

2022 Rule of Law Report - targeted stakeholder consultation

Submission by ILGA-Europe and organisations PROUD (Czech Republic), LGBT komiteen (Denmark), Inter-LGBT (France), Háttér Társaság (Hungary), KPH & Atlas of Hate (Poland), ACCEPT (Romania), and Legebrita (Slovenia).

ILGA-Europe are an independent, international LGBTI rights non-governmental umbrella organisation bringing together over 600 organisations from 54 countries in Europe and Central Asia. We are part of the wider international ILGA organisation, but ILGA-Europe were established as a separate region of ILGA and an independent legal entity in 1996. ILGA itself was created in 1978. <https://www.ilga-europe.org/who-we-are/what-ilga-europe>

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Horizontal developments

The developments encompassed in this submission point to systematic attacks on the fundamental rights of LGBTI people enabled by the weakening of rule of law and democratic structures. We have kept our inputs relevant to the content asked for by the consultation, and therefore we have not included all fundamental rights violations against LGBTI people, or all restrictions experienced by LGBTI civil society in the respective countries. We have only included them where there is a clear link to the issues of rule of law contained in the consultation.

In countries where the freedom of the judiciary is weakened, we have been witnessing political interference or bias in court cases related to LGBTI rights. This is particularly the case in Poland, where the Ministry of Justice uses its powers to repeatedly appeal verdicts that were in favour of LGBTI defendants. In countries where media freedom is under attack, we are seeing more prevalence of anti-LGBTI bias, smear campaigns and in some cases, censorship of LGBTI content. LGBTI organisations are also facing funding restrictions in some countries, including discriminatory selection of projects for EU or public financing, sometimes linked with potential instances of corruption.

In a number of countries Covid-19 regulations have been applied in a discriminatory manner or have been used arbitrarily to attempt to restrict the freedom of assembly of LGBTI people. States of emergency have allowed governments to fast-track legislation unrelated to the pandemic, but which directly attack the rights of LGBTI people. The most well-known example of this is the anti-paedophilia legislation adopted by Hungary in June 2021, which includes provisions which ban the "portrayal and the promotion of gender identity different from sex at birth, the change of sex and homosexuality" for persons under 18, and applies these to the Child Protection Act, the Act on Business Advertising Activity, the Media Act, the Family Protection Act and the Public Education Act. The European Commission started infringement proceedings due to this law in July 2021. A similar law has since been tabled in Slovakia, is being drafted in Romania, and has been suggested for drafting in Poland and Croatia.

The non-implementation of CJEU or ECtHR judgements remains an issue this year. The most notable of these is the 2018 Coman judgement of CJEU, which, due to its non-implementation in the country of origin Romania, was taken to the ECtHR in 2021. An official complaint (CHAP(2019)3147) was also submitted to the European Commission, with a similar case. SLAPPs continue to be an issue faced by LGBTI activists in Poland, with many of the cases either being won by the defendants or dismissed, showing that the real aim of the cases are to silence and intimidate activists' public participation.

Across the EU, hate speech by politicians continued to be a serious issue during 2021, having an impact on the public perception of LGBTI people and civil society organisations and creating an unsafe environment for LGBTI human rights defenders, impeding their access to freedom of assembly and expression. Often this leads to violent attacks against LGBTI CSO offices, staff, volunteers and LGBTI people more broadly. Smear campaigns have led to an environment in which violence and discrimination is

enabled, and in which laws violating the fundamental rights of LGBTI people are proposed and often adopted. It is now quite frequent for LGBTI activists in a number of EU Member States to receive death threats online. In 2021 alone, offices of LGBTI civil society organisations were attacked in Belgium, Bulgaria, Ireland, the Netherlands, Romania, and Spain. Staff and volunteers of LGBTI organisations were also attacked in Bulgaria, Croatia, Finland, Lithuania, Romania and Slovenia, many of which happened after anti-LGBTI smear campaigns in the media. Hate crimes against LGBTI people often are not sufficiently investigated. A number of EU countries still do not have hate crime legislation with sexual orientation, gender identity or sex characteristics as aggravating grounds. In some countries which do have such legal protection, it is often not implemented properly by police, prosecutors or even Ombudspersons.

Bulgaria

IV. Other institutional issues related to checks and balances

A. The process for preparing and enacting laws

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

Bulgaria's Covid-19 travel restrictions have [affected](#) rainbow families disproportionately, as the authorities routinely refuse to recognise them as a family unit. Civil society requested and obtained an official statement from the Ministry of Interior and the Border Police, with which partners of LGBTI people can legally enter the country.

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*

Hate speech by politicians continued to be a serious issue in 2021, having an impact on the public perception of LGBTI people and organisations, often leading to violent attacks. For instance, a member of the Bulgarian National Movement (IMRO) [called](#) the upcoming Sofia Pride “a manifestation of group mental disorders”. Due to the inability to form a government, three consecutive parliamentary elections and one presidential election were held during the year. During each parliamentary election, ultra-nationalist/fascist parties [made](#) anti-LGBTI election promises, that if elected they would ban Pride, and that they would fight so-called 'gender ideology'. They also made links between the LGBTI movement and paedophilia. This discriminatory speech has a clear impact on the environment for LGBTI civil society and the safety of LGBTI human rights defenders. In the lead-up to the month-long Sofia Pride, [many](#) anti-LGBT incidents took place. They included the posting of anti-LGBT stickers, distribution of anti-LGBT leaflets in the capital, burning of rainbow flags, attempts to intimidate participants at LGBTI-themed events, [vandalism](#), and harassment and threats against LGBTI individuals. The 40 participants of Bourgas Pride which took place in May 2021 were [attacked](#) by hundreds of extremists who threw eggs, stones, and smoke bombs on them and [burnt](#) a rainbow flag. The police were present and cordoned off the march, but allowed counter-demonstrators to deviate from their planned route, and [failed](#) to protect the Pride participants. Both the LGBTI community centre, Rainbow Hub, and the LGBTI-inclusive space of The Steps

were vandalised several times. The attacks culminated on 30 October when the presidential candidate and neo-fascist party leader, Boyan Rasate [stormed](#) into the Rainbow Hub with ten others, punched a staff member in the face, and destroyed the furniture and electronics. Rasate’s immunity was lifted, and he was [arrested](#) on 3 November.

Croatia

IV. Other institutional issues related to checks and balances

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*

In January 2021, the Zagreb County Court [held](#) the ultraconservative Vigilare Association responsible for discrimination and incitement for launching a homophobic petition against “homopropaganda”. Vigilare filed an appeal, [saying](#) that the ruling judge was biased, being an open supporter of LGBTI rights. The Supreme Court accepted this complaint and the new judge, known for her anti-LGBTI bias, [found](#) no discrimination and argued for freedom of speech. In July, a couple of days prior to the Zagreb Pride, MP Nikola Grmoja [suggested](#) tabling an ‘anti-pedophilia’ bill similar to the one in Hungary.

For the first time in 10 years, several participants of Zagreb Pride were [attacked](#) by extremists, who verbally assaulted, hit, beat, and spat on them and burned a rainbow flag. In November, a Split Pride volunteer was physically [attacked](#) on a beach and suffered severe injuries. The police failed to react promptly and downplayed the homophobic motive. LGBTIQ organisations [blame](#) the increasingly hostile anti-LGBT rhetoric of political leaders for this increase in hate crimes.

Czech Republic

III. Media Freedom and Pluralism

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*

The politicisation of Czech public TV and [radio continued](#) in 2021. A representative of the Roman Catholic Church was [appointed](#) to the supervisory board of the Czech Radio, but later resigned and is now an assistant to a far-right MP.

