

# 2022 Rule of Law Report - targeted stakeholder consultation

Fields marked with \* are mandatory.

## Introduction

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The annual Rule of Law Report is at the core of the European rule of law mechanism, which acts as a preventive tool, deepening multilateral dialogue and joint awareness of rule of law issues. The first Rule of Law Report was published on 30 September 2020, and the second on 20 July 2021.

In the preparation of the first two editions of the Rule of Law Report, the Commission has relied on a diversity of relevant sources, including from Member States, country visits, and stakeholders' contributions collected through the targeted stakeholder consultation [1]. The information provided has informed the Commission's country-specific assessments in preparing the Report. Building on the positive experience from the first two editions of the Rule of Law Report, the Commission is now inviting stakeholders to provide written contributions for the preparation of the 2022 Rule of Law Report through this targeted consultation.

The contributions should cover in particular (1) feedback and developments with regard to the points raised in the country chapters of the 2021 Rule of Law Report and (2) any other significant developments since January 2021 [2] falling under the 'type of information' outlined in the next section. This should, where relevant, also continue to include significant rule of law developments in relation to the COVID-19 pandemic falling under the scope of the four pillars covered by the report.

The input should be short and concise, if possible in English, and summarise information related to one or more of the areas referred to in the template. You are invited to focus on the areas that relate to the scope of work and expertise of your organisation. Existing reports, statements, legislation or other documents may be referenced with a link (no need to provide the full text). Stakeholders are encouraged to make references to any contributions already provided in a different context or to Reports and documents already published. Contributions should focus on significant developments both as regards the legal framework and its implementation in practice.

**If you wish to submit information concerning several Member States, you will have to fill-in the questionnaire separately for each Member States (due to the size of the questionnaire). There is no limit to the number of contributions submitted by a single participant. In such cases, you are not required to repeat the information in the section "about you" that is non-mandatory nor the information on horizontal developments.**

Please provide your contribution by **24 January 2022**. Should you have any requests for clarifications or encounter difficulties in filling in the questionnaire, you can contact the Commission at the following email address: [rule-of-law-network@ec.europa.eu](mailto:rule-of-law-network@ec.europa.eu).

[1] [https://ec.europa.eu/info/publications/2020-rule-law-report-targeted-stakeholder-consultation\\_en](https://ec.europa.eu/info/publications/2020-rule-law-report-targeted-stakeholder-consultation_en) and [https://ec.europa.eu/info/policies/justice-and-fundamental-rights/upholding-rule-law/rule-law/rule-law-mechanism/2021-rule-law-report-targeted-stakeholder-consultation\\_en](https://ec.europa.eu/info/policies/justice-and-fundamental-rights/upholding-rule-law/rule-law/rule-law-mechanism/2021-rule-law-report-targeted-stakeholder-consultation_en)

[2] Unless the information was already submitted in the consultation for the 2020 or the 2021 Rule of Law Reports.

## Type of information

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The topics are structured according to four pillars: I. Justice system; II. Anti-corruption framework; III. Media pluralism; and IV. Other institutional issues related to checks and balances. The replies could include aspects set out below under each pillar. This can include challenges, current work streams, positive developments and best practices:

### Legislative developments

- Newly adopted legislation
- Legislative drafts currently discussed in Parliament
- Legislative plans envisaged by the Government

### 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

### 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 request for input[1])

### Any other relevant developments

- National authorities are free to add any further information, which they deem relevant; however, this should be short and to the point.

Please include, where relevant, information related to measures taken in the context of the COVID-19 pandemic under the relevant topics.

If there are no changes, it is sufficient to indicate this and the information covered in the inputs for the 2020 and 2021 Rule of Law Reports should not be repeated.

[1] Such as: media regulatory authorities and bodies, national human rights institutions, equality bodies, ombudsman institutions, supreme audit institutions and, where they exist, transparency authorities.

## About you

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\* I am giving my contribution as

- Academic/research institution
- Business association
- Civil society organisation/NGO
- International organisation
- Judicial association or network**
- Media organisation or association
- Public authority or network of public authorities
- Other

If "Other", please specify

\* Organisation name

250 character(s) maximum

### ASOCIACION DE FISCALES

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:

[www.asociaciondefiscales.es](http://www.asociaciondefiscales.es)

A professional association made up of active members of the Public Prosecutor's Office, with a national presence, democratic organisation and functioning, independent of public authorities, political parties and trade union centres, whose purpose is to promote the defence and full realisation of the principles, rights and freedoms enshrined in the Constitution", as well as "to promote the assumption by members of the Public Prosecutor's Office of the value of the independence that being part of the Judiciary gives to this Ministry, to defend the principles of legality and impartiality in the actions of the Public Prosecutor's Office, the improvement of the Administration of Justice, as a public service, by promoting and carrying out all activities and measures aimed at its more perfect and efficient provision, so that it responds to the rights and legitimate interests of citizens, to ensure the objectivity of the system of entry to the Public Prosecutor's Office, so that it always guarantees the appropriate selection, competence and professionalism of its members, to promote adequate knowledge of the mission and functions of the Public Prosecutor's Office, to promote the participation of members of the Prosecutor's

Office in the bodies of the Public Prosecutor's Office, without prejudice to the principles of unity and dependence that inform it, and to exercise the right to propose candidates for the Prosecutorial Council, the defence of its members and of the members of the Public Prosecutor's Office in their professional activities and, in general, of their interests and professional rights, both of those who are active and those who are retired, the maintenance of relations with other associations and associative entities arising within the framework of the Administration of Justice, in particular with national and international associations of prosecutors and magistrates, and communication with all social sectors interested in the Administration of Justice, exercising the right to be heard in the procedure for drawing up administrative provisions affecting the Public Prosecutor's Office and, in general, exercising all rights and powers recognised by law and especially by the Organic Statute of the Public Prosecutor's Office and the provisions that develop it.

