

Rule of Law

Sustainable Governance Indicators 2024



Indicator Effective Judicial Oversight

Question To what extent does an independent judiciary ensure that the government, administration and legislature operate in accordance with the constitution and law?

30 OECD and EU countries are sorted according to their performance on a scale from 10 (best) to 1 (lowest). This scale is tied to four qualitative evaluation levels.

- 10-9 = The judiciary effectively ensures that the government and legislature act in accordance with the law.
- 8-6 = The judiciary usually manages to ensure that the government and legislature act in accordance with the law.
- 5-3 = The judiciary fails to ensure effective legal compliance in some crucial cases.
- 2-1 = The judiciary fails to ensure effective legal control.

Canada

Score 10 Judicial independence is a cornerstone of the Canadian legal system. Judges are expected to decide cases impartially, without interference from the government or other external pressures. This independence strengthens the judiciary's ability to hold the government accountable.

Canada has an independent and impartial judiciary, with many steps taken to ensure it remains that way, including appointment and disciplinary procedures that are at arm's length from the government. The judiciary plays a crucial role in holding the government accountable by ensuring that government actions and decisions comply with the law, particularly since 1982 with the Charter of Rights and Freedoms (Russell 1982 and 1983).

The primary mechanism through which the judiciary holds the government accountable is judicial review. Courts have the authority to review the constitutionality and legality of laws, regulations, and government actions. The Charter of Rights and Freedoms guarantees fundamental rights and freedoms to all Canadians. The judiciary – particularly the Supreme Court of Canada – is responsible for interpreting and enforcing the Charter. Individuals and groups can challenge government actions they believe violate Charter rights, and the courts can strike down laws or government decisions that are inconsistent with these rights.

Canada's nine Supreme Court justices are appointed based on the advice of a non-partisan advisory board. Although the provinces are consulted about these appointments, the final decisions remain essentially unilateral.

The judiciary reviews administrative decisions made by government agencies, boards, and tribunals. Courts scrutinize these decisions to ensure they are within the scope of the law and that the decision-making process is fair and reasonable.

The judiciary ensures that the actions of the executive and legislative branches of government do not exceed their constitutional authority. Courts can intervene if they find the government is overstepping its legal boundaries or infringing on the rights of individuals.

Citation:

Russell, Peter. 1982. "The Effect of a Charter of Rights on the Policy-Making Role of the Canadian Courts." *Canadian Public Administration* 25 (1): 1–33.

Russell, Peter. 1983. "The Political Purposes of the Canadian Charter of Rights and Freedoms." *Canadian Bar Review* 61: 30–54.

Denmark

Score 10

The Danish constitution (articles 3, 62 and 64) states that “judicial authority shall be vested in the courts of justice ... the administration of justice shall always remain independent of executive authority ... [and] judges shall be governed solely by the law. Judges shall not be dismissed except by judgment, nor shall they be transferred against their will, except in such cases where a rearrangement of the courts of justice is made.”

Formally, the monarch appoints judges, following a recommendation from the minister of justice on the advice of the Judicial Appointments Council (since 1999), with the goal being to broaden the recruitment of judges, enhance transparency and safeguard organizational independence (Courts of Denmark (2020)). In the case of the Supreme Court, a nominated judge first has to take part in four trial votes in which all Supreme Court judges take part, before he or she can be confirmed as a judge.

The judicial system is organized around a three-tier court system: 24 district courts, two high courts and the Supreme Court. Lower-level judgments can be appealed to high courts and eventually to the Supreme Court. Administrative decisions can normally be appealed to higher administrative bodies first, and after exhaustion of these possibilities, to the courts (Danish Court Administration, 2021).

Denmark does not have a dedicated constitutional court. The Supreme Court functions as a civil and criminal appellate court for cases from subordinate courts.

There is judicial review in Denmark. The courts can review executive action. According to the constitution, “The courts of justice shall be empowered to decide on any question relating to the scope of the executive’s authority.” The judiciary is independent even though the government appoints judges

Governments have always complied with Supreme Court rulings. Even though the Supreme Court has the right to initiate cases on its own initiative against the state, it exercises this power very rarely.

Citation:

Danish Court Administration. 2021. "A Closer Look at the Courts of Denmark." <https://domstol.dk/media/mmxnidch/a-closer-look-at-the-courts-of-denmark.pdf>

Courts of Denmark. 2020. "Historic outline." <https://domstol.dk/om-os/english/historic-outline/>

Estonia

Score 10

The independence of the judiciary is established by the constitution and specified in the Courts Act and other acts governing court procedures. Amending these acts requires a majority of the members of the Riigikogu. The Estonian court system consists of county courts and administrative courts at the first level, circuit courts at the second level, and the Supreme Court at the top level. The Supreme Court simultaneously serves as the highest court of general jurisdiction, the supreme administrative court and the Constitutional Court.

Most judges in Estonia are graduates of the law school at Tartu University; however, there are also BA and MA law programs at two public universities in Tallinn. In total, the national government recognizes 11 study programs in law. Access to legal education does not have specific criteria and is based on competitive admission scores. There is no fee for students in Estonian-language law programs.

Judges are appointed by the national parliament or by the president for life, and cannot hold any other elected or nominated position. The status of judges and guarantees of judicial independence are established by law. Justices of the Supreme Court are appointed by the national parliament on the proposal of the chief justice of the Supreme Court. The chief justice of the Supreme Court is appointed by the national parliament on the proposal of the president. In all cases, simple majority voting is applied.

The judiciary's jurisprudence reflects a commitment to independent judicial review. Estonian judges evaluate their own independence at 8.7 on a 10-point scale, slightly above the EU average (ENCJ, 2022). The Estonian Association of Judges has established a code of ethics, and 90% of judges rate themselves as adhering to high ethical standards (ENCJ, 2022: 41).

Together with the chancellor of justice, courts effectively supervise authorities' compliance with the law and the legality of the executive and legislative powers' official acts. About 70% of judges agree that in the last three years (2020 – 2022) judgments against the government's interests have usually been executed (ENCJ, 2022: 23).

ENCJ. 2022. "Survey on the Independence of Judges." European Network of Councils for the Judiciary. <https://www.ekou.ee/mat/EST-2022-ENCJ-survey-independence.pdf>

Finland

Score 10

The independent judiciary in Finland ensures that the government, administration and legislature operate in accordance with the constitution and law. The national courts can effectively review actions and norms implemented by the executive and legislative branches. The courts can pursue their own reasoning free from the influence of incumbent governments, powerful groups or individuals, and corruption.

Legal education is inclusive and accessible to all segments of society. However, children whose parents have university degrees are more likely to study law, as well as other academic disciplines. The judiciary's jurisprudence reflects a commitment to independent judicial review. Ethics rules and standards are followed.

It is easy to bring a case to challenge government action as long as no legal advice is needed (legal advice is very costly). The court's rulings are independent, even in cases that are significant to the government. The government always complies with important decisions of the court, even if it disagrees with them. There are no examples of noncompliance.

Petteri Orpo's government is committed to strengthening the rule of law in Finland. According to the government program (Orpo 2023), enhancing adherence to legal principles involves bolstering the autonomy of the judiciary through the augmentation of permanent judge positions. The government aims to transform court training into a pivotal stage in the legal profession that benefits the overall judicial administration and encourages recruitment in the administrative sector. This includes increasing the number of trainee judges and expanding training programs for junior judges.

Additionally, the government is committed to guaranteeing the provision of services in Swedish in bilingual areas to ensure access for the Swedish-speaking population.

Citation:

Orpo, Petteri. 2023. Government Program: A Strong and Committed Finland.

Publications of the Finnish Government. 2023. "Publications of the Finnish Government 2023:60."

<https://valtioneuvosto.fi/en/governments/government-programme#/>

Germany

Score 10

The separation of powers in Germany, which ensures an independent judiciary, is regulated by the Basic Law (Article 20, Paragraph 2; Article 92ff.). Judicial power is vested in judges and courts, including the Federal Constitutional Court (Bundesverfassungsgericht, BVerfG) and other specialized federal courts. A similar structure exists at the subnational state level. Notably, judges are independent and exclusively bound by the law, meaning they possess the legal autonomy to interpret and review existing laws and decide on issues without outside interference.

However, the BVerfG does not initiate legal proceedings; it only becomes active once a complaint is submitted.

Next to the framework conditions set by the law, additional measures ensure the exercise of independent judicial review. For instance, judges must swear an oath (Richtereid) to fulfill their positions true to the law and with the purpose of only truth and justice (Article 38 Deutsches Richtergesetz, DRiG). Additionally, the German Association of Judges has outlined multiple theses for judicial ethics in Germany, including independence, impartiality, and integrity (Deutscher Richterbund, 2018).

Still, the capacity to exercise independent judicial review is restricted by the required legal education, which is offered only by universities (Article 5f. DRiG). In principle, access to a sufficient legal education is open to everyone, provided they hold a higher education entrance qualification (Abitur) with minimum grades. However, in Germany, school performance and the likelihood of achieving a university degree are significantly influenced by socioeconomic background. In this respect, an indirect selection bias might exist.

The members of the Federal Constitutional Court are elected by the Bundestag and the Bundesrat, with each body electing half of the members. Elections are conducted based on a two-thirds majority (Bundesverfassungsgericht, 2023a). While the standard majority for votes in the Bundestag or Bundesrat is a simple majority, the vote for appointing judges to the BVerfG requires a higher majority, which increases the likelihood of politically unbiased justices. Additionally, judges are appointed for a limited term of 12 years and are not eligible for reelection.