In April, the European Broadcasting Union (EBU) [warned](#) that Czech media freedom was under threat and that an increasing number of members are affiliated with the then-ruling party. The EBU called on Czechia to protect media pluralism.

The anti-LGBT rights organisation Alliance for Family filed a complaint against the Czech public TV, claiming that its report from April 2021 on marriage equality was biased. Two supervisory boards handled the complaint and both upheld it. One of them (Council of Czech Television) [deemed](#) that the report was made “in favour of the campaign to legalize same-sex marriage”. The second supervisory board (Council for Radio and Television Broadcasting) partially [sustained](#) the complaint. It cited as alleged “violations” the use of the term “marriage for all” (for them the problem is that this term is used by activists), and the fact that the report cited a petition in favour of marriage-equality, but did not cite Alliance for Family’s petition campaigning against marriage-equality. In our view, these statements by the supervisory boards show a concerning trend of anti-LGBT forces influencing the public media work.

IV. Other institutional issues related to checks and balances

A. The process for preparing and enacting laws

Framework, policy and use of impact assessments, stakeholders'/public consultations (particularly consultation of judiciary on judicial reforms), and transparency and quality of the legislative process *3000 character(s) maximum*

Only specific organisations may engage in consultations on draft governmental bills. Those are typically individual ministries, judicial bodies, other state agencies, trade unions and professional unions. One of them is, however, also the Czech Bishop Conference (congregation of Roman Catholic bishops), which is often using this privilege to criticise measures to enhance protection of LGBT+ people. (See the above example of a ministerial decree on birth certificates). No civil society organisation working towards equality for LGBT+ people have such a consultation privilege.

While most hearings of parliamentary committees are public, the Organisation Committee which defines the agenda of the next parliamentary plenary is not open to the public. This is according to the procedural laws. As PROUD experienced in 2014-2017 and again in 2017-2021, bills enhancing equality for LGBT+ people were repeatedly not given enough time in the programme of the plenary sessions, resulting in not even one single vote being taken on the second-parent adoption bill in 4 years (2014-2017) and only the first-round vote being taken on the marriage equality bill after 3 years of waiting. Because the Organisation Committee meetings are not open to the public, there is a lack of information on how the program of the next plenary is being put together and why the bills on LGBT+ equality are not allocated sufficient time in the programme.

The enabling framework for civil society

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

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3000 character(s) maximum

Some of the Covid-19 regulations adopted by the then-acting government failed to apply protections already in place for LGBTI people. CSOs (specifically the initiative We Are Fair) monitored the government's regulations and at several instances identified measures discriminatory towards LGBT+ people. For instance:

- when the travel ban in or out of the country was adopted, re-unification exemptions included married couples (i.e. only opposite-sex couples, since Czech Republic does not have marriage-equality) but not registered partners (i.e. same-sex couples);
- the incoming travel ban exemptions included attending a wedding but did not include registered partnership ceremonies (therefore only possible for opposite-sex couples);
- the exemption from the ban on public gatherings was given to weddings but in case of registered partnership only if one of the partners was seriously ill.

The governmental bills quickly superseded each other, sometimes rectifying the discrimination contained in the previous one, but introducing new discrimination in another area. One positive sign was that in the last instance the then-acting Minister of Interior (Social Democrats) quickly reacted to PROUD's request and promised to remove the discrimination.

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) maximum*

The office of the Representative for Human Rights is a central administration charged with protecting citizen's human rights. Until 2017 there was a Ministry for Human Rights but the then-acting government dissolved the ministry. The last Representative for Human Rights, Ms. Válková, was publicly opposed to marriage equality and as an MP also co-sponsored the bill on the constitutional ban of equal marriage. After some public derogatory comments towards LGBT+ organisations these organisations invited her for a meeting. This constructive meeting sparked cooperation on the first ever governmental LGBT+ strategy. The strategy was prepared by the Representative and its contents were welcomed by LGBT+ NGOs. However, the Representative has not secured enough support for the strategy to be adopted by the then-acting government. Who the new Representative for Human Rights will be under the newly formed government of prime minister Fiala is not yet publicly known.

The equality body, the office of Public Defender of Rights, also known as ombudsman, is charged with overseeing the implementation of the Anti-Discrimination Act (with rather limited competences in case violations occur). During the time in which Anna Šabatová headed the equality body from 2014-2020 it was very instrumental in advancing LGBT+ rights. However, stark deterioration came in 2020 when Stanislav Křeček was elected as head of the office by the House of Representatives in a secret ballot. His appointment sparked [public protests](#), since he is known for having restrictive views on discrimination, and was [criticised](#) also by organisations protecting Roma people. When asked to react to the European Commission's report on discrimination of Roma people in access to housing, Stanislav Křeček [said](#) „I reject these conclusions, they are not objective and I do not know where do these institutions get this data but the office of the Public Defender of Rights is decisively against them“. In addition, he was invited to a debate during Prague Pride 2021, and when asked whether LGBT+ people are discriminated in the Czech Republic he [replied](#) „no one denies [LGBT+ people] any rights. It is only natural that some citizens express their disagreement, and this applies to every human activity. [...] LGBT+ people sometimes have an unnecessarily negatively vigilant relationship with society. At the same time, most people are quite indifferent to their actions, unless [LGBT+ people] themselves consider it the only right one.“

C. Accessibility and judicial review of administrative decisions

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

In the 2017 case A.P., GARÇON AND NICOT v. FRANCE, the European Court of Human Rights found that mandatory sterilisation as a condition for trans* people to access legal gender recognition is a violation of the European Convention of Human Rights. Despite this judgement, the Czech Republic still requires this practice ([Section 29 of Czech Civil Code](#)). The previous government was aware of the issue yet did not amend the law respectively. The new government in place since October 2021 has not indicated that it plans to amend the law to come in line with the ECtHR judgement.

In 2016 the Czech Constitutional Court [ruled](#) that same-sex joint parental rights acquired under foreign law must be recognised by Czech law (it is unclear whether this relates only to surrogacy or also adoption rights, as in 2021 the Constitutional Court ruled again in similar matter but upheld the ban on the recognition of same-sex couples' parental rights acquired under foreign law via adoption). Consequently, forms of birth certificates of children must be amended accordingly, introducing an option of same-sex parents. In 2021 the Ministry of Interior began preparing the amendment to its decree which regulates birth certificate forms. However, after opposition from the President (who holds strong anti-LGBT views), and the Czech Conference of Bishops (a congregation of Roman Catholic Bishops, which was in the past given the privilege to comment on bills of laws), the Ministry withdrew the amendment. Therefore the Constitutional Court's ruling has still not been implemented.

The CJEU ruling of 14 December 2021, in Case C-490/20 found that if an EU member state recognises a parental relationship between a child and its parents, then all member states should, in order to give the

child its right to freedom of movement. Czech law explicitly prohibits recognising same-sex joint parental rights acquired via adoption under foreign law, and the Constitutional Court has ruled previously that such a ban is in line with the Constitution. On 17 August 2021 a senator filed a bill to remove the ban. A day after the aforementioned CJEU judgement, the Czech senate [voted against](#) the bill.

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*

Bias-motivated speech against LGBTI+ people has continued to be a serious issue in 2021, by politicians, religious leaders, anti-LGBTI+ activists, and the media. The following are a handful of examples, which constitute a broader campaign of targeting LGBTI+ people, negatively impacting public perception of LGBTI+ activists and leading to an unsafe climate in which their rights to freedom of assembly, association and expression are also negatively impacted:

In June, President Milos Zeman [called](#) trans people “disgusting” in an interview, making headlines internationally. Local trans organisation Trans*parent [called](#) for a public apology.