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

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\* **Country of origin**

Please add the country of origin of your organisation

**Spain**

First name

**ASOCIACIÓN DE FISCALES**

Surname

**ASOCIACION DE FISCALES**

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

[info@asociaciondefiscales.es](mailto:info@asociaciondefiscales.es)

\* **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.

## Questions on horizontal developments

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

Overview topics for contribution

[Overview topics for contributions 2022.pdf](#)

Please provide any relevant information on horizontal developments here  
*5000 character(s) maximum*

**One of the factors that most influences public distrust in the functioning of the criminal justice system is its image of politicisation, which is why any action in the common area aimed at strengthening the autonomy and independence of the Public Prosecutor's Office is a priority, but this requires a major reform of the Statute of the Public Prosecutor's Office with a review of the model for appointing the State Prosecutor General, the length of his or her term of office and causes for dismissal, detailed regulation of the functions and decisions of the Attorney General and regulation of the prosecutor's career that takes into account its territorial implementation and the principle of specialisation. Greater attribution of functions to the Public Prosecutor's Council and binding decision-making capacity, that the institution enjoys budgetary autonomy and management and self-regulation capacity. The Public Prosecutor's Office should also be given the power to carry out investigations with parallel measures through appropriate procedural reforms aimed at speeding up the administration of justice. At the European level, following the establishment of the European Public Prosecutor's Office, a European judicial police force should be created, the tendency to standardise procedural and substantive rules in the European area, the strengthening of mutual recognition instruments in all areas, the need for international legal cooperation to be based exclusively on judicial authorities, dispensing with the intervention of the executives of the different states in the taking of jurisdictional decisions.**

## Questions for contribution

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The following four pillars (I.-IV.) are sub-divided into topics (A., B., etc.) and sub-topics (1., 2., 3., etc.). For each of the topics and sub-topics, you are invited to provide (1) feedback and progress made and developments with regard to the points raised in the respective country chapter of the 2021 Rule of Law Report and (2) any other significant developments since January 2021[1]. This would also include significant rule of law developments in relation to the COVID-19 pandemic falling under the scope of the four pillars covered by the report. 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.

[1] Unless already covered in the input for the 2020 or the 2021 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. There is no limit to the number of contributions submitted by a single participant.**

**Spain**

### I. Justice System

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#### 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)  
3000 character(s) maximum*

**Access to the Judicial and Prosecutorial Career is based on the principles of merit and ability. The selection process, carried out by a selection committee, guarantees equal access to all citizens, with objectivity and transparency, by means of a public competitive examination (one multiple-choice and two oral exams) and a subsequent theoretical and practical selection course held at the Centre for Legal Studies (Prosecutors) or the Judicial School (Judges). In the case of judges, it is also possible to become a Magistrate or Magistrate of the SC Jurists of recognised competence in the cases, form and proportion established by law. Training in the case of Prosecutors, both initial and continuous, does not take place in an institution dependent on the Public Prosecutor's Office, but on the Executive. Once entry into the careers takes place, each of them follows separate paths. It would be advisable to promote joint initial training for both careers and to facilitate transfer between the two. The selection of the most relevant positions in both the judicial and prosecutorial careers is discretionary and does not always comply with the standards and is not always based on the principles of transparency, equality, merit and capacity. The regulation of the prosecutorial and judicial careers requires modifications that could be adapted in the event of a change in the procedural model and to rationalise entry and movement in the careers, in accordance with the existing models in the closest legal environments. Political interference is evident in the power attributed to the autonomous parliaments**

**to appoint magistrates to the High Courts of Justice.**

**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)**

*3000 character(s) maximum*

**Both prosecutors and judges, being part of the judicial and prosecutorial careers respectively, enjoy stability in their jobs and in their assignments, and may only be dismissed or suspended for committing criminal acts or disciplinary infractions; however, there is no possibility of transfer between the judicial career and the prosecutorial career**

**Promotion of judges and prosecutors (incl. judicial review)**

*3000 character(s) maximum*

**By seniority in the ranks through regulated competitions, although positions of responsibility are by appointment in the case of the Prosecutorial Career by the State Attorney General after hearing the opinion of the Prosecutorial Council. The opinion of the Prosecutorial Council is not binding on the State Prosecutor General. It would be advisable to establish, as a counterbalance to the power of the Attorney General, certain quotas or favourable votes of the members of the Fiscal Council for the candidate finally appointed. The Prosecutorial Council is a body of the prosecutorial career, made up of 12 members, 9 democratically elected by the career in open lists and 3 ex officio members, to advise the Attorney General on organizational matters and on the appointment of discretionary positions (prosecutors of the first or highest category; chief prosecutors of the different superior, provincial or area prosecutor's offices..) The Prosecutorial Council is chaired by the Attorney General and at present has little power to limit the internal power of the Attorney General**

**Allocation of cases in courts**

*3000 character(s) maximum*

**By turn of distribution. Specialized courts and tribunals exist for certain matters**

**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)**

*3000 character(s) maximum*

**Para reforzar la confianza ciudadana en la justicia penal, debe procurarse que los órganos de gobierno de la justicia y el Ministerio Fiscal sean independientes. El actual sistema de elección de Vocales del CGPJ no contribuye a ello.**

**Tales consideraciones sobre la apariencia de politización de los órganos de gobierno de jueces y fiscales no se corresponden con el alto nivel de preparación, profesionalidad, dedicación y responsabilidad de los jueces y fiscales que diariamente ejercen sus funciones de manera correcta con sujeción a la legalidad.**