Generally, citizens in Germany have secure and effective access to justice (V-Dem, 2023) and can challenge government action through a constitutional complaint to the Federal Constitutional Court if they claim the action violated their fundamental rights or rights equivalent to fundamental rights. While any person may lodge a constitutional complaint, there are preconditions. All legal remedies must be exhausted before a complaint can be lodged. Additionally, the complaint must meet the deadline of one month after a court or administrative decision and adhere to certain requirements in its content and form (Bundesverfassungsgericht, 2023b).

The judicial independence established by law holds for the majority of rulings by the Federal Constitutional Court. For instance, the Freedom House Index considers Germany's judiciary to be independent. Further, the index indicates that the court seldom makes decisions that disregard its actual views and merely reflect the government's decisions. Nevertheless, some criticism focuses on the regular meetings between the Federal Constitutional Court and the federal government, with allegations that these meetings affect the judges' impartiality. The BVerfG dismissed these complaints as unfounded (FAZ, 2023).

Finally, the government and parliament accept rulings by the FCC and act accordingly.

Citation:

Bundesverfassungsgericht. 2023a. “Die Richterinnen und Richter des Bundesverfassungsgerichts.” https://www.bundesverfassungsgericht.de/DE/Richter/richter_node.html

Bundesverfassungsgericht. 2023b. “How to Lodge a Constitutional Complaint.” https://www.bundesverfassungsgericht.de/EN/Homepage/_zielgruppeneinstieg/Merkblatt/Merkblatt_node.html

Deutscher Richterbund. 2018. “Judicial Ethics in Germany.” https://www.drb.de/fileadmin/DRB/pdf/Ethik/1901_DRB-Broschuere_Richterethik_EN_Judicial_Ethics.pdf

FAZ. 2023. “Karlsruhe bespricht Krisenpolitik mit Bundesregierung.” <https://www.faz.net/aktuell/politik/inland/bundesverfassungsgericht-redet-mit-bundesregierung-19295577.html>

Freedom House. 2023. “Germany.” <https://freedomhouse.org/country/germany/freedom-world/2023#PR>

Varieties of Democracy. 2023. https://v-dem.net/data_analysis/VariableGraph/

Sweden

Score 10

The Council on Legislation (Lagrådet) has the mandate to advise and provide an overall assessment of the quality of all legislation that could relate to constitutional issues.

The council has a purely advisory (non-binding) role. Judicial review is mainly carried out by the government and public agencies, with Swedish courts traditionally serving as tools of political executive power rather than as a means of balancing power (Ahlbäck Öberg and Wockelberg 2016). In the consensus-oriented corporatist Swedish system, agreements are typically reached by political parties and other actors, rendering judicial intervention less important than in the United States, where the courts are commonly used as adjudicators. Supreme Court justices are appointed by the cabinet by simple majority. These appointments shall be meritocratic and not guided by political allegiances. The findings of a landmark commission of inquiry titled Enhanced Protection for Democracy and the Independence of the Courts (Förstärkt skydd för demokratin och domstolarnas oberoende) were released in 2023. This report concerns a series of proposed legislative changes, including constitutional amendments, aimed at further protecting the independence of courts and justices.

The commission posits that the current system effectively ensures the independence of courts and judges but proposes proactive changes to safeguard this independence in the long term. One key recommendation is a constitutional amendment explicitly stating that “justice is administered by independent courts” (SOU 2023, 47).

Additionally, the commission calls for the establishment of a new, autonomous central court administration agency named Domstolsstyrelsen, or the Board of Courts. The leadership of this agency would be selected by a board, with a majority of its members being permanent judges, thus ensuring independence from the government.

The commission further suggests amendments related to the appointment and removal of justices. These amendments would limit governmental influence in the

appointment procedure and include formal rules to ensure diversity and broad representation on the Judges Proposal Board, which handles the nomination process.

Further recommendations include changes in the oversight and accountability of courts, the number of justices, and, if necessary, the special composition of the Supreme Court. These proposals are consolidated in a joint act, the Law about Courts and Justices (lag om domstolar och domare).

In summary, this commission of inquiry recommends sweeping and fundamental changes in a proactive attempt to strengthen institutions against potential future misuse. As of January 2024, these changes are in the process of being legislated.

Citation:

Ahlbäck Öberg, Shirin and Helena Wockelberg. 2016. "The Public Sector and the Courts." In Jon Pierre, ed., *The Oxford Handbook of Swedish Politics*. Oxford: Oxford University Press, 130-146.

SOU (Statens Offentliga Utredningar). 2023. Förstärkt skydd för demokratin och domstolarnas oberoende. SOU 2023:12 <https://www.regeringen.se/rattsliga-dokument/statens-offentliga-utredningar/2023/03/sou-202312/>

Australia

Score 9

Australia has a well-established and highly effective judicial system, with the High Court of Australia (HCA) at its apex. Appointment processes are quite independent, with political considerations playing no more than a marginal role in determining who is appointed as judges. The norms of the Westminster system leave most "political" matters to the executive to define and determine, giving the executive significant discretion on controversial questions. That said, on matters that touch on the law, judicial independence from politics is widely accepted in both the legal and political communities, as evidenced by the reluctance of judges to make statements that would reveal any ideological or partisan preferences, and the deference that politicians show to the courts on legal questions.

Such deference is shown even when the courts reach judgments that are clearly opposed to government policies. A recent example is provided by the HCA's decision on 8 November 2023 to rule indefinite immigration detention unlawful, causing the collapse of a policy that both major parties had supported while in power. Although the government did act in accordance with the court's judgment by immediately freeing all those held in detention, it immediately prepared new legislation that would allow the government to re-detain a released individual by submitting to a court evidence that the person has been convicted (either in Australia or overseas) of a crime that carries a sentence of seven years or more, and the court agrees that the individual poses "an unacceptable risk of committing a serious violent or sexual offense" and there is "no less restrictive measure available" to keep the community safe (Peterie and Nethery 2023).

HCA jurisprudence is sophisticated, and it is supported by rich legal debate among legal practitioners and academics. Among the challenges facing the judiciary that

have received attention in recent times are the struggles with achieving satisfactory levels of diversity among judicial officers, workload and well-being considerations, and difficulty with removing judges for consistently poor performance or misconduct.

Citation:

Peterie, M., and Nethery, A. 2023. "What is the government's preventative detention bill? Here's how the laws will work and what they mean for Australia's detention system." *The Conversation*. <https://theconversation.com/what-is-the-governments-preventative-detention-bill-heres-how-the-laws-will-work-and-what-they-mean-for-australias-detention-system-219226>

Appleby, G., Le Mire, S., Lynch, A., Opeskin, B. 2019. "Contemporary Challenges Facing the Australian Judiciary." *Melbourne University Law Review* 42 (2): 299-369. https://law.unimelb.edu.au/__data/assets/pdf_file/0004/3066880/NEW-Appleby-422-Advance-1.pdf

Austria

Score 9

The role of the various courts in Austria is notably strong, characterized by qualified personnel, autonomy, and public trust and support. The EU-Justice-Barometer 2022 ranked Austria in the top group of countries for the fifth consecutive year; 83% of Austrians had a "very good" or "fairly good" impression of the independence of the Austrian courts.

The entire sphere of politics in Austria operates under the principle of independent judicial review. The three high courts – Constitutional Court, Administrative Court, and Supreme Court – effectively oversee the legality of all government actions as stipulated by the constitution.

The established written and unwritten rules for selecting justices have so far proven sufficient to guarantee a high degree of judicial independence in constitutional practice. The 12 judges of the Austria Constitutional Court are appointed by the federal president, who acts on the suggestions of the federal government (nominating six judges), the Nationalrat, and the Bundesrat (each nominating three judges). The president and vice president of the Court are nominated by the federal government. The federal president is bound by suggestions from the executive and legislative chambers but does not have to accept individual nominations. The appointment procedures for judges to other courts have occasionally been criticized for the weak position of parliament and the widespread absence of any legal protection for applicants who have been passed over. However, the overall quality of the selection and appointment regime has been judged as good (see Vasek 2022).

Government actions can be effectively challenged by invoking the courts. Legislative minorities, and in some cases individual citizens, have the right to take matters to the Constitutional Court. Governments have been aware of this and acted accordingly. Court rulings have been independent, and governments have complied with court decisions even when they disagreed with them.

Citation:

Vasek, Markus. 2022. Richterbestellung in Österreich. Zugleich ein Beitrag zur demokratischen Legitimation der Gerichtsbarkeit. Wien: Verlag Österreich.

[https://www.bmj.gv.at/ministerium/presse/Pressemitteilungen-2022/EU-Justizbarometer-2022_%C3%96sterreich-f%C3%BCnftes-Jahr-in-Folge-im-Spitzenfeld.html#:~:text=%E2%80%9C&text=Laut%20dem%20aktuellen%20Justizbarometer%20haben,oder%20Deutschland%20\(76%20Prozent\)](https://www.bmj.gv.at/ministerium/presse/Pressemitteilungen-2022/EU-Justizbarometer-2022_%C3%96sterreich-f%C3%BCnftes-Jahr-in-Folge-im-Spitzenfeld.html#:~:text=%E2%80%9C&text=Laut%20dem%20aktuellen%20Justizbarometer%20haben,oder%20Deutschland%20(76%20Prozent))

Belgium

Score 9

In Belgium, the independence of the judiciary is central to the constitution and the rule of law. The Belgian constitution includes provisions (Art. 159 and 160) for the judicial oversight of unilateral administrative measures. The Conseil d'État (Council of State) is responsible for judicial review, and the Cour de Cassation is the Supreme Court of the Belgian judicial system, hearing appeals in the last resort against judgments and other decisions of lower courts.