The marriage equality bill sparked hate speech, discriminatory remarks and stigmatization throughout the year, from politicians from a number of parties, such as the Christian Democrats and the conservative Civic Democratic Party. The leader of the far-right Freedom and Democracy [said](#) in April that he would rather jump out of a window than be adopted by a same-sex couple.

Prior to the general election in October, marriage equality was again a highly debated topic. Incoming Prime Minister and leader of the Civic Democratic Party Petr Fiala wrote in his [book](#) that he cannot “be forced to believe that people of the same-sex may create marriage and a family that equals the natural one” as it is “against his faith”. He called for protection of the “traditional family”.

Several politicians, including those from the former Prime Minister’s ANO Movement, the Civic Democratic Party and the Christian Democrats [condemned](#) the fact that Prague financially supports Prague Pride.

The anti-LGBTI organisation Alliance for Family continued making hateful statements and were very active in organising the public in protesting against any measure that would support LGBTI+ people. Despite this, the chairwoman of the organisation was chosen as a parliamentary assistant of one of the MPs from Civic Democrats, member of the ruling coalition.

Authorities failed to investigate a case of discriminatory speech and spreading of false information by a high ranking Roman Catholic priest, Petr Piřha, in 2018. He had held a sermon during which he attacked the Istanbul Convention [claiming](#) “Your families will be torn apart. It will suffice to tell the children that a man and a woman are not the same. They will take your children and hide from you where they have sent

them, where they have sold them, where they are imprisoned. (...) For any disagreement, you will be deported to correctional labour camps of an extermination nature. Homosexuals will be declared the superior ruling class". His statement was fully supported by the Prague archbishop Dominik Duka. A criminal petition against the priest was filed by feminist organisations for spreading false alarming information, yet the petition was [dismissed](#) by the state prosecutors as unsubstantiated in 2019.

We still have no updates on a hate-crime case from 2015, in which a gay couple was [attacked](#) for holding hands in public in the centre of Prague.

Denmark

IV. Other institutional issues related to checks and balances

A. The process for preparing and enacting laws

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3000 character(s) maximum

An initiative on removing the age limit for legal gender recognition was presented with other initiatives in 2020. The two other legislation initiatives were fleshed out in Bills in the 2021 parliamentary year, whereas the Bill on the age limit was postponed. This was during a time when ministers were asked to reduce the number of Bills this year due to Covid-19. The minister in charge took over the mandate from another minister (due to a minor change in the Government), and the new minister is not very progressive.

France

I. Justice System

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*

Prosecutors are under the direct authority of the Ministry of Justice, thus the government.

IV. Other institutional issues related to checks and balances

A. The process for preparing and enacting laws

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

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3000 character(s) maximum

In 2020 the government had tried to ban public gatherings, including Pride marches, due to the Covid-19 pandemic. However, the Supreme Court ruled that in accordance with the Constitution, freedom of assembly for political events such as protests and prides cannot be banned.

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*

In the run-up to the French Presidential elections, far-right candidates and conservative politicians are using discriminatory and inflammatory language about LGBTI people.

Hungary

I. Justice System

A. Independence

Independence/autonomy of the prosecution service 3000 character(s) maximum

The prosecution service often fails to carry out its duty to initiate public interest procedures. In particular, the prosecution service has the power to call on public bodies to revoke illegal administrative decisions and initiate court proceedings if the public bodies decline to do so (Ütv. 29. § (2), 26. § (4)). In 2020 the Budapest Government County Office transferred dozens of cases of transgender persons requesting legal gender recognition to local registrars. These cases had been submitted before May 2020 when legal gender recognition was banned. This move the courts found illegal in dozens of cases. Two applicants who did not take their cases to court then requested the prosecution service to call on the registrars to revoke their decisions that they issued without a legal mandate. In one case, the prosecution service called on

the local registrar to revoke their decision, but did not followup the case with court proceedings after the request was declined (SZOMBATHELYI JÁRÁSI ÜGYÉSZSÉG, T.K.1214/2021/5. szám). In another (B.VI-VII.3317/2021/2) case the prosecution service has not made a decision even after six months.

B. Quality of justice

Training of justice professionals (including judges, prosecutors, lawyers, court staff) *3,000 character(s) maximum*

Human rights organizations offering training to judges, including Háttér Society providing training on respectful and sensitive treatment of LGBTQI persons in the courtroom, have been [attacked](#) in pro-government media for “brainwashing judges” and “pushing the agenda of George Soros”. Since then, these organizations find it very difficult to organize any training for the judiciary.

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) *3,000 character(s) maximum*

The statistical system of the courts is focusing largely on procedural indicators and is not detailed enough to generate data on human rights-relevant court cases, such as the overall number of hate crime cases or the overall number of discrimination cases, let alone disaggregation by protected characteristics.

C. Efficiency of the justice system

Length of proceedings *3,000 character(s) maximum*

The Constitutional Court has no deadline for adjudicating constitutional complaints or petitions by the Commissioner for Fundamental Rights, and the procedures take unreasonably long. Even where there is a deadline (constitutional reviews initiated by lower level courts), the deadlines are not kept. For example, according to Article 24(2b) of the Fundamental Law, the Court should decide on the constitutionality of a legislative provision within 90 days if the review is initiated by a judge in the regular court system. In the case III/02647/2021 concerning the ban of legal gender recognition for trans and intersex people, the deadline for the Court's decision was 23-09-2021, but no decision has been issued, the case has not even been put on the agenda of the court. Other cases on legal gender recognition based on constitutional complaint (IV/00948/2020, IV/01154/2020, IV/01155/2020, IV/02001/2020, all on legal gender recognition) where there is no deadline required by law, have been pending at the Court for over 18 months. In comparison, in cases where the interest of the government is prompt decision, the Court decides in a very speedy way, such as in case of the constitutional complaint submitted by the government against the decision of the Curia not allowing one of the government anti-LGBTQI referendum questions to make the ballot (IV/03991/2021), in which case the Court decided in a month time - delivering a decision favouring the government's position.

Procedures also take inexplicably long in regular court cases of political sensitivity. For example, in January 2021 the consumer protection authority ordered Labrisz Lesbian Association to change the cover of their

children’s book ‘Fairyland is for Everyone’ to clearly state that it includes “patterns of behaviour deviating from traditional gender roles” [BP/2200/00868-2/2021]. The decision was appealed in court. On 21 June 2021, the court set the date for the first hearing date for 2 February 2022, even though such hearings in administrative cases are usually scheduled within a few weeks, or a few months. This is the same case in which the EC started an infringement procedure against Hungary (INFR(2021)2119).

III. Media Freedom and Pluralism

A. Media authorities and bodies (Cf. Article 30 of Directive 2018/1808)

Conditions and procedures for the appointment and dismissal of the head / members of the collegiate body of media regulatory authorities and bodies *3,000 character(s) maximum*

The Media Council of the National Media and Infocommunications Authority consists only of members nominated by the governing parties. In 2019 an ad hoc parliamentary committee was set up to select new members, but the committee voted down all candidates nominated by opposition parties. The Media Council applies clear double standards regarding LGBTQI issues: it allows for hate speech against LGBTQI people, while restricts the positive portrayal of LGBTQI people (see details under other). In October 2021, the president of the National Media and Infocommunications Authority resigned a few months before her mandate was over. This allowed the current parliamentary majority to elect a new president for nine years in December 2021. Without the resignation, it would have been the new parliament elected in April 2022 who elects the new president. The resignation thus allowed the current government to secure its control over the media until 2030, even if they lose the election in April 2022.