**Por lo tanto, la despolitización de la Justicia debe ser uno de los principales objetivos que deben centrar la agenda pública en los próximos años. Existe en España una percepción de intromisión de los poderes políticos en la justicia y se habla de la politización de la justicia. La imagen del CGPJ está marcada por la apariencia de influencia política. Los jueces españoles demandan una mayor participación en la elección de los Vocales del CGPJ. El paradigma que se impone en los Estados de nuestros entornos jurídicos tiende a la independencia funcional del Ministerio Fiscal**

respecto del Poder Ejecutivo. Este paso no se ha dado de manera definitiva en España. El nombramiento y el cese del Fiscal General del Estado se producen por el gobierno y, en todo caso, su cese se produce automáticamente con la conclusión del mandato del gobierno que lo designó. La Ley del Estatuto Orgánico del Ministerio Fiscal no regula las comunicaciones con el gobierno. Sin embargo, los estándares europeos exigen que esas comunicaciones sean escritas. El Consejo Fiscal es un órgano puramente democrático en el que 9 de sus 12 vocales se eligen por sufragio universal directo, con listas abiertas y sistema mayoritario, de manera nominativa por los fiscales; sin embargo, sus decisiones no suelen ser vinculantes en temas relevantes (por ejemplo, nombramientos para el Fiscal General del Estado). El Estatuto Orgánico del Ministerio Fiscal no regula su funcionamiento de forma suficientemente detallada. El Ministerio Fiscal no cuenta con singularización presupuestaria, no puede autorregularse, ni tiene los medios mínimos para gestionar o transmitir públicamente y de manera transparente su funcionamiento. El régimen de garantías de los Fiscales es limitado, tanto en la esfera disciplinaria como en otros ámbitos. No existe en nuestra legislación un verdadero estatuto de la Policía Judicial, permitiendo a los Ministerios del Interior un control de su actuación. La Ley de Fuerzas y Cuerpos de Seguridad del Estado no ha cerrado de manera satisfactoria la adscripción de la Policía Judicial a Fiscales y Jueces. Las pugnas partidistas han enturbiado la imagen de independencia del Tribunal Constitucional en los casos de nombramiento de sus Magistrados

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)

3000 character(s) maximum

Following the recommendations of the Group of States against Corruption on the need to adopt a code of conduct for prosecutors that is easily accessible to the public, and which is complemented by guidance on conflicts of interest and other matters relating to integrity, work began at the FGE (General Prosecutor's Office) in 2015 when Consuelo Madrigal was Attorney General, and finally the commission set up within the Prosecutorial Council in 2017 gave the final impetus to the work for the drafting of the Code of Ethics of the Public Prosecutor's Office, approved in 2020. It is a code of ethics made up of 47 recommendations, some of which are particularly significant in terms of the need for the prosecutor's actions to always adapt to the principles of equality, impartiality, efficiency, transparency and respect. This code also aims to strengthen public confidence in the Institution, in its independence and impartiality, in short, to increase confidence in the Administration of Justice.

The Code of Ethics is divided into five blocks. I. Intervention in networks and the media, based on reserve, discretion and freedom of expression. II. Training. Training as a duty and a right to continuous improvement. III. Intervention in criminal proceedings, based on the constitutional principles of legality and impartiality, defence of citizens' rights and the public interest protected by law. IV. Conflicts of interest. Participation and management of the Administration's assets. Acting as public servants in accordance with the principles of integrity, equity, impartiality, objectivity, personal autonomy and legality... <Professional, social and personal integrity is a guarantee of fair, impartial and confidence-building decision-making in the administration of justice>...<Prosecutors shall remain free from any kind of interference and/or exempt from any conflicts of interest that may compromise their work or influence their decision-making>...<In the exercise of their functions and in accessing positions of responsibility, prosecutors shall prevent their personal or economic interests or their family or social relationships from improperly influencing the performance of their work>. <Prosecutors shall be extremely careful to preserve their appearance of impartiality when they return to the prosecutorial career after having served in political and/or parliamentary representation, public office and activities in the private sector>.V. Internal relations, based on the principles of loyalty and good faith with the Public Prosecutor's Office as an Institution, with their superiors, colleagues and

subordinates>.

In addition to the establishment of the ethical principles for prosecutors' actions, the Ethics Commission has not yet been set up as a body, independent of the FGE, for guidance and consultation, even though the prosecutors have already elected the six career candidates and proclaimed them as members of the Commission, due to the delay in the selection of the external member of the Commission. In our opinion, the Attorney General of the State, taking on functions that do not fall within her competence, has suspended the constitution of this commission and has decided to carry out the process of selecting the external member of the commission herself; the ethics commission is necessarily constituted as a body independent of the FGE and of the Attorney General of the State herself, who not only does not form part of the commission but must submit her actions to the ethical principles of the code of ethics.

Remuneration/bonuses/rewards for judges and prosecutors, including changes (significant increase or decrease over the past year), transparency on the system and access to the information

*3000 character(s) maximum*

The salaries of prosecutors and judges are specifically regulated differently from those of civil servants, based on a salary and three years of service (seniority) and allowances based on assignment, category, and productivity. These allowances should be reviewed for updating; the productivity allowance is unsatisfactory as it is not a true reflection of the work activity for several reasons, among them the lack of study of the actual workload of the prosecutor, as well as the system of distribution of the amounts applied to this concept. To this must be added the payment of the on-call service that is performed, with different payments depending on the type of on-call, with a total of 13 different on-call groups depending on the number of Courts existing in the population, as well as the subject matter of the on-call. It so happens that in certain locations the hourly rate for on-call work by the prosecutor is only 57 cents per hour. In short, there is a significant variation in remuneration in the career from the beginning to the top of the career.

The Act regulating the remuneration of judges and prosecutors and the provisions for their salary increase (Law 15/2003) clearly justifies its purpose of guaranteeing the financial independence of members of the prosecutorial career by means of an objective, equitable, transparent and stable remuneration system that adequately recognises their responsibility and dedication (taking into account the incompatibility regime). The Law stipulates that a commission will be set up every five years, made up of representatives of the judicial and prosecutorial associations, the Ministry of Justice and the Ministry of Finance, to submit to the Government proposals for the revision of remuneration in accordance with the principles of the law and, in short, to safeguard the financial independence of judges and prosecutors. Despite the legal provision, after almost 20 years of the law's validity, the Commission has not been constituted, beyond the failed negotiation attempts of 2008 and 2018; therefore, we can affirm that the provision for salary updating through the five-yearly review of the career's salary needs has not been fulfilled. Furthermore, Royal Decree 8/2010 entailed an extraordinary reduction in the amounts of remuneration (by more than 2,000 euros gross on average) as well as any kind of increase for half a decade. Law 48/2015 on the General State Budget for 2016 initiates a slight reactivation of the increases which in no way compensates for the salary reductions and the corresponding loss of purchasing power generated, even though the reasons that determined the decision of the significant salary cut have disappeared.