While the courts generally operate unhindered, ensuring the capacity to challenge government action, two adverse developments must be noted. One is the chronic underfunding of the judiciary, which limits its capacity for investigation. The second was temporary: during the COVID-19 crisis, the government had to take rapid actions and declared a state of emergency, imposing restrictions on fundamental liberties such as meeting in public or private spaces and operating businesses. During this period, the courts often sided with the government out of urgency, but some officials complained that their independence was under threat. This tension evaporated after the emergency period, and independence was restored. The only serious constraint to effective oversight remains the chronic underfunding of the justice system.

Citation:

Renders, David, Luca Ceci, and Sarah Koval. 2021. "Administrative Procedure and Judicial Review in Belgium." In *Judicial Review of Administration in Europe*, eds. David Renders, Luca Ceci, and Sarah Koval. Oxford: Oxford Academic. <https://doi.org/10.1093/oso/9780198867609.003.0004>.

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<https://www.lecho.be/economie-politique/belgique/federal/que-vont-changer-ces-pouvoirsspeciaux/10214652>

<https://www.lecho.be/entreprises/horeca/un-conseil-d-etat-fort-avec-l-horeca-faible-avec-legouvernement/10272082.html>

Czechia

Score 9

Czechia has a clear separation of powers with robust checks and balances. The judiciary is independent, free from unconstitutional interference by other institutions, and mostly free from corruption. When corruption in the judiciary is identified, it is

rigorously prosecuted. The Constitutional Court, the Supreme Court, and the Supreme Administrative Court are appointed by the Senate – the second chamber of the parliament – following proposals from the president. The judicial appointment process is transparent and adequately covered by public media. Moreover, the involvement of the president and the Senate increases the likelihood that the political views of judges are diverse.

In November 2022, then-President Zeman announced his intent to appoint the new president of the Constitutional Court before the end of his term in March 2023. However, the term of the sitting president of the Constitutional Court was not due to end until August 2023. Legal experts, the government, and the majority of the Constitutional Court opposed this step, as did the later president-elect, Petr Pavel, during electoral debates. The possibility of the Constitutional Court's paralysis and the standoff between the Senate and the president increased the stakes of the 2023 presidential election. The new president, Petr Pavel, pledged to stay within the constitution's remit and will have to appoint 11 Constitutional Court judges during the first 18 months of the court. During his campaign, Petr Pavel named widely respected judges and constitutional law experts as his picks, and his choices were approved by the Senate.

Decisions made by the Constitutional Court have primarily pertained to judgments by other courts, although 50 cases in 2022 concerned laws. Issues often take a long time to reach the Constitutional Court; it was still handling the case involving Petr Nečas, prime minister in 2012, whose partner and later wife used the intelligence service to follow his former wife. The court concluded that the intelligence service can only operate as stipulated by law, not on orders from a state official.

The court also addressed constitutional issues related to emergency measures during the COVID-19 pandemic, determining that the laws adopted were largely acceptable given the need to protect public health, especially as public control and scrutiny were always possible. In some cases, directives by local administrations during the COVID-19 era were found to conflict with the Charter of Human Rights, which is incorporated into the Czech constitution.

Citation:

<https://www.usoud.cz/vyrocní-zpravy/vyrocní-zprava-za-rok-2022>

Latvia

Score 9

Latvia's judicial system is autonomous and structured into three levels. According to the constitution, legal authority is allocated among district and city courts, regional courts, the Supreme Court, and the Constitutional Court. In 2020, 31% of the population had complete or partial confidence in the judicial system. Meanwhile, 53% of entrepreneurs rated the independence of courts and judges as very high or somewhat high.

The judiciary's ability to function independently hinges on factors such as the legal education system, which should be inclusive and accessible to all segments of society. Additionally, the jurisprudence of the judiciary reflects its commitment to independent judicial review, upheld by ethics rules and standards. The Latvian judiciary demonstrates a capacity for independent judicial review. This is evidenced by the consistent application of legal principles and the court's ability to make decisions free from external influences.

There is an ethical code for judges and the appointment process of justices. The appointment process of justices in Latvia, particularly for the Supreme or Constitutional Court, is designed to ensure independence. A study on the freedom of the judiciary conducted in 2021 surveyed 61% of judges and reflected a relatively high self-assessment of the judiciary's independence. Both the breakdown of responses and the assessment of autonomy at the judicial system level, a particular court, and the individual judge show that Latvian judges rate their personal independence higher than the collective one. The higher the court level, the higher the self-assessment of independence on all issues.

The Judicial Council has approved the following guidelines: the Judicial Communication Guidelines (2023) and the Judicial Communication Strategy (2023). It has also approved guidelines for writing judgments in administrative and civil cases for courts of first instance and appeal. These guidelines aim to improve the quality of judgments and ensure a uniform approach to judgment writing in all courts.

In Latvia, challenging government action through the judiciary is relatively accessible, reflecting the courts' operational independence. The judiciary's rulings in significant cases are generally perceived as independent, suggesting a robust judicial system. The frequency with which the government complies with important court decisions, even in cases of disagreement, is a crucial indicator of judicial effectiveness. While the government compliance rate is high in Latvia, instances of noncompliance do occur.

The Saeima declined to confirm Sanita Osipova, former president of the Constitutional Court, as a judge of the Supreme Court. The decision was influenced by debates over her liberal views and past rulings on same-sex couples' rights. This rejection – amidst concerns about judicial independence and political interference – marks the third recent instance of a Supreme Court candidate not being confirmed. Legal experts and officials, including the president of Latvia, have expressed concerns over this trend, indicating a potential shift in Latvia's democratic governance and values.

The Constitutional Court ruled that the norms establishing vaccination against COVID-19 as a precondition for participating in parliamentary work did not comply with the first part of Article 101 of the Constitution. The court emphasized that every

Member of the Saeima plays a vital role in Latvia as a parliamentary democracy. Even an opinion expressed by just one or a few members of the Saeima is relevant to its work. A Member of the Saeima can represent the people, including the expression of their will, only if they are allowed to exercise the rights crucial to their role.

Overall, Latvia's judiciary operates with a considerable degree of independence, ensuring that the government and legislature act according to the law, even if there are areas for improvement.

Citation:

The Constitution of the Republic of Latvia. 1992. <https://likumi.lv/ta/id/57980-latvijas-republikas-satversme>
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 Tieslietu ministrija. 2023. Tiesu administrācijas pārskats 2022. gads. <https://www.tm.gov.lv/lv/media/10187/download?attachment>
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 Kincis, J., Licīte, M., and Krenberga, O. 2022. "Bijušo Satversmes tiesas priekšsēdētāju Osipovu neapstiprina par Augstākās tiesas tiesnesi." <https://www.lsm.lv/raksts/zinas/latvija/bijuso-satversmes-tiesas-priekssedetaju-osipovu-neapstiprina-par-augstakas-tiesas-tiesnesi.a443985/>

Lithuania

Score 9

Lithuania's court system is divided into courts of general jurisdiction and courts of special jurisdiction. This differentiated system of independent courts allows for the monitoring of government and public administrative activities' legality. The Constitutional Court rules on the constitutionality of laws and other legal acts adopted by the parliament or issued by the president or government. The Supreme Court reviews judgments, decisions, rulings and orders from lower general-jurisdiction courts. Disputes arising in the sphere of public administration are handled within the system of administrative courts. These disputes can include the legality of measures and activities performed by administrative bodies, such as ministries, departments, inspections, services and commissions. The administrative court system consists of five regional administrative courts and the Supreme Administrative Court.

The rule of law and the independence of the courts are established by the constitution and other legal norms, such as the Law on Courts. Generally, the national judiciary

possesses the legal autonomy to independently interpret and review existing laws, legislation and policies. The independence of the courts is reinforced by the rules for appointing justices, which distribute these powers between the president and the Seimas, requiring their cooperation. For example, the president of the Supreme Court is proposed by the president of Lithuania upon the advice of the Judicial Council and appointed by the Seimas. The Seimas also appoints members of the Constitutional Court, with candidates proposed by the president of Lithuania, the chair of the Seimas and the president of the Supreme Court.

Sometimes disagreements between the country's president and the ruling majority in the Seimas regarding the candidacies of justices can lead to significant delays in appointments. For example, the Supreme Court was headed by an acting president from September 2019 until March 2023, when the permanent president was appointed by the Seimas.

According to Vilmorus opinion surveys, levels of public trust in the courts are low. In December 2023, only 20% of survey respondents indicated that they trusted the courts, compared with 22% two years previously, while 35.9% expressed mistrust, compared with 31% two years before. As noted by Freedom House, judicial corruption remains a concern. Its 2023 report on Lithuania expressed “concerns regarding transparency in the selection of judges and low pay for some work in the court system.”

According to the European Commission Rule of Law Report 2023 on Lithuania, “new legislation was adopted, improving the transparency of judicial appointments. Stakeholders continue to raise the need for additional safeguards in this regard. The Constitutional Court clarified the principles regarding the dismissal of judges of higher courts, reaffirming the role of the Judicial Council. There are serious concerns regarding the level of remuneration for prosecutors and court staff, which were only partially addressed by the legislative reform. The reform of the legal aid system advanced, while the workload and remuneration of legal aid providers remains to be addressed.”

In the 2023 World Justice Project Rule of Law Index, Lithuania was ranked 18th out of 140 countries, and 17th in terms of constraints on government powers.