C. Framework for journalists' protection

Access to information and public documents (incl. procedures, costs/fees, timeframes, administrative/judicial review of decisions, execution of decisions by public authorities) *3,000 character(s) maximum*

Even though legislation requires that public bodies respond to freedom of information requests concerning data of public interest within 15 days (Act no. CXII. of 2011), public bodies often reject the completion of such requests. In July 2020 the Ministry of Human Capacities refused access to national health programs adopted by the government in 2018 arguing that they served the purpose of later decision-making, even though the programs had been finalized in 2018. The judicial review of the case is pending. In October 2021, the Prime Minister's Office refused access to results of a survey among local governments on adoption of local measures banning "LGBTQ propaganda". The judicial review of the case is pending. In September-October 2021, the Ministry of Human Capacities and the National Child Protection Service refused access to a guideline issued to local child protection services on how to assess suitability of non-married person for adoption. The review of the case by the National Authority for Data Protection and Freedom of Information is pending.

Other - please specify *3,000 character(s) maximum*

The Media Council applies clear double standards regarding LGBTQI issues: it allows for hate speech against LGBTQI people, but penalizes anti-majoritarian speech and restricts the portrayal of LGBTQI people. In March 2021, the Media Council launched an investigation against RTL Klub, the largest commercial channel for airing a video about rainbow families as public service advertisements. The Council argued that the video featuring same-sex families and experts was harmful to children under the age of 16, and thus should not have been aired before 9pm. The Council did not allow the producer of the video (Háttér Society) to be party to the investigation arguing that Háttér has no legal interest in the outcome of the investigation, even though the decision would greatly impact when the video can be aired. The Curia decided in favour of Háttér's standing, the investigation is ongoing, no decision has been issued yet (MN/31406-9/2020.).

IV. Other institutional issues related to checks and balances

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*

While there is legislation that requires public consultation on all bills drafted by ministries and all government and ministerial decrees (Act no. CXXXI of 2010), these requirements are routinely disregarded. After the law banning legal gender recognition of trans people (Act no. XXX of 2020), adding transphobic provisions to the Fundamental Law (9th Amendment of the Fundamental Law), restricting adoption by non-married persons (Act no. CLXV of 2020), and on amendments to government and ministerial decrees on detailed rules of the adoption procedure (EMMI decree no. 35/2020. (X. 5.); Govt. Decree no. 94/2021. (II. 27.)) were adopted without any consultation, the same happened with regards to the Act no. LXXIX of 2021 banning access of minors to any content with “portrayal and the promotion of gender identity different from sex at birth, the change of sex and homosexuality”. Similarly, its implementing legislation [Government Decree 473/2021. (VIII. 6.)] which contains that products with such content can only be sold in special packaging separate from other products and cannot be sold within 200m of schools, children or youth institutions and churches, was also adopted without any public consultation. The Venice Commission criticized the adoption of the law not only on substantive aspects, but also for the hasty adoption of such seriously restrictive provisions (1059/2021).

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) maximum*

On 1 December 2020, the Parliament adopted legislation to abolish the Equal Treatment Authority (ETA), Hungary's most important equality body set up in 2005. The Venice Commission, in its [opinion](#)

(1051/2021), criticised the adoption of the legislation in a rushed manner during the state of emergency, and raised concerns about risks associated with the Commissioner for Fundamental Rights being merged with the ETA. A [report](#) by Háttér Society on the first 9 months of the new system shows that the move had devastating impact on the enforcement of equal treatment law in Hungary. Since September 2019, the Commissioner for Fundamental Rights has been Ákos Kozma, former professor of Pázmány Catholic University, a loyal supporter of the government. As opposed to his predecessor, the new Commissioner has not commemorated the International Day Against Homophobia and Transphobia in May 2020, and has not responded to official petitions submitted by LGBTQI organizations concerning (1) the ban of legal gender recognition, (2) growing homophobic hate speech by government officials, and restricting LGBTQI freedom of expression, (3) on the law on measures against paedophilia, (4) on discriminative forms in citizenship procedures, (5) on discriminative forms in immigration procedures. GANHRI's Sub-Committee on Accreditation recommends that the CFR be downgraded to B status, as the CFR "has not spoken out in a manner that promotes protection of all human rights."

C. Accessibility and judicial review of administrative decisions

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 *3,000 character(s) maximum*

In June 2018, in a case launched by a transgender refugee from Iran, the Constitutional Court found that there was a constitutional omission because Hungary has no procedure for legal gender recognition for transgender people who are not Hungarian citizens, but lawfully reside in the country permanently. The Court gave a deadline of 31 December 2018 for the government to adopt new legislation (6/2018. (VI. 27.) CC decision). No such legislation has been adopted to date, and in May 2020, the Parliament adopted legislation that banned legal gender recognition for Hungarian citizens as well. The same person also turned to the ECtHR, which also sided with the applicant arguing that the lack of such procedure infringes on the right to respect for private life (Art. 8) of the applicant (*Rana v. Hungary*, no. 40888/17). The just satisfaction was paid to the applicant, but he still has to live with official documents that are not in line with his gender identity. In March 2021, the Constitutional Court found that applying the ban on legal gender recognition retroactively to pending procedures is unconstitutional [CC Decision 11/2021. (IV. 7.)]. Nevertheless, the Budapest Government County Office still fails to implement the decision, dozens of trans and intersex people have been litigating such cases, but the Office comes up with newer and newer objections whenever the courts make a binding decision in line with the Constitutional Court decision. For the overview of these procedures see: <https://hatter.hu/tevekenysegunk/jogsegelyszolgalat/jelentosebb-ugyeink/33-paragrafus>

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*

The government and pro-government media conduct a smear campaign against human rights organizations, targeting specifically organizations working on the rights of LGBTQI people. Pro-government news portal such as Pesti Srácok, Origo, 888.hu, Vasárnap talk about LGBTQI issues as a form of ideology, and claim that LGBTQI organization work to recruit more children to become LGBTQI. LGBTQI organizations are often referred to as “LGBTQP” - the “P” standing for paedophilia - conflating lawful sexual orientation and gender identity with unlawful paraphilias. Leading government officials also talk about the need to stop LGBTQ propaganda (see more under *Other*).

LGBTQI organizations find it extremely difficult to receive public funding. Calls for proposals prioritize issues that make successful application of LGBTQI organizations nearly impossible. In case LGBTQI organizations do apply with strong proposals, their proposals are evaluated unfavourably or unlawful measures are applied to exclude them from funding. E.g. Tempus Foundation distributing Erasmus+ funds in Hungary disqualified the proposal of Háttér Society on grounds of conflict of interest with an evaluator, even though there was no such conflict of interest, and even if there was, it was the evaluator, not the applicant that should have been disqualified (since the list of evaluators is not public applicants are in no position to prevent such conflict of interest). When the proposal was resubmitted, Tempus rejected the proposal arguing that there was not enough funding, even though the money earmarked for that category of proposals was not spent. The European Commission has found the exclusion to be unlawful and called on Tempus to revoke it, but Tempus does not comply with the request of the Commission, and instead started a [smear campaign](#) against Háttér in the media.

E. Initiatives to foster a rule of law culture

Other - please specify 3,000 character(s) maximum

For the past two years, the Hungarian government has been conducting a hate campaign against LGBTQI people, targeting in particular transgender people and same-sex couples raising children. An anti-LGBTQ referendum has been initiated by the government to be held on the same day as the national election in April 2022. On June 15, 2021 the Parliament adopted legislation to ban access of minors to any content with “portrayal and the promotion of gender identity different from sex at birth, the change of sex and homosexuality” broadly in the Family Protection Act, the Child Protection Act and specifically in the Act on Business Advertising Activity, the Media Act and the Public Education Act [Act no. LXXIX of 2021]. An implementing legislation [Government Decree 473/2021. (VIII. 6.)] contains that products with such content can only be sold in special packaging separate from other products and cannot be sold within 200m of schools, children or youth institutions and churches. The European Commission has launched an infringement procedure and issued a reasoned opinion regarding the law. The Venice Commission, in its [opinion](#) (1059/2021), considered the manner of adoption of the law not in line with its Rule of Law Checklist, and that the amendments in question are incompatible with the ECHR and international human rights standards.