In short, in 2003, the Spanish law-making body established remuneration amounts which it believed ensured the economic independence of prosecutors and judges, however, it is not currently possible to consider that the salaries of judges and prosecutors are really in line with the work they carry out, the responsibility of the position and their dedication to their work, since from 2003 to 2021 the increase in the CPI in Spain (41.9%) is not adequately reflected in the low accumulated increase in the salaries of judges and prosecutors (13.88%), which leads to an evident impoverishment of the career, so that today the prosecutor is paid less than in 2003.

There are also exceptional circumstances, not foreseen in the 2003 Remuneration Act, which could be recognised for remuneration purposes through a special economic complement, such as in the case of certain posts, either due to the political situation of the Autonomous Region, for example Catalonia, or due to the notorious excess of work and its complexity, or due to the very high standard of living of the locality in relation to the prosecutor's salary, etc.

In addition to the inadequate remuneration, the number of prosecutors in Spain does not reach the European average, according to the statistical reports of the CEPEJ of the Council of Europe, according to which in 2014 there were 5 prosecutors per 100,000 inhabitants, while the European average was 5 per 100,000 inhabitants. It is true that in Spain the prosecutor has not yet taken on criminal investigation (except in the juvenile jurisdiction) as the legal procedural reform is in the process of being implemented, but on the other hand, the prosecutor assumes functions in other areas other than criminal, such as civil, family, protection of minors and the disabled, administrative, or social litigation, interventions not foreseen in many European legal systems.

Since 2017, the associations of prosecutors and judges have been calling on the various ministerial teams to convene the commission to negotiate and draw up proposals to the government to update salaries, with little success

#### Independence/autonomy of the prosecution service

*3000 character(s) maximum*

Since opinion 9 (2104) of the Advisory Committee of Public Prosecutors, the various documents of the Council of Europe have extended the need to ensure that prosecutors act independently of political powers. Therefore the following actions are required in our opinion: Appointment of the State Attorney General detached from the Government, there should not be appointments such as that of the current State Attorney General who assumes the position after assuming political functions of the highest level as Minister of Justice of the Government of Spain and Deputy for the party in Government (PSOE) for which she conducted a dedicated election campaign a few dates before her subsequent election to the current position, thereby compromising the appearance of impartiality of the Public Prosecutor's Office; the dismissal of the Attorney General should not take place with the dismissal of the government that appointed her, it being desirable that the term of office of the Attorney General be for a period of five years in order to eliminate the coincidence of terms of office; communications with the Government should be in writing; suppression of the possible intervention of the FGE in the Council of Ministers; reinforcement of the functional scope of the Fiscal Council as a body of democratic representation of the prosecutors in order to act as a counterweight to the power of the FGE; improvement of the guarantees of the prosecutors in the exercise of their profession, reform of the Statute of the Public Prosecutor's Office and of the mechanisms to guarantee the autonomy of each of the prosecutors against illegal or improper orders from their superiors; organizational flexibility of the institution; attribution of regulatory power to the Attorney General's Office; budgetary management capacity; development of its own Communications Office; budgetary autonomy; initial and continuous training with its own bodies by and for prosecutors without any dependence on Executive bodies. Today, more than ever, it is essential to provide the prosecutor with a new Statute that shields him/her from political interference or pressure, since the government has prepared a draft bill to assign the investigation of crimes to the prosecutor.

A new Statute of Judicial Police should be legislated with organic and functional dependence on the

Prosecutor and not on the Ministry of the Interior. Promote a system of organic dependence on the Public Prosecutor's Office, to overcome the problems arising from governmental dependence, lack of coordination and the consequent lack of real control of investigations, especially in a scenario of procedural reform. As a transitory solution: reinforcement of the system of Attached Units, with a prior binding report from the Chief Prosecutors on the assignment and/or dismissal of the members of the Units.

Independence of the Bar (chamber/association of lawyers) and of lawyers

3000 character(s) maximum

Significant developments capable of affecting the perception that the general public has of the independence of the judiciary

3000 character(s) maximum

**To depoliticize the judiciary, the following is required: Recovery of the constitutional design: the members of the judges' management body - General Council of the Judiciary - of judicial origin must be elected by the judges themselves. A majority system is proposed, with open lists, a single national constituency, and with the introduction of correction factors to promote**

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)

3000 character(s) maximum

**It is based on justice accessible to all and free legal assistance to those who prove they do not have the means to satisfy their effective judicial protection, provided they can prove it according to established scales.**

Resources of the judiciary (human/financial/material)

*(Material resources refer e.g. to court buildings and other facilities)*

3000 character(s) maximum

**First it is necessary to contextualize the Spanish reality as an autonomous State in accordance with art. 137 of the Constitution. Spain is territorially divided into 17 Autonomous Communities and two Autonomous Cities, with different degrees of decentralized competences, among other matters in the Administration of Justice. The bodies of Judges, prosecutors and legal officers of the Administration of Justice are of a national/state nature. Although the civil servants of the Administration of Justice form part of a state corps, some Autonomous Regions have transferred competences in matters of remuneration and work situations.**

**In order to determine the increase in the human resources of prosecutors and judges, a study should be made of the number of judges and prosecutors, the number of the population and litigiousness and the real workload, in order to adapt the staff to the real needs. Next, a comparative study of workload in relation to the rest of the countries of the European Union should be carried out**

**A study of costs and benefits in the administration of justice is also required in order to evaluate improvements in uneconomic aspects; a study should be carried out to obtain economic results in the administration of justice, taking into account the amounts obtained from the payment of fines, recovery of assets and satisfaction of civil liability (compensation) to the State**

**In terms of material resources, buildings, headquarters, procedural management systems, matters transferred to most of the Autonomous Regions, there are imbalances between the territories since investment in these depends on the priorities of each**

autonomous region in relation to the general expenses of their corresponding budgets; hence there are Communities in which they have opted to invest in computerization by creating their own procedural management system and others in which they are still in an initial phase of implementation. Currently there are different systems that are not compatible with each other. A common computerization of the administration of justice is essential, independently of territories, through modern and communicable systems that allow teleworking. To create a true criminal judicial file; it is necessary to favor a comfortable access to the different databases at the service of justice; it is convenient to rationalize the operation of the judicial office and successive implantation of the fiscal office adjusted to its needs, improving the system of judicial auction through a centralized system with the help or management of the Tax Agency to obtain better results in economic terms.