Citation:

European Commission. 2023. “2023 Rule of Law Report: Country Chapter on the Rule of Law in Lithuania.” Brussels, 5.7.2023. SWD (2023) 815 final. https://commission.europa.eu/publications/2023-rule-law-report-communication-and-country-chapters_en

World Justice Project. “Rule of Law Index: Country 2023 – Lithuania.” <https://worldjusticeproject.org/rule-of-law-index/country/2023/Lithuania>

Norway

Score 9

Norway's government and administration are predictable and operate in accordance with the law. The country has a sound and transparent legal system with minimal corruption within its judiciary. The state bureaucracy is considered both efficient and reliable, and Norwegian citizens generally trust their institutions.

Although the supreme court can, in principle, test the constitutional legality of government decisions, it has not done so for many years. The court system provides mechanisms for reviewing executive actions and follows principles of the Scandinavian civil law system (Norwegian Bar Association, 2023a). Unlike other civil law countries, Norway does not have a general codification of private or public law. Instead, comprehensive statutes codify central aspects such as criminal law and the administration of justice.

Norwegian courts do not place as much emphasis on judicial precedents as do courts in common law countries. Court procedures are relatively informal and simple, with significant lay influence in the judicial assessment of criminal cases.

At the top of the judicial hierarchy is the supreme court (Høyesterett), followed by the Court of Appeal (lagmannsrettene). The majority of criminal matters are settled summarily in the District Courts (tingrettene) (Norwegian Bar Association, 2023b). A Court of Impeachment is available to hear charges brought against government ministers, members of parliament, and supreme court judges, although it is very rarely used. The last time someone was charged and convicted was in 1884.

The courts are independent of any influence exerted by the executive. Professional standards and the quality of internal organization are high. The selection of judges is rarely disputed and is not seen as involving political issues. All judges are formally appointed by a government decision based on a recommendation issued by an autonomous body, the "Innstillingsrådet." This body is composed of three judges, one lawyer, a legal expert from the public sector, and two members not from the legal profession. The government almost always follows the recommendations. Supreme Court justices are not considered political, and their tenure security is guaranteed in the constitution. There is a firm tradition of autonomy in the supreme court. The appointment of judges attracts limited attention and rarely leads to public debate.

There are very few instances of corruption in Norway. The cases that have surfaced in recent years have been at the municipal level and are related to public procurement. As a rule, corrupt officeholders are prosecuted under established laws. There is a great social stigma against corruption, even in its minor manifestations.

Access to the court system is relatively easy, but the risk of potentially high legal fees may prevent many from bringing their issues to court.

Citation:

Norwegian Bar Association. 2023. "Features of the Norwegian Legal System." <https://www.advokatforeningen.no/en/features-of-the-norwegian-legal-system/features-of-the-norwegian-legal-system>

Norwegian Bar Association. 2023b. "Structure of the Courts." <https://www.advokatforeningen.no/en/features-of-the-norwegian-legal-system/structure-of-the-courts/>

Portugal

Score 9

The national judiciary can be regarded as an independent system, accountable solely to the law and bolstered by a heightened level of independence perceived by the general public (European Commission, 2023). Portugal's judiciary stands as a vital and sovereign entity actively ensuring that both the government and society adhere to the rule of law.

Within the realm of civil jurisdiction, the justice system encompasses the Judicial Courts. These include the Supreme Court – the apex body of the Portuguese judicial system – and the ordinary courts of first and second instance, which comprise courts of appeal, district courts, and specialized courts. The Supreme Court exercises jurisdiction in both civil and criminal matters and consists of 60 justices known as *Conselheiros*.

On the administrative jurisdiction front, the system includes the Supreme Administrative Court and the corresponding administrative and tax courts of first and second instance. Additionally, there is the Constitutional Court, which is primarily tasked with assessing the constitutionality or legality of legal norms, as well as the previously mentioned Court of Auditors.

All these legal institutions and judges operate independently and enjoy tenure. For example, when appointing judges to the Constitutional Court, 10 out of the total 13 are appointed by a qualified majority of two-thirds of the members of parliament, while the remaining three are co-opted by the elected judges. These factors potentially contribute to the selection of politically impartial judges (Tribunal Constitucional, n.d).

The judicial autonomy in Portugal has been prominently highlighted since Prime Minister António Costa began his third term in 2022. This period witnessed a surge in legal challenges against government actions, leading to significant resignations, including those of high-ranking officials such as the secretary of state and the minister of infrastructure, the secretary of state for agriculture, and the assistant secretary of state to the prime minister. The most notable political development was Costa's resignation in November 2023.

Costa's resignation was precipitated by allegations of his involvement in facilitating procedures related to the lithium and hydrogen industries (JN, 2023). The gravity of

the situation was underscored when the attorney general confirmed that Costa was under a corruption investigation. This investigation was the first to lead to the resignation of a sitting prime minister. Although the investigation has yet to produce substantial results, it underscores its capacity to maintain independence from political influence.

Citation:

European Commission. 2023. "2023 Rule of Law Report: Country Chapter on the Rule of Law Situation in Portugal." https://commission.europa.eu/system/files/2023-07/50_1_52628_coun_chap_portugal_en.pdf

Law on the Organization of the Judicial System (Lei da Organização do Sistema Judiciário). 2013. Law No. 62/2013, of August 26. https://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?nid=1974&tabela=leis

Tribunal Constitucional. n.d. "Estatuto dos juízes." <https://www.tribunalconstitucional.pt/tc/tribunal-estatutojuizes.html>

Jornal de Negócios. 2023. "Aberto inquérito no Supremo por alegado envolvimento de Costa nos processos do lítio e hidrogénio." <https://www.jornaldenegocios.pt/economia/politica/detalhe/aberto-inquerito-no-supremo-por-alegado-envolvimento-de-costa-nos-processos-do-litio-e-hidrogenio>

United Kingdom

Score 9

The UK has a manifestly independent judiciary that has, on occasion, halted government plans. One notable instance occurred in 2019 when the judiciary overturned an attempt by the Johnson government to prorogue Parliament. Although the government may complain about certain judgments, it always respects them. However, a Supreme Court ruling in November 2023 against a plan to send illegal immigrants to Rwanda has prompted an interesting response: a bill currently making its way through Parliament, perceived as an attempt to circumvent the decision. This bill has elicited substantial opposition from many quarters, including factions within the governing Conservative Party. The UK Supreme Court also plays a role in constitutional matters, including disputes between the UK and devolved parliaments.

The judicial appointments system, reflecting the UK's lack of a written constitution, has a degree of informality and has undergone substantial changes in recent years. The Constitutional Reform Act of 2005 divided the powers of the Lord Chancellor and established the Supreme Court of the United Kingdom, replacing the Appellate Committee of the House of Lords. The 12 judges of the Supreme Court are appointed by the crown based on the recommendation of the prime minister, who is advised by the Lord Chancellor in cooperation with a selection commission. It would be surprising if the prime minister ignored the advice of the Lord Chancellor and the selection commission, or if the king ignored the prime minister's recommendations.

While there is no empirical basis to assess the actual independence of judicial appointments, there is every reason to believe that the process ensures judicial independence. Indeed, a public outcry would be expected if judicial independence were seen to be seriously threatened.

France

Score 8

Judicial oversight and review efforts are rather powerful in France, even if the caseload is comparatively low. This function is exercised by a specialized court – the Conseil Constitutionnel (Constitutional Court). The caseload has increased significantly since the court’s beginnings in 1959, but remains modest compared to other European courts serving comparable functions. In the past 20 years, there has been an average of 173 decisions per year. However, this number is driven by post-electoral and electoral decisions, as the court is tasked with overseeing presidential and parliamentary elections. Outside election years, the caseload falls to less than 100 cases a year.

This comparatively low number is mostly due to the limited triggers for constitutional review. The only figures with the power to refer a case are the president, the prime minister, the presidents of the two chambers, and 60 senators or members of the National Assembly. Since 2008, the two supreme courts have also been able to raise constitutional questions raised by defendants before their courts. This procedure – a sort of preliminary constitutional ruling – now accounts for the vast majority of the caseload.

For traditional rulings, the Constitutional Court has to make a decision before a law comes into force. The underlying idea is that no unconstitutional bill should ever become law. While the caseload in this area remains small, the rulings that have invalidated all or parts of laws have been relatively important. This procedure has proven rather reliable, and the public image of the Constitutional Court is very positive despite the fact that the judges mostly have a background within politics.

One issue that may present a challenge for the court’s work is the strategic use of constitutional oversight by politicians. In some cases, invalidation can be anticipated, but the government may still prefer to pass the law for electoral or coalition-related reasons. This is a way of shifting the blame for non-adoption to the court, which may have the effect of undermining the court’s legitimacy. For example, this happened when the National Assembly voted on a highly controversial immigration bill in December 2023. The government accepted amendments from right and extreme-right groups despite regarding them as unconstitutional (and hoped these amendments would be rejected by the court). In January 2024, the court rejected substantial portions of the bill passed by the legislature in December 2023, declaring them to be incompatible with the constitution. The court’s president, Laurent Fabius (2024), publicly criticized this governmental tactic, declaring that “the court’s role was not to offer political services.”

Brouard, S. 2016. “Constitutional Politics.” In R. Elgie, E. Grossman, and A. Mazur, eds., *The Oxford Handbook of French Politics*, 220-242. Oxford: OUP.

Fabius, Laurent. 2024. “Interview.” https://www.francetvinfo.fr/societe/immigration/loi-immigration-le-conseil-constitutionnel-est-la-non-pas-pour-rendre-des-services-politiques-mais-pour-rendre-une-decision-juridique-justifie-son-president-laurent-fabius_6327135.html

Greece

Score 8

Greece's national courts can effectively review actions and norms implemented by the executive and legislative branches, with the independence of the judiciary guaranteed by the constitution (Article 26 on the separation and balance of powers and Articles 93–100 on the organization and jurisdiction of courts).