Even prior to the entry into force of the law public authorities started to interpret existing child protection provisions in various laws to censor content featuring LGBTQI topics: in October 2019 Coca Cola was fined for featuring same-sex couples in a billboard campaign [PE-06/01/01076-10/2019]; in March 2021 an investigation was launched against RTL Klub for airing an information video about rainbow families [163/2020. (III. 2.)]; in January 2021 the consumer protection authority ordered Labrisz Lesbian Association to change the cover of their children’s book ‘Fairyland is for Everyone’ to clearly state that it includes “patterns of behaviour deviating from traditional gender roles” [BP/2200/00868-2/2021]; bookshop Líra was fined for selling the book ‘What a family!’ featuring rainbow families among other children’s books [PE/002/01974-8/2021]. This latter decision has been later declared illegal by the court. Several local governments (Mezőkövesd, Budapest XXI. Csepel, Diósd, Veszprém) banned the use of ‘Fairyland is for Everyone’ in their educational institutions, and one local government (Nagykátá) adopted a resolution to ban “LGBTQ-propaganda” in all of its institutions.

Latvia

IV. Other institutional issues related to checks and balances

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*

On 2 July 2021, the Ministry of Interior [set up](#) a working group to analyze trends in hate crimes and offer ways to address them. The working group does not include members of civil society and there is no information available about their work so far.

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) maximum*

In the past nine years, only one homophobic incident was [classified](#) as a hate crime by the Ombudsperson’s Office. In 2021, the Prosecutor’s Office [refused](#) to launch criminal proceedings in the case of Professor Denis Hanovs of Riga Stradins University, who suffered a homophobic attack in 2020. The Prosecutor argued that the attack was not against sexual minorities in general, but against Hanovs only.

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*

In June, former Minister of Interior Sandis Ģirģens [shared](#) false information suggesting after the appointment of openly lesbian Minister of Interior Marija Golubeva, the police would have to wear women's uniforms. The post was widely shared and stirred hateful comments in the media and on social media.

Rules and practices guaranteeing the effective operation of civil society organisations and rights defenders *3000 character(s) maximum*

On 14 January 2021, the parliament passed a draft law that plans to restrict the definition of family in the Constitution to effectively block same-sex partnerships and same-sex families. This contravenes international human rights law and European jurisprudence, as well as Latvia's Constitution and the rulings of its Constitutional Court. The LGBTI Intergroup of the European Parliament immediately [condemned](#) the move. The proposed wording of the Constitution would [define](#) marriage as a union between a man and a woman, and children's right to "grow up in a family with a mother and a father".

Lithuania

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*

Anti-LGBTI speech by political and religious leaders remained a serious issue in 2021, negatively impacting the public's perception of LGBTI civil society and created an unsafe environment for LGBTI human rights defenders and civil society. On 10 January, Lithuanian MEP Viktor Uspaskich (Labour Party) [posted](#) a video calling LGBT people "perverts" and "fags" and saying that LGBT marches "must not be tolerated". In March, a well-known priest and author Algirdas Toliatas [urged](#) his followers to oppose same-sex partnerships and the Istanbul Convention. Other political and religious leaders also [condemned](#) the ratification. In March, Christian religious leaders issued a statement on the issue. In April, MP Petras Gražulis was [filmed](#) dancing and singing to a song known for its homophobic lyrics. In March, the Commission of Ethics and Procedures [decided](#) that MP Valdemaras Valkiūnas's comments alleging that "LGBTI" is a "criminal organisation" were compliant with the principle of respect towards state and the individual.

Around 10.000 people [joined](#) the Great Family Defence March on 15 May, against “aggressive genderist propaganda” and plans to ratify the Istanbul Convention. The demonstration, held a few days before the parliamentary vote on the Partnership Bill, was organised by the Movement of Families, and [supported](#) by [politicians](#), priests, and public figures. It [featured](#) a pre-recorded message from President Gitanas Nausėda who said that a family is between a man and a woman and that he will protect this concept.

In April, LGBTI NGO LGL received an anonymous threat depicting in detail a clear intention to murder LGL staff. Pre-trial investigation was initiated but was soon suspended indefinitely as the perpetrator could not be identified.

[Rules and practices guaranteeing the effective operation of civil society organisations and rights defenders 3000 character\(s\) maximum](#)

In light of this year’s developments in Hungary, [many](#) remained [concerned](#) about Lithuania’s Law on the Protection of Minors against the Detrimental Effect of Public Information, which has been in place for a decade and has had a chilling effect on the LGBTQ community and civil society. The ECtHR’s judgement in the case [Macatė v. Lithuania](#) on this law is expected in 2022.

Poland

I. Justice System

A. Independence

[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](#)

There are some judges which have publicly expressed their negative opinion of LGBTI people. This gives reason to believe that they might not conduct their work in a neutral manner when judging LGBTI related cases. These public expressions also contribute to the already dangerous climate for LGBTI people in Poland. For example, on 6 April 2021, Judge Krystyna Pawłowicz [attacked](#) via Twitter a school in Podkowa Leśna which used the chosen name of a transgender student. Pawłowicz not only published the student’s birth name online, but also the address of the school, as well as the name of the headmistress. She also lied online saying that the headmistress had forced teachers to respect the student’s identity. Pawłowicz later deleted the post and apologized.

[Significant developments capable of affecting the perception that the general public has of the independence of the judiciary 3000 character\(s\) maximum](#)

The Ministry for Justice has been interfering with court cases related to LGBTI people. On 2 March 2021, three activists facing trial for ‘offending religious feelings’ for painting a rainbow halo over an image of the Virgin Mary in 2019 were acquitted of charges by Judge Agnieszka Warchoń. This then precipitated a

wave of hatred in the [media](#), which said such things as "The judge from Plock opened the way to profanation of Catholic symbols", and also dug into her private life. An appeal was launched against the judgement by Minister for Justice Zbigniew Ziobro, and once again the defendants were acquitted on 12 January 2022. Despite this verdict being final, the Deputy Justice Minister, Marcin Romanowski, has [announced](#) they intend to use the extraordinary complaint to appeal again.

In April 2021, Ziobro [filed](#) an extraordinary appeal to the Supreme Court's Chamber of extraordinary Control and Public Affairs – a politicised body which will likely not rule independently - regarding a 2020 court ruling that established discrimination on grounds of gender identity in the case of a trans woman, Joanna Żelek. Miss Żelek interpreted the appeal as a politically motivated act to discourage people from fighting injustice.

Deputy Justice Minister, Marcin Romanowski, frequently publicly announces his disagreement with court decisions involving LGBTI topics. For example, in October 2021 he publicly [stated](#) that he believes the Supreme Administrative Court's decisions to order a review of local government resolutions against LGBT ideology are politically motivated, and that the declarations „oppose the absurd, inhuman, irrational neo-Marxist ideology brought from the West”. He also publicly [opposed](#) the verdict of the Court of Ostrołęka in January 2022 which acquitted the Atlas of Hate defendants from one of the SLAPP trials (see more in section on SLAPPs), saying that the court was being „ideological”. He also publicly attacked the August 2021 verdict of a German court which [fined](#) a Polish theologian for homophobia and incitement to hatred.