#### Training of justice professionals (including judges, prosecutors, lawyers, court staff)

3000 character(s) maximum

The training of judges and prosecutors is different. The competitive examination is unique, but both initial and continuous training are separated. In the case of judges, they have a School whose management, both with respect to the selection of contents, teaching staff, organization and financially depends exclusively on the General Council of the Judiciary. However, the training of prosecutors is managed and financed by a body under the Ministry of Justice, even though the content of the courses is established through the General Prosecutor's Office. The duration of the initial training of prosecutors does not exceed six months, while that of judges lasts for two academic years with assimilation to a university master's degree. The Association of Prosecutors considers that the training of prosecutors should have a duration and content similar to that of judges and not depend on the Ministry of Justice, thus establishing the separation of the Prosecutor's Office from ministerial "tutelage

Digitalisation (e.g. use of digital technology, particularly electronic communication tools, within the justice system and with court users, including resilience of justice systems in COVID-19 pandemic)

3000 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)

3000 character(s) maximum

At present we find a diversity of procedural management systems that are incompatible with each other and incompatible between judicial and fiscal systems, so that it is totally impossible to know in a court of a certain locality if a citizen is requisitioned by another citizen from another locality outside that region or community, which can lead to undesirable results, even in the case of extremely serious crimes. In Spain there are numerous registries and computer systems at the service of justice, however, they are not the same for all autonomous regions, they are not communicable and the data are not accessible, nor are they perfectly connected. The platforms at the service of Prosecutors and Judges are not comfortable and are far from the technical standards of other nations. It is necessary to access many databases (prisoners, assets, etc.) and to use management programs that are not integrated into the platforms in use. In reality, it is not possible to speak of an electronic court file. A performance evaluation system for judges and prosecutors has not yet been developed.

The pandemic has highlighted the urgent need to provide the entire Administration of Justice, regardless of the Autonomous Community concerned, with a procedural management system, a digital electronic case file, which allows teleworking in conditions of efficiency and security

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

3000 character(s) maximum

## B. 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

3000 character(s) maximum

The current procedural system has generated a delay incompatible with the right to effective judicial protection, and therefore proposals must be made to streamline criminal justice from different points of view. The Penal Code has been reformed on numerous occasions, but important aspects remain to be addressed, such as the poor regulation of the current minor offenses (formerly misdemeanors), i.e., minor infractions, and the rationalization of the system of penalties. All crimes should be prosecuted equally in Spain. Unlike other more efficient legal systems, the Public Prosecutor's Office does not have the principle of opportunity that would allow it to discriminate and thus prioritize serious forms of crime, nor does it encourage conflict resolution through criminal mediation. In fact, there is no study of the costs and economic implications of criminal justice in Spain. The so-called fast-track trials have led to a significant improvement in the processing time of criminal proceedings. But their operability needs to be studied in greater depth. The staffing of Prosecutors and Judges has not been updated and there is a lack of studies to adapt them to the current real circumstances and those of the necessary procedural reforms. The introduction of a time limit that limits the time for the investigation of criminal cases (without attributing the investigation to the Public Prosecutor's Office, to the extent that this limitation has not been established in the rest of the phases of the process, in practice has led to impunity for the most serious and complex crimes, as they are the most difficult to investigate; however, despite the insistence of prosecutors and associations, this time limit has not been abolished, it has simply been modified to increase it. For all these reasons, it would be advisable to rationalize the catalog of penalties, which is currently very extensive; to review the new and unsatisfactory system of prosecution for minor offenses; to satisfy the victims through an effective system of asset tracing and enforcement of the same; to strengthen the principle of regulated opportunity in the criminal process, giving a leading role to the Prosecutor, strengthening at the same time as expanding the assumptions of conformity, criminal mediation and other alternative solutions to the accusation, valuing the public interest and through a legal and feasible procedure; revision of the list of crimes to be prosecuted by the Jury procedure and repeal of the system of deadlines that limits the instruction of the cases, providing more and better human and material resources, attending to adequate parameters for the study of charges in such a way as to guarantee greater speed and efficiency in the investigation of all types of crimes and in their prosecution and execution.

### Other - please specify

3000 character(s) maximum

The Law of Criminal Procedure is an edifice of 1882, often reformed, lacking in practical sense, with many incongruities and unrecognizable. The inquisitorial model that predominates in its content has been abandoned in almost all the legal systems of our cultural environment. Our procedural system is based on a Law of 1882, as we have said, often reformed, with solutions based on contradictory principles, which offer different solutions to similar situations and are increasingly impracticable. The inquisitorial model has been abandoned by almost all laws due