The judiciary in Greece operates with legal autonomy from the government and parliament. Although Greece does not have a Constitutional Court, it employs an independent, diffuse system of constitutional review, allowing even first-instance courts to declare government decisions (e.g., presidential decrees, ministerial circulars) unconstitutional, thus rendering them invalid. However, the Supreme Administrative Court (Symvoulío tis Epikrateias), modeled after the French Conseil d'État, has the final say on citizens' appeals against government decisions.

There is a cooperative procedure for appointing high-ranking judges to lead the supreme administrative court and the supreme civil and criminal court (the "Areios Pagos"). Both parliament and the cabinet participate in the selection process. Courts submit the names of candidates for the head positions of these supreme courts to the Minister of Justice, who then forwards the list of candidates to a designated parliamentary body. This body consists of the speaker, the vice presidents, and other heads of parliamentary committees (the so-called "Conference of Parliamentary Chairmen"). It serves in a consultative capacity, auditing candidates for the posts of heads of supreme courts and voting on them.

Eventually, based on the constitution (article 90 paragraph 5), the cabinet makes the decision on new heads of the supreme courts. This decision is effected by a presidential decree issued on the cabinet's proposal. The cabinet usually follows the suggestions of the other institutions involved in the process. The entire procedure is publicly transparent, and the media report on it. Thus, the independence of justices appointed to the top of the supreme courts is largely secured.

Challenging government actions in Greece is relatively accessible through the administrative courts of first instance. If a citizen is dissatisfied with the court's decision, they have the right to appeal to the administrative court of second instance, and ultimately, to the supreme administrative court, the Symvoulío tis Epikrateias. The cost of pursuing legal action is relatively low. For cases in the first-instance administrative courts, the court fee is approximately €100 (Lawspot 2024), while legal representation by a lawyer typically starts at around €200. If the case is brought before the supreme administrative court, the total cost can exceed €1,500.

Court rulings, even those significant to the government, are respected and complied with. The government is obligated to adhere to these decisions. The only method by which the government can avoid compliance with a court ruling is by passing new

legislation that amends the relevant regulations invalidated by the courts. However, such amendments would only apply to future cases and not retroactively. For instance, during the Greek economic crisis, the government complied with court decisions requiring the payment of higher pensions to individuals whose pensions had been reduced by austerity measures, which were lower than those stipulated by earlier legislation. Nonetheless, subsequent legislation passed by parliament set pensions at lower levels for future payments.

Citation:

Lawspot. 2024. "Detailed list of fees for the Athens first-instance administrative court." <https://www.lawspot.gr/nomikes-plirofories/voithitika-kemena/analytikos-pinakas-telon-ensimon-kai-paravolon-gia-dioikitiko>

Ireland

Score 8

The Liberties Rule of Law Irish Report (2022), published by the Civil Liberties Union for Europe (Liberties), highlights the continued use of the Special Criminal Court, a legislative legacy related to the Northern Ireland conflict, as a serious concern. This issue is currently under review as part of the Offences Against the State Act. The report also calls for a comprehensive review of the legal aid system and the provision of an enhanced civil legal aid system. Despite these concerns, V-Dem (2023) rates Ireland highly for rule of law indicators, and the World Justice Project (WJP) scores Ireland highly, with an 81 for due process of law and the rights of the accused, and a 90 for freedom from arbitrary interference.

The national judiciary, including specialized courts, has the legal autonomy to independently interpret and review existing laws, legislation and policies, and the capacity to exercise independent judicial review. Contemporary practices and proposals aim to limit housing and environmental planning decisions' exposure to judicial review (ICCL 2022). Legal education in Ireland is not yet inclusive and accessible to all segments of society, showing clear class bias in judicial pipelines, though recent progress has been made in gender balance. Judges are held to formal public accountability through ethics, rules and observable standards, with recent instances of judicial resignations highlighting this accountability. A post-crisis referendum was necessary to enable the government to decrease judicial remuneration in line with other public salary decreases. The process of appointing all justices has recently been transformed to ensure the independence of the judiciary.

There is horizontal accountability and effective relationships between the executive branch and other state institutions, which can hold the government accountable, particularly by demanding information and addressing inappropriate behavior. The late 2023 Judicial Appointments Bill addressed the high-level separation of powers and the horizontal relationship between the government and the judiciary. The Supreme Court tested the constitutionality of this bill following a presidential referral, consulting the Council of State under Article 26 of the 1937 constitution.

This process exemplified the horizontal powers of accountability and legitimacy, ensuring an independent judiciary that ensures the government, administration and legislature act in accordance with the constitution and laws while respecting and defending fundamental rights. Judicial review of government action is common but expensive, making it inaccessible to many due to costs. The court's rulings have been significant, causing the government to delay, reverse, and amend decisions. The government generally complies with important court decisions, even if it disagrees with them. However, there are specific examples of non-compliance, particularly in environmental and social policies. Courts reviewed the achievement of climate targets in 2019, finding delays in response to a case taken by Friends of the Irish Environment (Murphy 2023). No known cases have been taken between 2022 and 2024. The EU has criticized Ireland for the penal and uncertain costs associated with environmental litigation, making it the most expensive country for such litigation in the EU, and for the related aggressive targeting and threats to cut the funding of critical environmental NGOs.

Citation:

Hickey, T. 2021. "Judges and the Political Organs of the State." In *Policy Analysis in Ireland*, eds. J. Hogan and M. P. Murphy, 213-228. Bristol: Policy Press.

EuroPAM. 2023. "Ireland Public Accountability Index." <https://europam.eu/?module=country-profile&country=Ireland>

Civil Liberties Union for Europe. 2022. "Liberties Rule of Law Report 2022 Ireland." https://www.iccl.ie/wp-content/uploads/2022/02/IRELAND_Rule-of-Law-Report_2022.pdf

Murphy, M. P. 2023. *Creating an Eco Social Welfare Future*. Bristol: Policy Press.

Israel

Score 8

Judicial oversight is conducted by the Supreme Court, which oversees government decisions, appointments, rules, regulations, ministerial decisions and legislation. The Supreme Court is not codified but is based on norms and previous rulings. Therefore, the court has broad discretion and autonomy on the subject (Lurie 2023). In the past year, the current government has tried to significantly limit judicial oversight, transferring more power to the executive. This attempt has so far failed due to mass public protests.

Anyone can petition the Supreme Court without having to prove direct damage or personal impact from the decision being challenged. However, the court does not hear all petitions and only a proportion of petitions are accepted.

The judges are appointed by a committee composed of three Supreme Court judges, two representatives of the Law Bar Association, two ministers and two members of the Knesset. This composition limits political interference. To appoint a Supreme Court judge, a majority of seven committee members is required. This ensures consensus and the representation of various interests. However, in the past year, the minister of justice has sought to reform the committee, aiming to politicize it and

align the majority of members with the executive. Although the minister failed to reform the committee, he continues to aspire to do so in the future, as evidenced by his refusal over several months to appoint new judges to the committee (an activity under his responsibility).

The Supreme Court, despite its broad discretion, is often reluctant to interfere in politically salient issues and matters of legislation. It prefers to return such cases to the executive or the Knesset, asking them to legislate on the issue. In recent years, the executive has frequently chosen not to decide on various salient issues, forcing the court to intervene, only to later accuse it of interference (Galnoor 2014).

The government complies with the court's decisions. However, during the judicial overhaul, government ministers threatened not to follow the Supreme Court's ruling if it overruled the judicial reform. In the end, however, the government followed the court's decision.

Citation:

Galnoor, I. 2014. "The Judicialization of the Public Sphere in Israel." *Israel Law Review* 37 (2–3): 500–542. <https://doi.org/10.1017/S002122370001253X>

Lurie, G. 2023. "The Invisible Safeguards of Judicial Independence in the Israeli Judiciary." *German Law Journal* 24 (8): 1449–1468. <https://doi.org/10.1017/glj.2023.73>

New Zealand

Score 8

The judiciary, including the Supreme Court, High Court, and specialized courts such as the Employment Court, the Environment Court and the Māori Land Court, has the authority to interpret laws. Judges have the autonomy to analyze statutes, common law principles and constitutional provisions to make decisions based on their interpretation of the law. Individuals and organizations have the right to access courts to challenge the legality of government actions or laws (Geddis 2015).

The Supreme Court has the authority to declare acts of Parliament inconsistent with the New Zealand Bill of Rights Act 1990 or other fundamental constitutional principles. However, it is essential to note that – as in other Commonwealth countries that follow the Westminster system of government – Parliament is sovereign and holds supreme legislative power. This means that the Supreme Court does not have the authority to invalidate legislation. Even if the Court declares a law inconsistent with the Bill of Rights Act, the law remains valid and enforceable unless Parliament decides to amend or repeal it. Parliament can choose whether or not to respond to a declaration of inconsistency made by the Supreme Court (Roycroft 2021).

Despite the principle of parliamentary sovereignty, governments typically comply with important Supreme Court decisions. A recent example is the Supreme Court's ruling that disenfranchizing prisoners was inconsistent with the Bill of Rights. This decision prompted the Labour administration under Jacinda Ardern to restore prisoners' voting rights ahead of the 2020 election (Davison 2019).

Ultimately, whether to follow up on Supreme Court decisions is a political choice. In late 2022, the Court ruled that the minimum voting age of 18 violates the age discrimination clause in the Bill of Rights. However, lowering the voting age to 16 would require 75% of legislators to vote in favor of the measure, which is very unlikely to happen (Rawhiti-Connell 2022).