II. Anti-Corruption Framework

C. Repressive measures

Other - please specify 3000 character(s) maximum

Various media and the Supreme Chamber of Control have been [reporting](#) that the implementation of the Justice Fund became corrupt under the control of Zbigniew Ziobro. Since he took over, tens of millions of zlotys a year flow to organizations associated with his political party, Solidarna Polska, such as foundations or associations with little to no experience of working with victims of crime and projects that support the Ministry of Justice, Ziobro, and the policies of Solidarna Polska. Grants from the fund were received by, among others:

- an organization associated with Dariusz Matecki, a Solidarna Polska councillor, to create local information portals;
- Lux Veritatis of Tadeusz Rydzyk for two campaigns: about historical truth and family safety. The core of both projects are "Unfinished Talks" on Trwam TV;
- Municipalities that have declared themselves "LGBT-free" and thus lost financial support from the EU;
- the Fidei Defensor association and the Guardian of Memory Foundation for fighting Christianophobia and crimes "influenced by LGBT ideology." The foundation is headed by the editor-in-chief of the right-wing weekly Do Rzeczy, Paweł Lisicki. The Foundation received money for the project "Counteracting crimes against freedom of conscience committed under the

influence of LGBT ideology. As part of the project, it is to publish a series of booklets attached to the weekly 'Do Rzeczy' entitled "Legal defense of freedom of conscience and LGBT ideology" and to organize two conferences entitled "Freedom of conscience and LGBT ideology".

III. Media Freedom and Pluralism

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

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

In Poland politicians and journalists frequently [attack](#) LGBTI people via media outlets. For example, in August 2021, Deputy Justice Minister, Marcin Romanowski, posted a slathing [commentary](#) of a gay couple's mock wedding on his Facebook page, which was then echoed by various media outlets. In November 2021 the Ministry of Justice [financed](#) an edition of the magazine "Do Rzeczy" which included a supplement of 17 pages summarising the conclusions of the right-wing conference "on the legal protection of the family against LGBT ideology" that took place in October. In August it was uncovered that the new editor-in-chief of journal Głos Wielkopolski has instructed staff [not to write](#) about LGBTI topics, calling it "propaganda, not journalism". On 1 February 2022, [leaked emails](#) of Mariusz Chłopik, informal advisor to Mateusz Morawiecki, revealed that the Polish government was [coordinating](#) a hate campaign against LGBTI people from March 2019, having found two celebrities to partake in the campaign, and looking for more. This proves the direct government involvement in anti-LGBT smear campaigns in the media.

C. Framework for journalists' protection

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

The use of SLAPPs against LGBTI people and activists is becoming increasingly common in Poland. For example the authors of the [Atlas of Hate](#), an online map launched in 2019 that tracks which municipalities have adopted anti-LGBT resolutions, are facing 7 court cases, represented by far-right organisation Ordo Iuris. Activist Bart Staszewski has faced off 20 police investigations, 4 ended in court cases of which he won 3 and one was dismissed. He currently faces 3 court cases from municipalities represented by the

Polish League against Defamation and another case from right-wing website Życie Stolicy represented by Ordo Iuris. Four UN SR's have [written](#) about his cases to the Polish government. In all of these cases the activists are charged with defamation for sharing facts about the organisations and the anti-LGBT resolutions. So far Atlas of Hate won its first case in December 2021. Given the high costs, professional and personal burdens brought about by the cases, and the fact that so far the activists have not lost any cases or complaints, it is clear these cases are designed to silence and intimidate them from pursuing their activism and holding the powerful to account.

Activist Linus Lewandowski has also been targeted with SLAPPs. He has faced 23 offence cases from 2020-2021 for his active participation in protests related to LGBTI rights, women's rights, democracy and rule of law (e.g. protest against the Disciplinary Chamber of the Supreme Court). 9 have been dismissed by the courts, one case found him guilty without fine, one case he won, and there remain 11 pending (one case the police lost the files). He considers the actions of the services to be repression related to activism. In July 2021, a year after the protests in defense of Margot Szutowicz, which we reported about in the 2020 consultation, the prosecution decided to file an [indictment](#) against 5 of the 48 people detained at the time, including Linus. It claims that they took part in a rally with the aim of attacking persons or property. It is worth recalling that in many of the cases of arrest, the Ombudsperson found degrading treatment by the police, bordering on inhumane treatment, in his official [report](#). Linus and other street protestors who are frequently arrested and/or charged for taking part in demonstrations, have filed a [complaint](#) to the International Criminal Tribunal in the Hague.

In addition to the case of Elżbieta Podleśna, Anna Prus and Joanna Gzyra-Iskandar mentioned earlier, there are four more cases pending against people who used the rainbow symbol in relation to religious symbols or events, and who are being charged under Article 196 of the Criminal Code "offending religious beliefs". Amnesty has [reported](#) that "Article 196 provides overly broad scope for the authorities to prosecute and criminalize individuals, in violation of their right to freedom of expression. As such, it is incompatible with Poland's international and regional human rights obligations".

IV. Other institutional issues related to checks and balances

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*

Smear campaigns against LGBTI activists and CSOs by politicians in the media continued to be an issue in 2021. Some examples: In April Jarosław Kaczyński [said that](#) "LGBT ideology" "radically limit[s] the freedom of a great number of people who are terrorised to accept this ideology". In June the Minister of Education [said that](#) the Warsaw Equality Parade was an "outrage against morals" and that "someone who corrupts, promotes deviation does not have the same public rights as someone who doesn't do it". In September the president of Małopolska region, Jan Duda [said](#) in an interview that "homosexuality is contagious" and "being gay is not cool, it's sad", provoking another outburst of hate speech against LGBT

community. Various MPs have given homophobic speeches in parliament, such as MP Anna Maria Siarkowska who [blamed](#) the death of a monk on "LGBT movements, the extreme left" and MP Janusz Kowalski who [called](#) for Poland to become a "zone free from LGBT ideology". There have also been anti-EU smears in the media for the EU's stance against regional anti-LGBT resolutions. In July, the European Commission launched an [infringement procedure](#) against Poland and suspended EU funding talks with five Polish regions which had adopted anti-LGBT resolutions or Family Charters. These documents state that "LGBT ideology" and organisations which "promote" marriage equality should not be supported, including via public funding. None of the Managing Authorities of EU funds has yet reserved funding for LGBT projects, even when asked by the European Commission. None have developed horizontal principles in their regional programmes. In September, Zbigniew Ziobro [called](#) the EU's infringement procedure "blackmail" and "economic terrorism".

In 2021, the government and far-right organisation Ordo Iuris further tightened their oversight of the education system to exclude education about anti-discrimination, SRHR and LGBTI people. In April, after a complaint from Ordo Iuris, local government ruled that schools in Poznan were no longer allowed to teach about antidiscrimination. In 2021 [new amendments](#) to the Education Law were tabled, initiated by the Minister of Education and Science, Przemysław Czarnek, known for his anti-LGBT views. The law passed parliament in January 2022, and would place limitations on what can be taught in schools by teachers, principals or CSOs whose beliefs may not align with those of the government. Barbara Nowak, Education Superintendent of Malopolska, publicly [stated](#) that she refuses to let two LGBTI organisations (Ponton and Lambda) into schools.

The prosecution [refused](#) to investigate a case of homophobia in which a policeman pushed an old woman and his son spat on her, for holding a rainbow flag. The prosecution [dropped](#) the investigation into a homophobic attack which took place in Gdansk in March and saw two people hospitalised. In May a police handbook from Legionowo was found [pathologising](#) LGBTI people and lists them alongside drug addiction.