to its impracticality and is incompatible with institutions that we must imminently incorporate into our internal system, such as the European Public Prosecutor. There is no room for patches and its reform must be faced in depth. Council Regulation (EU) 2017/1939 of October 12, 2017, establishing enhanced cooperation for the establishment of the European Public Prosecutor's Office is incompatible with the model of judicial investigation for crimes within its jurisdiction, as it can give mandatory instructions to national authorities during the pre-trial phase. The model of the examining magistrate has been abandoned in the world. the pre-trial phase does not have the complexity of the Spanish instruction, it is more agile and is entrusted to the respective Public Prosecutor's Offices, more agile, able to understand each procedure from the beginning of the investigation to the completion of the execution and capable of specializing, establishing in the Judge the function of guaranteeing fundamental rights and adopting some decisions. This situation turns Spain into an island, where foreign interlocutors find gaps in the understanding of the system and makes cooperation difficult, especially in the face of serious forms of crime. International standards encounter severe problems of incorporation in Spain, with increasingly convoluted solutions. The creation of the European Public Prosecutor's Office is incompatible with the Spanish inquisitorial model. The participation of popular and private prosecutors is an exclusive feature of Spanish law. On the contrary, the monopoly of the exercise of the criminal action is entrusted to the Public Prosecutor's Office. The presence of these types of accusations has served on certain occasions to politically instrumentalize justice, and on rare occasions has led to convictions in cases in which the Public Prosecutor's Office has not prosecuted. Therefore, the pre-trial phase should be simplified, entrusting the investigation to the Judicial Police, under the control of the Public Prosecutor's Office, which should bear the weight of the development of the procedural actions, and the Judges should assume the control of fundamental rights and the resolution of certain precautionary measures, as in the majority of comparative models.

To regulate the intervention of popular and private prosecution, indicating the criminal modalities in which they can attend the trial and the procedural moments in which they must do so, safeguarding the guarantees of Art. 125 EC and the Victims' Statute. In order to avoid accusatory automatism, it is necessary to regulate the relationship between the Judicial Police and the Public Prosecutor's Office, going beyond the current regulatory framework, so as to clearly establish the control of the Public Prosecutor in investigations from the outset, reforming his advisory role in terms of strict legality.

## II. Anti-Corruption Framework

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Where previous specific reports, published in the framework of the review under the UN Convention against Corruption, of GRECO, and of the OECD address the issues below, please make a reference to the points you wish to bring to the Commission's attention in these documents, indicating any relevant updates, changes or measures introduced that have occurred since these documents were published.

### 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

**The fight against corruption is an unavoidable necessity in democracy and requires deepening in some open but not closed, lines. Spain has a specific Public Prosecutor's Office to fight corruption and organized crime that must be strengthened, recovering for society the assets obtained from crime, promoting clear and decisive measures in the field of international judicial cooperation**

**The members of the Anti-Corruption Prosecutor's Office have achieved important results and suffer permanent politically interested attacks for the exercise of their actions. Articles 127 ff.**

CP establishes several modalities of extended confiscations, however, its jurisprudential application is low, among other things due to lack of training and regulation of some criminal figure such as illicit enrichment. The Office for the Recovery and Management of Assets (commonly known as ORGA) is capable of managing a much lower number of assets than in neighboring countries such as France and Italy. The ORGA depends on the Ministry of Justice and is an office managed by a Deputy Director General, unlike the majority of European models, with a greater significance and presence of the corresponding Public Prosecutor's Offices. There is no practice dedicated to promoting the recovery of proceeds of crime, neither in the police nor in the Public Prosecutor's Office itself, nor are there any connections with ORGA. In relation to non-EU states, which includes tax havens, international cooperation in the recovery of assets goes through units dependent on the Ministry of Justice, the so-called Central Authority for International Judicial Cooperation, dependent on a governmental authority such as the Ministry of Justice, which slows down the procedure, and the formal cooperation agreements (multilateral and bilateral) do not meet current needs. Spanish legislation hinders and the practice of the central authority prevents the use of modern techniques in the fight against corruption, especially the creation of joint investigation teams with Prosecutor's Offices of non-EU states, where the investigation of crimes is necessary, making the investigation more difficult. It is therefore advisable to strengthen the Anti-Corruption Prosecutor's Office and extend its capabilities, increasing its means of action with the assets recovered from corrupt politicians, actively defend the members of the Anti-Corruption Prosecutor's Office; create within the scope of the central Prosecutor's Offices (Anti-Corruption, National Court, Anti-Drug) specialized organizational units in the recovery of assets. Update the statute of the ORGA, establishing a structure that allows a more direct relationship with the State Attorney General's Office, which should have a greater role in its operation for the sake of efficiency and allocate part of the amount of confiscated assets to it; assign the Central Authority for international cooperation in criminal matters to the State Attorney General's Office

authorities (the human, financial, legal, and technical resources as relevant), including the cooperation among domestic **authorities. Indicate any relevant measure taken to effectively and timely cooperate with OLAF and EPPO (where applicable).**

3000 character(s) maximum

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

3000 character(s) maximum

Information on the implementation of measures foreseen in the strategic anti-corruption framework (if applicable). If available, please provide relevant objectives and indicators.

3000 character(s) maximum

## B. Prevention

As the Asociación de Fiscales (Association of Prosecutors), it is necessary to establish a detailed regulation limiting the return to the prosecutor's career from public office, political and/or parliamentary representation in order to avoid the so-called "revolving doors", imposing sufficiently long periods of time to avoid possible conflicts of interest and the

**appearance of impartiality of the prosecutor. The code of ethics itself states that <concern over the phenomenon of "revolving doors" (unimpeded movement of senior officials between the public and private sectors) determines the advisability of a detailed regulation of the cases of leave of absence or re-entry into the prosecutor's career>.**

General transparency of public decision-making (e.g. public access to information, including possible obstacles related to the classification of information, transparency authorities where they exist, and framework rules on lobbying including the transparency of lobbying, asset disclosure rules, gifts and transparency of political party financing)

*3000 character(s) maximum*

**Rules and measures to prevent conflict of interests in the public sector. Please specify the scope of their application (e.g. categories of officials concerned)**

*3000 character(s) maximum*

**On the other hand, the regime of public employees is included, in general, in Law 53/1984, of December 26, 1984, on Incompatibilities of personnel in the service of the Public Administrations, whose very name refers to its broad scope of application, since it covers all personnel, regardless of their employment relationship (civil servant, contracted, labor, etc.). In addition, there are other rules that contain specific precepts that affect conflicts of interest such as the Royal Legislative Decree 5/2015, of October 30, which approves the revised text of the Law of the Basic Statute of the Public Employee (hereinafter, 3 EBEP), Law 40/2015, of October 1, on the Legal Regime of the Public Sector (hereinafter, LRJSP), or those of other entities (Bank of Spain, National Securities Market Commission, National Commission for Markets and Competition...).**

Measures in place to ensure whistleblower protection and encourage reporting of corruption.