The judiciary operates independently of political influence and is not subject to interference in its decision-making process. Supreme Court judges are appointed through a process that involves several steps: After interviews and assessments conducted by the Judicial Appointments Unit within the Ministry of Justice, a selection committee recommends one or more candidates to the attorney general. The attorney general then makes a recommendation to the governor-general for the formal appointment of the judge (Miller 2015: 31).

Citation:

Davison, I. 2019. "Prisoners serving sentences of less than three years to vote at 2020 election." *New Zealand Herald*, 23 November. <https://www.nzherald.co.nz/nz/prisoners-serving-sentences-of-less-than-three-years-to-vote-at-2020-election/RH7MO7XFMQ36AGV4AN7O5KA7YE/>

Geddis, A. 2015. "The Judiciary." In J. Hayward, ed. *Government and Politics in Aotearoa New Zealand*. 6th ed. Oxford University Press.

Miller, R. 2015. *Democracy in New Zealand*. Auckland: Auckland University Press.

Rawhiti-Connell, A. 2022. "The Supreme Court's Judgment on the Voting Age and What Comes Next." *The Spinoff*, November 22. <https://thespinoff.co.nz/politics/22-11-2022/the-supreme-courts-judgment-on-the-voting-age-and-what-comes-next>

Roycroft, P. 2021. "Parliament." In *Government and Politics in Aotearoa New Zealand*. 7th edition, J. Hayward, et al. Oxford University Press.

Slovenia

Score 8

Slovenia's judiciary is characterized by a constitutionally guaranteed separation of powers among the legislative, executive, and judicial branches, ensuring the application of the principle of checks and balances. Independent courts and the Constitutional Court conduct judicial reviews of legislation and administrative actions. Political actors in Slovenia have generally respected the rule of law as a core value. In practice, however, there are several issues regarding respect for the courts and their decisions.

The Slovenian Democratic Party (SDS) and its leader, Janez Janša, faced significant challenges in this regard, especially during their governance from 2020 to 2022. For instance, in 2021, the SDS-led government avoided nominating the delegated prosecutors to the European Public Prosecutor's Office and delayed making payments to the Slovenian Press Agency, despite court rulings. Janša, a three-time prime minister, has been a longtime critic of the Slovenian judiciary and has

undermined public trust in the courts with various statements. V-Dem data indicates that the rule of law deteriorated in 2020 and 2021 but improved in 2022.

Following the 2022 parliamentary elections, the ruling coalition led by the Freedom Movement declared its intention to respect judicial independence. In 2022, serious discussions about judicial appointments began, aiming to strengthen the judiciary's independence from politics. The proposed change suggests that judges should be appointed by the president of the republic rather than the National Assembly. However, organizations of judges and some legal experts have criticized the proposed reform and other planned changes.

The Constitutional Court's decisions have been especially difficult for various governments to implement. Both the government and the National Assembly have long been criticized for failing to enforce several of its rulings. In January 2024, judges and prosecutors went on strike to protest the government's failure to raise their salaries to align with those of the other two branches of government, as demanded by the Constitutional Court. The judiciary has had major problems with backlogs, although this has improved in recent years. The 2022 edition of the EU Justice Scoreboard also showed that the public trusts the Slovenian judiciary. For years, those working in the judiciary have complained about inadequate infrastructure and poor working conditions.

Citation:

Freedom House. 2023. "Slovenia." <https://freedomhouse.org/country/slovenia>

Varieties of Democracy. 2024. "Democracy Report." <https://v-dem.net/>

Krašovec, A. and Lajh, D. 2021. "Slovenia: Tilting the Balance?" In G. Verheugen, K. Vodička, and M. Brusis, eds., *Demokratie im postkommunistischen EU-Raum*, 161-174. Wiesbaden: Springer.

The Slovenia Times. 2024. "Judges and Prosecutors Stage Protest Over Pay." <https://sloveniatimes.com/40119/judges-and-prosecutors-stage-protest-over-pay>

Spain

Score 8

The Spanish judiciary is independent and capable of ensuring that the government and administration act according to the law. Specialized courts review actions and norms adopted by the executive, effectively ensuring legal compliance. Courts serve as effective and independent monitors of public authorities' activities, and the government complies with court decisions even if it disagrees with them. Any natural or legal person with a legitimate interest can bring a legal protection action (amparo) before the Constitutional Court against governmental, administrative, parliamentary, or judicial decisions. In 2023, 6,243 appeals for protection were lodged with the Constitutional Court, primarily against judicial decisions, but most were dismissed for lack of legal grounding. During the review period, there were no examples of noncompliance.

Article 159 of the Spanish constitution outlines the composition of the Constitutional Court, comprising twelve members appointed by the King. Four are nominated by Congress with a three-fifths majority, another four by the Senate with the same majority, two are appointed by the government, and two by the General Council of the Judiciary, also requiring a three-fifths majority. These enhanced majorities are intended to ensure consensus in appointing independent judges. However, political practice often results in partisan appointments among major parties. The division between conservatives and progressives within the Constitutional Court has been significant during the review period.

The politically fragmented parliament failed to muster the three-fifths majority necessary to appoint new members to the General Council of the Judiciary – an autonomous body of judges and other jurists that governs the judiciary and aims to guarantee judges' independence. The incumbent council has operated on an interim basis since 2018. The lack of renewal is affecting the Supreme Court's functioning and the entire justice system, raising concerns about caseload and the duration of proceedings.

The 2023 EU Justice Scoreboard indicates that some judges struggle to reconcile their ideological biases with the requirement of effective independence, potentially hindering the judiciary's mandate to serve as a legal and politically neutral check on government actions (European Commission 2023). Public opinion increasingly perceives courts and judges as lacking independence due to perceived interference or pressure from economic interests and, more prominently, from government and opposition politicians.

Within the RRP, the government has continued efforts to increase the justice system's efficiency. Measures taken to enhance the quality of justice include legal aid and digitalization related to data management and interoperability of applications within the justice system. An example is Royal Decree Law 6/2023 of December 19.

Citation:

European Commission. 2023. "EU Justice Scoreboard." https://commission.europa.eu/system/files/2023-06/Justice%20Scoreboard%202023_0.pdf

Italy

Score 7

The Italian government and administration operate within a robust legal framework that establishes the rule of law. This framework is upheld by a multilayered system of oversight, including the Constitutional Court and a network of local, regional, and national courts. The government's meticulous adherence to legal principles ensures highly predictable and impartial actions. This commitment to the rule of law is further validated by the V-Dem project's expert assessment (2023), which assigns Italy a high score on the Rule of Law Index, measuring transparency, independence, predictability, impartiality, and equality of law enforcement, as well as the adherence of government officials to the law.

Italian courts play a pivotal role in the country's political landscape, exercising significant influence over various aspects of democratic governance. The judicial system enjoys robust autonomy from the executive branch, ensuring independence from political interference. Judges' and prosecutors' recruitment, appointment, and career progression are managed by the Superior Council of the Judiciary (CSM), a representative body elected by the judiciary and partially by parliament, safeguarding impartiality and preventing undue influence from the executive.

While these institutional arrangements protect the overall independence of the judiciary as a collective entity, concerns persist regarding the internal independence and impartiality of individual magistrates. This is because the professional advancement of each magistrate is controlled by the CSM, which is internally divided into factions representing competing political ideologies (Dallara and Pederzoli 2022).

The 2023 EU Justice Scoreboard highlights these concerns, revealing a relatively low perception of judicial independence among citizens and businesses. Combined with recent scandals within the CSM, these issues prompted the Draghi government to undertake a comprehensive reform of the CSM, including changes to its composition, election procedures, and rules governing factions within the body (Law 71/2022).

As part of a broader legal system reform within the National Recovery and Resilience Plan (PNRR) sponsored by the Draghi government, legislative decrees 149 and 150 (2022) aim to address a long-standing issue within the Italian justice system – the protracted nature of civil and criminal proceedings, particularly in civil and commercial disputes. This persistent issue has significantly hampered the effectiveness of judicial action and oversight, as highlighted in the 2022 Committee for the Evaluation of the Efficiency of Justice (CEPEJ) report.

The newly formed Meloni government has embarked on a new judicial reform initiative that could significantly impact the careers of judges and magistrates, though this reform is still under discussion.

At the apex of the Italian judicial system, the Constitutional Court ensures that laws conform to the Constitution. Its unique appointment process involves three independent sources – the Head of State, the parliament (with special majority requirements), and the highest judiciary ranks (via election) – effectively safeguarding the Court's political autonomy and elevating its stature. Comprising eminent legal scholars, experienced judges, and distinguished lawyers, the Constitutional Court has consistently rendered rulings that challenge and sometimes overturn legislation championed by the government and approved by the legislature. However, when the rulings of the Constitutional Court require new legislative norms, their full implementation may be delayed by government and parliamentary inaction.

Citation:

V-Dem: https://v-dem.net/documents/29/V-dem_democracyreport2023_lowres.pdf

2023 EU Justice Scoreboard: https://commission.europa.eu/document/download/db44e228-db4e-43f5-99ce-17ca3f2f2933_en?filename=Justice%20Scoreboard%202023_0.pdf

CEPEJ Evaluation Report 2022 (2020 data): <https://rm.coe.int/cepej-fiche-pays-2020-22-e-web/1680a86276>

Dallara, C., and Pederzoli, P. 2022. "Corruzione, trasparenza e Rule of Law." In G. Baldini and A. Pritoni, eds., *Il sistema politico italiano*. Milano: Mondadori.

