2022), was lifted on March 11th 2022 in Belgium.

In concrete terms, and in comparison with the previous legal framework that was used in the fight against the COVID-19 pandemic, the pandemic law made three significant improvements:
Firstly, it created a more solid legal basis specifically for epidemic emergencies. Previously, measures were adopted through ministerial decrees on the basis of the law of May 15th 2007 on civil security, the law of December 31th 1963 on civil protection and the law of August 5th 1992 on the police function. Although the Council of State and multiple civil and criminal courts (including the Court of Cassation) acknowledged that these laws constituted an adequate legal basis for the adopted measures, some criticized this legal basis and called for a more solid and specific legal foundation.

Secondly, the pandemic law increased the role of the Parliament in terms of participation and control which provided greater parliamentary legitimacy to the measures adopted in the context of the epidemic emergency. For example, as mentioned earlier, the royal decree declaring the epidemic emergency needs to be ratified by the Parliament within the timeframe specified in the law (15 days). If the Parliament does not ratify this decree within this timeframe, the administrative police measures that were already adopted cease to have any effect for the future. This parliamentary 'confirmation' makes it possible to initiate a democratic debate about the government's decision on the epidemic emergency, which provides an additional guarantee and helps to strengthen adherence to the measures adopted on the basis of this decision. Furthermore, the pandemic law commends the government to provide the House of Representatives with an evaluation report within a period of three months after the end of each epidemic emergency. This evaluation report elaborates on the pursued objectives in relation to the respect for fundamental rights, and considers whether the Pandemic Law should be repealed, supplemented, amended or replaced for future epidemic emergencies. For a more detailed explanation on this ex-post reporting and the outcome of the

evaluation report of June 9th 2022 on to the implementation of the Pandemic Law during the COVID-19 pandemic, we would like to refer to our written contribution for the Rule of Law Report of 2023.

Finally, and related to the above mentioned, the law established transparency as a guiding principle in order to gain maximum support from the population for the various measures.

Dix procédures contre la loi sur la pandémie sont actuellement toujours en cours devant la Cour constitutionnelle. Il s'agit de recours en annulation totale ou partielle de la loi sur la pandémie. Vous trouverez ci-dessous un bref aperçu de ces procédures actuellement pendantes devant la Cour constitutionnelle et pour lesquelles nous attendons une décision de la Cour :

- 7633N : recours en annulation partielle (articles 3, § 2, alinéa 3, 4, § 1, alinéa 3, 4, § 3, alinéa 3, en 5, § 1, b, d, e et h, et § 2, a, c, d en g) de la loi du 14 août 2021;
- 7655N : recours en annulation partielle (article 5, § 1, b, d, e et h, et § 2, a, c, d et g) de la loi du 14 août 2021;
- 7686N : recours en annulation partielle (article 3) de la loi du 14 août 2021;
- 7731F : recours en annulation totale ou partielle (de l'article 5, §§ 1er et 2) de la loi du 14 août 2021;
- 7751F : recours en annulation partielle (articles 2, 3, 4, 5, 6, 7 , 8, 9 et 10) de la loi du 14 août 2021;
- 7752N : recours en annulation totale de la loi du 14 août 2021;
- 7753N : recours en annulation partielle (articles 3, § 1er, 3 § 2, alinéa 2 et 3, 4, 5, § 1er, 5, § 2, et 6, § 1er) de la loi du 14 août 2021;
- 7757F : recours en annulation partielle (art. 2, 3°, 4, 5 et 6) de la loi du 14 août 2021;
- 7758F : recours en annulation totale de la loi du 14 août 2021;
- 7759N : recours en annulation totale de la loi du 14 août 2021.

4. Have there been any reflection on the impact of the decision of the Court of Cassation of 23 March 2022[1] on the freedom of expression and freedom of assembly?

We have analysed this case thoroughly and we are currently discussing a legislative amendment to address this question.

[1] https://juportal.be/JUPORTAwork/ECLI:BE:CASS:2022:ARR.20220323.2F.4_FR.pdf