[Rules and practices guaranteeing the effective operation of civil society organisations and rights defenders 3000 character\(s\) maximum](#)

A number of legislative initiatives were tabled in 2021 that would severely restrict the freedoms of LGBTI people and civil society. In October 2021, 235 MPs voted in favour of the "STOP LGBT" bill in Parliament, including 17 government ministers and deputy-ministers, of whom the Minister of Justice, Government Plenipotentiary for Equal Treatment, Minister of Education and Minister of Family and Social Policy. The bill aims at banning pride marches and stopping "questioning of marriage as a union between a man and a woman". It was initiated by Kaja Godek and Krzysztof Kasprzak from the Life and Family Foundation, and was sent for further work in Committees after the parliamentary vote. During the Parliamentary session Krzysztof Kasprzak [compared](#) LGBT people to Nazis. The bill is an amendment to the Law on Assemblies and certain other laws. When it comes into force, it will become illegal to promote civil partnerships; same-sex marriages; adoption of children by same-sex couples; any sexual orientation that is not heterosexual; gender as an entity independent from biological determinants; sexual activity of children

and adolescents before the age of 18. Promotion is defined as "any form of disseminating, circulating, agitating, lobbying, asserting, expecting, demanding, recommending, or promoting." Earlier in October the bill had [received](#) a positive opinion from the Supreme Court, despite the fact that it would effectively ban all gatherings related to the LGBTI community – a gross violation of their right to freedom of assembly.

In January 2022 the Polish Parliament [passed an amendment](#) to the act on passport documents which blocks children of same-sex couples from obtaining a passport. It was then rejected in the Senate, but will return to the Parliament for another vote. The amendment would affect children who are Polish citizens with foreign birth certificates containing same-sex parents. Also in January the above-mentioned amendments to the Education Law passed in Parliament, which would further restrict some of the activities of LGBTI civil society. There are also lists of CSOs [being drawn up](#) that are being designated as "harmful to children".

In March 2021, the Minister of Justice and Prosecutor Ziobro, [announced](#) a draft law that would ban adoption by same-sex couples and [place](#) strict scrutiny over single applicants, to make sure they are not actually in a same-sex relationship.

In June 2021 the Education Minister, Przemysław Czarnek, [said](#) Poland should copy Hungary's anti-LGBT propaganda legislation.

Throughout 2021, the Ministry of Justice has been [working on](#) an NGO regulation, which would include provisions to place further reporting requirements on NGOs receiving funding from abroad, including from international institutions, and to label themselves as "foreign-supported NGO".

Romania

I. Justice System

A. Independence

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*

There are a small number of judges who have publicly expressed their negative opinion on the LGBTIQ+ community in Romania. In these particular cases, there is a possibility that the judge's independence may be influenced by their opinions when an LGBTIQ+ person brings a case to the court (e.g. a case of discrimination or a request for legal transition of transgender people). An example is the public statements made by former president of the Timis Tribunal, Adriana Stoicescu. In the context in which the mayor of Timisoara allocated a certain amount of money for a Pride festival in the city, she [stated](#): "A

handful of beards, whose beards do not grow and who do not decide whether or not to wear a bra, has seized the planet. In the name of a misunderstood freedom, we are called to stand firm in the face of specimens that, if they had lived in prehistory, would have been the breakfast of a more prized animal.”

IV. Other institutional issues related to checks and balances

A. The process for preparing and enacting laws

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

During the Covid-19 state of emergency, when there was a ban on entry into Romania, there were exemptions for family reunification purposes. However, since Romania does not have any legal recognition of same-sex couples (neither marriage nor registered partnership), refuses to recognise same-sex marriages or partnerships conducted abroad (despite CJEU judgement C-673/16 which recognises that same-sex spouses are also spouses under EU freedom of movement laws), and in general has no legal protection for rainbow families, many LGBTI people who are members of Romanian families remained stranded outside the country.

In 2021 Romanian authorities attempted to use the pretext of Covid-19 to ban Pride marches in the cities of Bucharest, Cluj-Napoca and Iași. After significant efforts from local LGBTI organisations, the marches were allowed to take place, but with participant restrictions, which were not applied to other public assemblies taking place on the same day. Organisations have had to assume financial penalties for these participant limitations being breached. For example, in Bucharest ACCEPT encountered numerous obstacles from the municipality to organise the Pride, and were eventually [fined](#) roughly EUR 1,500 for too many participants. In the meantime a far-right organisation had no difficulty registering their [protest](#), and received no fines even though the participants did not respect social distance, did not wear protective masks according to national legislation, and carried signs inciting to hatred and discrimination against LGBTI people. In Cluj-Napoca the municipality tried to block the Pride march, whilst allowing a [pilgrimage](#) of over 10,000 people. The pilgrimage received no fine for too many participants, whereas the pride organisers [received](#) a 2,000 lei fine for having 1,000 people. Iasi Pride, which sought to [gather](#) maximum 100 people on bikes, faced significant issues with Iași City Hall, including two [rejections](#) related to Covid-19 measures and according to a statement from the City Hall “due to the profile of the population and numerous alerts from some citizens who oppose these manifestations”. Meanwhile, the Youth March of the Romanian Orthodox Youth Association was [approved](#), as well as Color Run Romania, both of which gathered hundreds of participants. On the day of the march itself (took place thanks to efforts of LGBTI civil society), public roadworks appeared on the Pride route. ACCEPT and RISE OUT have filed a criminal

complaint against the Mayor of Iasi for abuse of office motivated by discrimination against the LGBTI community, according to Art.297 par. (2) of the Criminal Code. ACCEPT initiated two lawsuits in the case of Bucharest Pride, one regarding the unconstitutionality of Law no.55/2020 and annulment of Government Decision no.826/05.08.2021 before the Bucharest Court of Appel and the other one for the effective contestation of the fine at the District 3 Court.

C. Accessibility and judicial review of administrative decisions

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*

The biggest problem identified by ACCEPT concerns the non-enforcement of decisions of the Court of Justice of the European Union or the European Court of Human Rights concerning the rights of LGBTIQ+ people. For example, Coman Case (C-673/16) ruled by the Court of Justice of the European Union (CJUE) by which was recognized that the term “spouse” includes same-sex spouses under EU freedom of movement laws did not change the practice of the Romanian General Inspectorate of Immigration. The same-sex families who are in identical situations to the applicants in the Coman case are not recognized by the Romanian state as “spouses”, but “other family members.” In 2020, the European Commission launched the pre-infringement procedure against Romania for the fact that the national authorities still do not recognize the right of residence of the spouse of an EU citizen in a same-sex marriage. This problem is so systemic that ACCEPT has had to take the Coman case to the European Court of Human Rights (Coman and others v. Romania – 2663/21), but also another identical case (A.B. and K.V. v. Romania - 17816/21). In addition, Romania is currently in enhanced supervision before the Council of Ministers of the Council of Europe with three other cases: M.C. and A.C. v. Romania (12060/12), ACCEPT Association and Others v. Romania (19237/16) – these are cases on the lack of effective investigation of hate crimes against LGBTIQ+ people and the bias of national authorities in investigating them – and X and Y v. Romania (2145/16 and 20607/16) which found violation of Article 8 ECHR due to national authorities refusing to recognize the identity of transgender people in the absence of sexual conversion surgery, and for the lack of a clear and predictable procedure for legal recognition.

Implementation of these judgements have been excessively delayed. M.C and A.C case should have been implemented starting in 2016. However, the national hate crime legislation lacks clarity and predictability, which makes it difficult for law enforcement bodies to investigate crimes. The authorities do not have a strategy for collecting data on hate crimes or any common methodology for investigation. Victims of hate crimes are not considered when measures are taken by national authorities and there is no real improvement for educating professionals in the field of hate crime. Also, in the execution of X and Y case, there is a de facto refusal of the national authorities to execute this decision. Although the ECtHR criticised the legal framework for legal gender recognition, national authorities have not proposed any improvements to the Council of Ministers. They limit themselves to translating the decision into Romanian and relaying it to the judges.