Netherlands

Score 7

The judiciary is trusted by nearly 80% of the Dutch population, the highest such figure for any state power in the country. The judiciary also performs well in completing a large proportion of the 1.5 million court cases per year on time. Yet the Council for the Judiciary, the judiciary's highest administrative body, warns that the system is under severe pressure due to understaffing, and thus courtroom capacity. One journalistic commentator even speaks of a crisis of the rule of law, because judges and prosecutors are fed up with failing judicial policies and workload and were recently even close to going on strike.

Regardless of such practical matters, the Dutch judiciary has to make do without a constitutional court with the power to render constitutional review of laws. In 2023, the new political party New Social Contract made the establishment of such a national constitutional court one of its major reform proposals in the area of "better governance." This is in line with criticisms offered by leading legal scholars. In spite of de facto co-production of laws, the European Union is not mentioned in the constitution. In political debate, "Brussels" is still seen at most as a treaty partner. Whereas the Supreme Court is part of the judiciary and is supposedly independent of politics, it serves both as an advisor to the government on all legislative affairs and is the highest court of appeal in matters of administrative law. Its members, nominated by legal experts, are most frequently proposed by the Council of Ministers and appointed for life by the States General. They are often not legally trained scholars, but instead former politicians with a reputation as elderly statesmen.

This may explain why the Supreme Court sides with government most of the time, as shown in instances such as appeals of the tax authorities' decisions in the childcare benefits scandal. Regarding the childcare benefits affair, the Administrative Court's highest judge recently apologized that the courts had stuck to a strict law enforcement "groove" far too long, attributing this to a "political climate" pressing for "zero tolerance" for fraud. The Supreme Court was also charged with making rulings that were too "executive friendly" when dealing with information from refugees and foreigners.

The relationship between the judiciary and the executive has been under tension since the former's rulings on climate goals, and more recently on fundamental social rights like housing and subsistence security. It is therefore significant that the cabinet did not implementing a motion, supported by major mainstream parties including the

VVD and CDA, on making litigation by interest groups against the state more difficult. This is critical at a time when the Dutch state, partly due to shortages of trained personnel and finances, will not or cannot comply with its own laws in an increasing number of areas. Other civil society organizations such as employment agencies and municipal services also claim they are forced to break the law on grounds of financial and/or personnel incapacities.

Citation:

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NRC. 2023. "Ombudsmannen Van Zutphen en Kalverboer: gemeenten schenden mensenrechten bij huisuitzettingen." Pelgrim January 24.

Switzerland

Score 7

The Swiss judicial system is guided by professional norms without political interference. The judicial system is based on professional training, though a mixture of lay and professionally trained judges serve at the local level in many cantons. Decisions by these judges are subject to review by higher professional courts. The character of the Swiss judicial system varies substantially between cantons. This is due to Swiss federalism, which gives cantons great leeway in cantonal lawmaking and hence also in cantonal administration of justice. This also includes variations in the rules and examinations with regard to lawyers' admission to the bar.

Formally, legal education is inclusive and accessible to all segments of society. However, due to the strong social selectivity of the Swiss education system – in particular direct access to universities (Becker and Schoch 2028) – lawyers and judges de facto come disproportionately often from academic families.

The Swiss Federal Supreme Court is the highest judicial authority in Switzerland. It adjudicates, in the last instance, appeals of rulings made by the high cantonal courts of appeal, the Federal Criminal Court, the Federal Administrative Court and the

Federal Patent Court. The areas of law thus covered are civil law, criminal law and administrative law. Violations of federal law, international law, intercantonal law or constitutional rights can be addressed. The Federal Supreme Court's jurisprudence ensures the uniform application of federal law throughout the country. The other courts and the administrative authorities comply with the Federal Supreme Court's case law and adopt its principles.

The Federal Administrative Court rules on the legality of rulings issued by the federal administration. The court also adjudicates appeals against certain decisions of the cantonal governments, for example, in the area of health insurance. However, constitutional review is not fully developed: "Acts of the Federal Assembly or the Federal Council may not be challenged in the Federal Supreme Court" (Art 189.4, Federal Constitution). The Federal Supreme Court has no powers to annul federal laws "if they are unconstitutional, and it can't even refuse to apply them" (Flick Witzig et al. 2022: 217). However, there are some options to mitigate these constraints, and therefore in international comparison Flick Witzig et al. (2002: 226) suggest that "Swiss constitutional review appears to be de facto of medium strength."

The judges of the Federal Supreme Court are elected for a period of six years in a joint session of both chambers of parliament, with approval requiring a majority of those voting. A parliamentary commission prepares the elections by screening the candidates. Unwritten rules stipulate a nearly proportional representation of the political parties then in parliament. By tradition, judges voluntarily pay part of their salary to the political party to which they are affiliated. This is considered a tax on their salary, which they would not have without the support of their party (Vatter/Ackermann 2014).

In 2017, a committee of the Council of Europe criticized this arrangement and recommended that "the system should be backed up by safeguards to ensure the quality and objectivity of the recruitment of federal judges. Once judges have been elected it is important to sever the ties with the political powers by doing away with the practice whereby judges pay part of their salary to their party" (GRECO 2017:4). Another unwritten rule demands representation of the various linguistic regions. There is no special majority requirement.

In international comparison, the independence of the Swiss judicial system has been ranked at only 106th place among 124 countries surveyed. However, taking into account the de facto independence found in empirical studies, Switzerland has been ranked at 17th place among 108 countries (Flick Witzig 2022: 222, 226).

In 2021, a popular initiative aiming to have federal judges selected by lottery rather than through election in parliament was rejected in a popular vote. Also in 2021, parliament started to discuss the legitimacy of the contributions federal judges are required to make to the parties that nominated them, and in March 2022 it rejected a ban on mandate taxes and party donations from members of the federal courts.

Switzerland is regularly called to order by supranational bodies for a lack of respect for the terms of international treaties, or for breaching fundamental rights. Examples

include the United Nation’s concern “that persons with disabilities deemed ‘permanently incapable of discernment’ are excluded from exercising their right to vote” (see section D1) (UN/CRPD 2022), and a 2023 ECHR ruling against the rejection of refugees’ requests for family reunification.

Citation:

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UN/CRPD 2022:
<file:///Users/cmavrot/Dropbox/Mac/Downloads/CRPD%20Concluding%20observations%20on%20the%20initial%20report%20of%20Switzerland.pdf>

United States

Score 7

The United States has two legal systems: federal law and state law. In both, judges exercise strong judicial review, with the authority to issue sweeping judgments that can strike down legislation and constrain executive action (Whittington 2007). Federal judges interpret the U.S. Constitution and review federal statutes in relation to it. They also interpret federal statutes passed by Congress and evaluate the actions of various actors, including the executive branch, to ensure their compatibility with these laws. The U.S. Constitution is brief and vague on many of its core principles, granting the court significant discretion in its interpretation and application (Levinson 2011). For example, the Supreme Court must ultimately determine what punishments are impermissibly “cruel and unusual” or what constitutes individual “liberty.”

The Supreme Court is the highest court in the land, and its judgments are supreme over all lower levels of the federal court system and the state court systems (Amar 2012). However, the vast majority of litigation in the United States takes place in the state court systems (Zackin 2013). These judges interpret and apply their state’s constitution as well as relevant state law. When federal and state law conflict, if the power is properly one accorded to the federal government in the U.S. Constitution, then federal law is supreme. However, if the federal government has wrongly become involved in an area of law that properly belongs to the state governments, according to the U.S. Constitution, the Supreme Court might rule in favor of the state

government. In this respect, the federal courts play a very important role in policing the boundaries of national and subnational authority (Riker 1964).

The Supreme Court is a very powerful institution and has been a venue for major policy shifts throughout U.S. history (Hall 2017). There are a couple of reasons for this. First, as the final interpreter of the U.S. Constitution, the Court serves as a potent and almost unchallengeable authority on the law. If citizens disagree with a Supreme Court decision based on the justices' interpretation of the Constitution, they have limited recourse, each demanding significant effort. They might amend the Constitution, though no newly proposed amendment has been successful in more than half a century, or they might seek to change the composition of the Court, a challenge given that justices serve for life.

Another reason for the Court's influence is its ability to regulate the boundaries of federalism, shaping the relationship between state and national authority. In this respect, the Supreme Court can act as a powerful nationalizing force for federal policy (Dahl 1957). If the Supreme Court declares an issue to be a fundamental individual liberty protected by the Ninth and Fourteenth Amendments, it can overturn any state laws that seek to minimize that right.

For instance, while marriage regulation has traditionally been considered a state government competence, the Court has ruled that marriage is a fundamental liberty that cannot be infringed upon based on the race or gender of the partners. Additionally, the Court has determined that protected sexual intimacy is a fundamental right of marriage that state governments cannot limit either.

The process for appointing judges at the federal and state levels has been subject to criticism (Tushnet 2022). At the federal level, judges are appointed by the president – subject to confirmation by the Senate – and serve for life with good behavior. At the state level, the systems differ. In nearly all states, judges undergo some form of election (Kritzer 2019). In some states, judges are directly elected, sometimes standing on a partisan label. In other states, judges are appointed but then subjected to a confirmatory public election where voters can choose to remove them from office (Canes-Wrone et al. 2014).

In both systems, courts are regarded in political and even partisan terms (Nicholson and Hansford 2014). Neither appointment nor election seems to mitigate this fact. Federal judges are appointed based on a legal philosophy that aligns with the policy aims of the incumbent president. Democrats tend to favor judges with an expansive interpretation of the Constitution's vague elements. Republicans tend to prefer those who interpret the Constitution more narrowly or strictly.