*3000 character(s) maximum*

List the sectors with high-risks of corruption in your Member State and list the relevant measures taken /envisaged for monitoring and preventing corruption and conflict of interest in these sectors. (e.g. public procurement, healthcare, citizen investor schemes, risk or cases of corruption linked to the disbursement of EU funds, other).

*3000 character(s) maximum*

Measures taken to assess and address corruption risks in the context of the COVID-19 pandemic.

*3000 character(s) maximum*

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

*3000 character(s) maximum*

## C. Repressive measures

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

*3000 character(s) maximum*

Spain criminalizes and punishes in its Penal Code, all the conducts to which it is obliged by the United Nations Convention against Corruption, except for illicit or undue enrichment. Thus, bribery of national public officials is punishable (Art 15 Convention). Bribery of foreign public officials and officials of public international organizations (Article 16 of the Convention). Embezzlement, misappropriation or other detour of property by a public official (Art 17 of the Convention), trading in influence (Art 18); Abuse of functions ( Art 19) Bribery in the private sector ( Art 21) Embezzlement of property in the private sector ( Art 22) Laundering of proceeds of crime ( Art 23) Concealment ( Art 24) Obstruction of justice ( Art 25) Liability of legal persons ( Art 26) , attempt and imperfect forms of execution ( Articles 27 and 28). Thus, Title XIX of Book II of the Penal Code punishes: Chapter I, prevarication of public officials and other unjust behaviors (Art 404 to 406); Chapter II, Abandonment of duty and omission to prosecute crimes (Art 407 to 409). Chapter III of disobedience and refusal of assistance (Art 410 to 412); Chapter IV. Of the infidelity in the custody of documents and violation of secrets (Art 413 to 418); Chapter V: Bribery (Art 419 to 427 bis); Chapter VI: Trading in influence (Art 428 to 431); Chapter VII: Embezzlement (Art 432 to 435); Chapter VIII: Fraud and illegal exactions (Art 436 to 439). Chapter IX: Negotiations and activities prohibited to public officials and abuses in the exercise of their functions (Art 439 to 444). Title XIX BIS punishes crimes of corruption in international commercial transactions (Art. 445 bis).

**Data on investigation and application of sanctions for corruption offences, including for legal persons and high level and complex corruption cases) and their transparency, including as regards to the implementation of EU funds.**

*3000 character(s) maximum*

Criminal penalties comply with the standards established in the convention, establishing prison sentences and special disqualification and suspension depending on the cases, extending to individuals who benefit, imposing penalties such as disqualification from obtaining subsidies and public aid to contract with entities, agencies or entities that are part of the public sector and to enjoy the benefits or tax incentives and social security. As for the liability of legal entities, it is set forth in articles 31 ter and subsequent articles of the Criminal Code.

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

*3000 character(s) maximum*

The limitation of a procedural term to investigate serious and complex crimes makes it difficult to prosecute crimes such as those related to corruption (Art 324 of the Criminal Law). Article 71 of our Constitution establishes that the Deputies and Senators shall enjoy inviolability for the opinions expressed in the exercise of their functions, that during the period of their mandate they shall also enjoy immunity and may only be detained in case of flagrante delicto, that they may not be indicted or prosecuted without the prior authorization of the respective Chamber and that the Criminal Chamber of the Supreme Court shall have jurisdiction in the cases against them

Information on effectiveness of administrative measures and sanctions, in particular recovery measures

and administrative sanctions on both public and private offenders.

*3000 character(s) maximum*

Other - please specify

*3000 character(s) maximum*

### III. Media Freedom and Pluralism

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#### A. Media authorities and bodies

*(Cf. Article 30 of Directive 2018/1808)*

Measures taken to ensure the independence, enforcement powers and adequacy of resources of media regulatory authorities and bodies

*3000 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

*3000 character(s) maximum*

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

*3000 character(s) maximum*

#### B. Transparency of media ownership and safeguards against government or political interference

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

*3000 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 governing bodies of public service media governance (e.

g. related to appointment, dismissal) and safeguards for their operational independence (e.g. related to reporting obligations),

- procedures for the concession/renewal/termination of operating licenses
- 

information on specific legal provisions for companies in the media sector (other than licensing), including as regards company operation, capital entry requirements and corporate governance  
*3000 character(s) maximum*

Transparency of media ownership and public availability of media ownership information, including on media concentration (including any rules regulating the matter)

### C. Framework for journalists' protection

#### Rules and practices guaranteeing journalist's independence and safety

*3000 character(s) maximum*

**In terms of communication, the Attorney General's Office has a very limited number of staff to perform press office functions (two people) to carry out a huge informative, pedagogical and educational task that is certainly not achieved. In the Prosecutor's Offices, one of the prosecutors acts as spokesperson of the same, combining such functions with those that are proper to his function as prosecutor, lacking any training in communicative matters. The dependence on the Ministry of Justice in budgetary matters makes it tremendously difficult to obtain more and better means of communication, thus making it difficult to make known the relevance of the function performed in defense of the interests of citizens, leaving spaces of obscurity where there should be transparency and relegating to the ignorance of citizens the work of the Public Prosecutor's Office.**

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

*3000 character(s) maximum*

Access to information and public documents (incl. procedures, costs/fees, timeframes, administrative /judicial review of decisions, execution of decisions by public authorities)

*3000 character(s) maximum*

Lawsuits (incl. SLAPPs - strategic litigation against public participation) and convictions against journalists (incl. defamation cases) and measures taken to safeguard against abusive lawsuits