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*

Bias-motivated speech by politicians and other decision makers against LGBTI+ people has continued to be a serious issue in 2021, which affects public perception of LGBTI people and activists and leads to an unsafe environment for LGBTI human rights defenders and civil society organisations. For example, in September 2021, on the occasion of the rejection by the Chamber of Deputies of a bill that would regulate same-sex civil partnership, the deputy of the National Liberated Party, Daniel Gheorghe [declared](#): “Civil partnership was built as a way to fool society for same-sex marriages. It is an initiative that undermines marriage and the family. But what are the basics? I'll tell you some interesting things. I can tell you about the decline of the Roman Empire. And the decline did not occur because of the Germanic invasions but because of the moral decline. And this moral decline was stopped by Christianity through the Christian family, through Christian moral values.” In June 2021, when the [Matic Report](#) on SRHR was adopted in the European Parliament, by a number of Romanian MPs and MEPs made homophobic and transphobic statements.

From 2017-2021 ACCEPT and other LGBTIQ+ activists submitted a number of criminal complaints that have not been resolved yet. For example, in December 2020, ACCEPT filed two criminal complaints: one about the vandalization of the rainbow mural at ACCEPT’s headquarters, and another about an e-mail sent to the official address of the organization containing death threats. Neither of these two criminal complaints has moved the authorities in any way to investigate who is the perpetrator of these crimes.

Rules and practices guaranteeing the effective operation of civil society organisations and rights defenders *3000 character(s) maximum*

LGBTI civil society is becoming increasingly concerned about specific legal attacks aimed at reducing the rights of LGBTI people and criminalising aspects of the work of LGBTI civil society organisations. In July 2021, representatives of the Popular Hungarian Party of Transylvania and representatives of the Hungarian Civic Party stated that they intend to propose in the Romanian Parliament a bill similar to the anti-LGBT law adopted by Viktor Orbán in Hungary in June. Immediately, the Alliance for the Union of Romanians [announced](#) that they want to introduce a bill against "homosexual propaganda". On December 23, 2021, seven deputies of the Hungarian Democratic Union of Romania initiated a draft law amending the Law no. 272/2004 on the protection and promotion of children’s rights. The bill states that “the sex of the child is determined by the doctor who assisted or ascertained the birth” and “the sex of the child can’t be other than the female or the male”, also it prohibits the dissemination “by any means of content on deviation from established sex at birth or the popularization of sex change or homosexuality”. Civil society is concerned that this draft law will be adopted by Parliament, given that in 2020 the parliament

adopted a law prohibiting any information regarding "gender identity theory" in all educational institutions and spaces (which was later declared unconstitutional by the Constitutional Court). In addition, UDMR is part of a governing coalition, which has an overwhelming majority in the Romanian Parliament, along with the Social Democratic Party and the National Liberal Party.

Slovenia

IV. Other institutional issues related to checks and balances

A. The process for preparing and enacting laws

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

The government continued to put pressure on journalists and civil society this year. Civil society continued holding mass demonstrations although the government tried to obstruct them with legal measures using Covid-19 as a pretext.

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*

Politicians and far-right organisations have been engaging in discriminatory speech against LGBTI people, smearing them as an "ideology" and relating them to paedophilia, in order to change public perception of the LGBTI rights cause. For example, in February 2021, City Councillor Ana Zagožen (SDS) sent a public letter to the Minister of Education calling for the withdrawal of "LGBT ideology" from the curriculum. Branko Grims (SDS), stated in the Parliament in March 2021 that "it is necessary to push all LGBTI and other cultural-Marxist indoctrination out of the school system". One of their main lines of messaging is that LGBTI movements want to erase gender and therefore it is their duty to protect Slovenia from "LGBT+P" threats (P for paedophiles). Additionally, [smear campaigns](#) were supported by SDS owned and/or influenced media outlets, especially in August, when they were "warning against LGBTI ideology" in schools. In August Director of Institute Iskreni* Igor Vovk [stated](#) in an interview on national TV that they are against LGBTI ideology and that one of the goals of the so-called ideology is to appropriate children. Governing party SDS has also conducted smear campaigns against CSOs and the media in general, for

example the February 2021 [questionnaire](#) sent to all Slovenian households with stigmatising and scapegoating language about CSOs and the media. The government remains hostile to human rights CSOs, and also tried to exclude smaller organisations from the Norwegian grants, by making it more difficult for them to apply. For instance, some funding calls required that the applicant had at least 50 members and provided documentation proving this. Civil society successfully lobbied for the removal of this requirement, which was not part of the original agreement between Norway and Slovenia, and was also a major violation of GDPR regulations. Institute Iskreni* was also awarded the highest amount of EU funds (130.200,00 EUR) in a public call issued by the Ministry of Labour, Family, Social Affairs and Equal Opportunities. Certain facts indicate that the selection criteria were influenced and subsequently changed by the then and current minister Janez Cigler Kralj (NSi). Last year we reported on funding issues regarding Covid relief funds that they were a part of.

NGO Association for the Promotion of Traditional Values, whose President tweeted that “Hitler was a hero” and has strong links with the identitarian movement and the Slovenian movement of “Yellow jackets” whose members [support](#) Neo-Nazism, was given the status of an NGO working in the public interest by the Ministry of Culture. They had also been intimidating human rights CSOs at Metelkova street last year. The Legal Network for Protection of Democracy has applied to the court for the status to be revoked.

Slovakia

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*

Dunja Mijatović, the Council of Europe’s Commissioner for Human Rights [issued](#) a Human Rights Comment in August on the worrying trend of anti-LGBTI backlash across Europe, including in Slovakia. The National Council became a space for gross anti-LGBTI hate speech this year. MPs [called](#) LGBTI people "deviants" and their families "perverted environments" where children are victims of sexual abuse. The LGBTI Rights Committee, a governmental advisory body, [called for](#) a code of ethics for the parliament and waiving MPs’ immunity in the case of hate speech.

Rules and practices guaranteeing the effective operation of civil society organisations and rights defenders *3000 character(s) maximum*

During the October parliamentary session, five legislative proposals were tabled by MPs, who were previously members of the far-right party [LSNS](#) (People’s Party Our Slovakia) and now represent the far-right Republika party. These include proposals to amend the Constitution [saying](#) that gender at birth

cannot be changed and that a father is a man and a mother is a woman; to establish that the state can protect gender at birth and the promotion of “homosexuality, gender reassignment and deviation from gender identity acquired by birth” must be banned from schools, in advertising or broadcasting; to [ban](#) legal gender recognition; to ban the display of rainbow flags on state buildings. In lack of clear support from the centre right governing party OĽaNO, none have been passed yet. Nonetheless, the proposals resembling the Hungarian propaganda law received votes from dozens of MPs, including the leader of the social democrat Smer, Robert Fico. Several MPs from ruling parties Sme rodina and OĽaNO have publicly [declared](#) their support for the repressive laws. The further tabling of such laws is [expected](#) in the near future.

Spain

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*

In Spain anti-LGBT hate speech and hate crime has also been on the rise in 2021. Civil society is increasingly worried about the effect on not only the community but also civil society, as two offices were attacked this year. In March the Madrid headquarters of the LGBTI group COGAM were [vandalised](#) with transphobic slurs, and in July the office of the HIV Committee of A Coruña was [attacked](#) during the local Pride celebrations.