*3000 character(s) maximum*

Other - please specify

3000 character(s) maximum

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

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### A. The process for preparing and enacting laws

Framework, policy and use of impact assessments, stakeholders'/public consultations (particularly consultation of judiciary and other relevant stakeholders on judicial reforms), and transparency and quality of the legislative process

3000 character(s) maximum

A distinction is made between organic laws and ordinary laws, the former being those relating to the development of fundamental rights and public freedoms, those approving the Statutes of Autonomy and the general electoral system and the others provided for in the Constitution, the approval, amendment or repeal of which will require an absolute majority of the Congress, in a final vote on the bill as a whole. The Cortes Generales may delegate to the Government the power to issue regulations with the rank of law on specific matters (Legislative Decrees). In cases of extraordinary and urgent necessity, the Government may issue provisional legislative provisions which will take the form of Decree-Laws and which may not affect the organization of the basic institutions of the State, the rights, duties and freedoms of the citizens regulated in Title I of the Constitution, the regime of the Autonomous Communities or the general electoral law. The Decree-laws must be immediately submitted to the Congress of Deputies, summoned for this purpose if it is not already in session, for debate and a vote on their totality within thirty days of their promulgation. The Congress must expressly decide within said period on their validation or repeal, for which purpose the Regulations shall establish a special and summary procedure. During the period established in the preceding paragraph, the Cortes may process them as bills under the urgency procedure. The legislative initiative corresponds to the Government, the Congress and the Senate, in accordance with the Constitution and the Regulations of the Houses. The Assemblies of the Autonomous Communities may request from the Government the adoption of a bill or submit to the Bureau of the Congress a bill, delegating to the said Chamber a maximum of three members of the Assembly in charge of its defense. An organic law shall regulate the forms of exercise and requirements of the popular initiative for the presentation of bills. In any case, no less than 500,000 accredited signatures shall be required. Such initiative shall not proceed in matters pertaining to organic law, taxation or of an international nature, nor in matters relating to the prerogative of pardon.

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)

3000 character(s) maximum

## Regime for constitutional review of laws

3000 character(s) maximum

The Constitutional Court has jurisdiction throughout Spain and is competent to hear appeals of unconstitutionality against laws and regulations having the force of law. The declaration of unconstitutionality of a legal rule with the force of law, interpreted by case law, will affect the latter, although the sentence or sentences handed down will not lose the value of *res judicata*; the appeal for protection for violation of the rights and freedoms referred to in Article 53, 2, of the Constitution, in the cases and forms established by law; conflicts of competence between the State and the Autonomous Communities or between the latter and themselves. The Government may challenge before the Constitutional Court the provisions and resolutions adopted by the bodies of the Autonomous Communities. The challenge will produce the suspension of the provision or resolution appealed against, but the Court must ratify or lift it within a period not exceeding five months. Likewise, when a judicial body considers, in any proceedings, that a regulation with the rank of law, applicable to the case, on the validity of which the ruling depends, may be contrary to the Constitution, it will raise the question before the Constitutional Court in the cases, in the manner and with the effects established by law, which in no case will be suspensive.

COVID-19: provide update on significant developments with regard to emergency regimes in the context of the COVID-19 pandemic

- judicial review (including constitutional review) of emergency regimes and measures in the context of COVID-19 pandemic
- oversight (incl. ex-post reporting/investigation) by Parliament of emergency regimes and measures in the context of COVID-19 pandemic

3000 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#>)

3000 character(s) máximo

The Ombudsman is the High Commissioner of the Cortes Generales in charge of defending the fundamental rights and public liberties of citizens by supervising the activity of the Spanish public administrations. The Ombudsman is elected by the Congress of Deputies and the Senate, by a three-fifths majority. His term of office lasts five years and he does not receive orders or instructions from any authority. He performs his duties with independence and impartiality, with autonomy and at his own discretion. He enjoys inviolability and immunity in the exercise of his office. Any citizen may turn to the Ombudsman and request his intervention, which is free of charge, to investigate any allegedly irregular action by the Spanish public administration or its agents. He may also intervene *ex officio* in cases that come to his attention, even if no complaint has been filed. The Ombudsman reports to the Spanish Parliament in an annual report and may submit monographic reports on matters he considers to be serious, urgent or requiring special attention.

Following the ratification by the Spanish State of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or

**Punishment, adopted by the United Nations Assembly in New York on December 18, 2002, the Cortes Generales attributed to the Ombudsman the functions of National Mechanism for the Prevention of Torture (NPM) in November 2009. The Ombudsman, in his capacity as NPM, carries out preventive visits to any centre of deprivation of liberty aimed at detecting problems that could favour the commission of torture or ill-treatment practices. The conclusions of these visits are reflected in the report it submits each year to the Spanish Parliament and to the United Nations Subcommittee on Prevention of Torture, based in Geneva**

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.

*3000 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)**

*3000 character(s) maximum*

**The publication of the acts will be made in the corresponding official journal, depending on the Administration from which the act to be notified originates. The publication of acts and communications that, by law or regulation, must be made on a notice board or edicts, will be understood to be complied with by publication in the corresponding official journal. The Judiciary controls the legality of the administrative action exercised exclusively by the Judiciary under the terms established in Article 106 of our Constitution, without prejudice to internal controls (Council of State). This control is carried out by specialized bodies that fall under the so-called contentious-administrative jurisdiction**

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).

*3000 character(s) maximum*

Follow-up by the public administration and State institutions to final (national/supranational) court decisions, as well as available remedies in case of non-implementation

*3000 character(s) maximum*

## D. The enabling framework for civil society

Measures regarding the framework for civil society organisations (e.g. access to funding, legal framework incl. registration rules, measures related to dialogue between authorities and civil society, participation of civil society in policy development, measures capable of affecting the public perception of civil society organisations, etc.)

*3000 character(s) maximum*

Rules and practices guaranteeing the effective operation of civil society organisations and rights defenders

*3000 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, etc.)

*3000 character(s) maximum*

Other - please specify

*3000 character(s) maximum*

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