Subjecting judges to elections, as many states do, is also politicizing. Many state judges must campaign for election or reelection, which requires them to raise funds, produce leaflets, and run advertisements like other candidates. This is an unusual aspect of the U.S. political system. It might be seen as more “democratic,” but at the

same time, critics argue it undermines judges' role to remain above politics. Ironically, many state constitutions established judicial elections because their framers wanted to promote the independence of the judiciary. They were concerned that if state judges were appointed similarly to federal judges, they could not be truly independent of the executive or legislative branches. By giving them their own separate electoral mandate, judges in state courts do have greater "independence" from these two branches, if not from politics itself (Baum 2018).

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Japan

Score 6

The constitution guarantees the independence of the Japanese judicial system from the government. Judges are bound only by the constitution and the laws, and cannot be subject to any disciplinary action by the executive power. Justices of the Supreme Court can be arbitrarily appointed by the cabinet, but it is a tradition that the prime minister respects the chief justice's recommendation for his or her successor. The appointments of Supreme Court justices are subject to review by a popular vote in the House of Representative elections, but this is effectively meaningless as voters are not presented with a choice. The judges of the inferior courts are appointed by the cabinet from a list of persons proposed by the Supreme Court.

According to the constitution, only the Supreme Court may determine the constitutionality of laws, orders, regulations or official acts. In reality, the Supreme Court reviews only specific cases and has frequently dismissed suits concerning the constitutionality of laws because they lacked the case or controversy requirement. It has also refused to decide on the constitutionality of governmental decisions regarding highly political questions. Instead of the Supreme Court, it is the Cabinet Legislation Bureau that issues interpretations of the constitution on daily matters, which decreases the transparency of this process. Since a 2013 appointment to the Cabinet Legislation Bureau the government has sought to ensure that it offers interpretations that are in line with the government view (Yamamoto 2017).

Japanese courts tend to be lenient toward the government, although there is also a growing number of examples in which they challenge the government's position. The government generally complies with judicial rulings, though it may take some time, for instance, regarding the change of constituency borders to eliminate disparities in parliamentary election votes. Civil society groups and activists have become increasingly adept at using the judicial system and case law to amend laws and regulations (Sala 2023).

Citation:

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Hungary

Score 5

The state of the rule of law and judiciary policy in Hungary is highly contested, and has been subject to strong criticism from international organizations, NGOs and policy experts. As in other countries with authoritarian tendencies, the Orbán government believes that the law is subordinate to government policies, which it claims reflect the "national interest," a term exclusively defined by the government majority.

Due to the Orbán government's voluntarist approach toward lawmaking, legal certainty has been undermined by chaotic and rapidly changing legislation. The hasty legislative process has regularly violated the Act on Legislation, which mandates a process of social consultation if the government presents a draft law. Since the 2015 "refugee crisis," the government has increasingly relied on special decree powers. On 20 March 2020, the government's two-thirds supermajority in parliament adopted the so-called Coronavirus Defense Act, also known as the Authorization or Enabling Act, which came into force the next day. The act gave the government the right to suspend or override any law. In mid-June 2020, the state of emergency, which stirred massive criticism both domestically and internationally, was lifted but then transformed into a "medical emergency." In November 2020, parliament declared a new state of emergency, which was later extended several times, most recently justified with reference to the war in Ukraine. During the first lockdown, proceedings at ordinary courts were officially suspended due to fears of spreading the virus, preventing ordinary people from initiating cases that could reach the Constitutional Court. Under these circumstances, only one-quarter of the members of parliament were able to call on the Constitutional Court, which would have required

the far right and the left to act together. The Constitutional Court has refused many requests for constitutional reviews, and did not challenge the Orbán government's power grab during the COVID-19 pandemic. In October 2020, the government consolidated its control over the Kúria (previously the Supreme Court), as the Fidesz supermajority in parliament elected Zsolt András Varga, a member of the Constitutional Court without any experience as an ordinary judge, as its new president. This elicited broad and angry reactions among judges and their professional organizations, and the National Judicial Council issued a negative opinion on the issue. The 2011 constitution (Basic Law) left the rules for selecting members of the Constitutional Court untouched. Justices are still elected by parliament with a two-thirds majority. As Fidesz regained a two-thirds majority in the 2018 parliamentary elections and defended it in 2022, it has since had complete control over the appointment of Constitutional Court justices. In 2023, parliament elected four new members to the Constitutional Court, all of whom are close to Fidesz.

The Hungarian judiciary performs well in terms of the length of proceedings and has a high level of digitalization. However, its independence has drastically declined under the Orbán government (European Commission 2021). While the lower courts, in most cases, still make independent decisions, the Constitutional Court, the Kúria and the National Office of the Judiciary (OBH) have increasingly come under government control and have often been criticized for making biased decisions. Likewise, Péter Polt, the chief public prosecutor and a former Fidesz politician, has persistently refrained from investigating the corrupt practices of prominent Fidesz oligarchs. As a result of the declining independence and quality of the Hungarian judiciary, trust in the Hungarian legal system among the general public has dropped over time. More court proceedings have ended at the European Court of Human Rights (ECHR) in Strasbourg. Hungary is among the countries generating the most cases at that body, and the Hungarian state often loses these lawsuits. Judiciary reforms have also been among the main prerequisites for Hungary to access a portion of its EU funds locked under the rule-of-law conditionality mechanism adopted by the European Commission (2023).

Citation:

European Commission. 2023. "Commission considers that Hungary's judicial reform addressed deficiencies in judicial independence, but maintains measures on budget conditionality" December 13. https://ec.europa.eu/commission/presscorner/detail/en/ip_23_6465

Slovakia

Score 5

The Slovak Republic has a low score on the World Bank Rule of Law indicator, with 0.6 in 2022, down from 0.7 in 2021 (Kaufmann, Kraay, and Mastruzzi, 2010). This decline reflects various challenges within the national judiciary.

The Slovak judiciary, including specialized courts, is formally autonomous and responsible for interpreting and reviewing laws. However, recent rulings, such as

those by the Bratislava IV court regarding suspensions by Interior Minister Šutaj Eštok, show inconsistent decision-making, suggesting a selective commitment to independent judicial review (Drozdíková, 2023).

Corruption within the judiciary undermines its effectiveness. High-profile arrests, such as those of the former vice-president of the Supreme Court and ex-special chief prosecutor Dušan Kovačik, highlight ongoing corruption and clientelism. Public trust is low, with 88% of citizens perceiving corruption in the courts and less than 30% believing in their independence. The judicial selection process also appears to be influenced by social connections rather than merit (Spáč, 2022).

Appointment processes for the Supreme Court and Constitutional Court aim to ensure independence. For the Constitutional Court, 13 judges serve 12-year terms, selected by the president from a list approved by the National Council. However, media reports suggest that political parties may influence these appointments, especially if the president lacks independence (Remišová, 2018; Orosz, 2016). Similarly, the Supreme Court's Chief Justices often face political interference despite the judicial council model (Kosář and Spáč, 2021).

The Judicial Council oversees the judiciary's administration and has 18 members, half elected by judges and the rest appointed by the president, parliament, and government. Concerns about the independence of the council's members persist, as their status can be precarious.

Challenging government actions in court is possible, with the Constitutional and Supreme Administrative Court handling such cases. The Public Procurement Office can also challenge decisions made by public bodies. However, case lengths are often excessive (Kullová 2023).

Rare but notable instances of noncompliance with court decisions include the Interior Minister's refusal to revoke controversial orders.

Citation:

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Poland

Score 3

Since 2015, Poland has faced a rule of law crisis marked by significant institutional changes, sparking domestic and international concerns. Critics argue that these changes, particularly the legal reforms impacting the judiciary, undermine judicial independence – a cornerstone of the rule of law. The government's actions, including the restructuring of the Constitutional Tribunal (Trybunał Konstytucyjny, TK) and the National Council of the Judiciary (Krajowa Rada Sądownictwa, KRS), as well as the appointment of judges deemed illegitimate, have been criticized for eroding checks and balances.

In November 2022, the Supreme Administrative Court (NSA) ruled that the Constitutional Tribunal could no longer adjudicate lawfully due to improperly appointed judges. By 2023, the Tribunal faced a deadlock due to interparty conflict within the United Right. The new KRS, chosen by politicians, continued to appoint judges despite Polish and European court rulings deeming it to be illegitimate. The European Court acknowledged legal challenges to government decisions, such as those involving Judge Igor Tuleya and Lech Wałęsa (Ptak 2023).

The European Union has expressed concern over Poland's rule-of-law situation, initiating infringement proceedings and applying sanctions under Article 7. The EU withheld COVID-19 recovery funds, demanding compliance with judicial independence and green transformation milestones.

Beginning on October 27, 2021, Poland began accruing fines of €1,000,000 daily, which was later reduced to €500,000 on April 21, 2023, following minor legal adjustments. In June 2023, the Court of Justice of the European Union ordered the suspension of the new disciplinary chamber for judges, finding it lacked independence and impartiality. This ruling ended the imposition of fines, which had accumulated to a sum of €556 million (PLN 2.5 billion) (Zalan 2023).

On December 21, 2023, the Court of Justice also declared that the Chamber of Extraordinary Control and Public Affairs of the Supreme Court was neither independent nor impartial.

In mid-December 2023, new Justice Minister Adam Bodnar (ombudsman for human rights from 2015 to 2021) pledged to reverse all rule-of-law violations. His first action was to bar judges appointed by the constitutionally challenged KRS from adjudicating, signaling compliance with EU rulings.

Citation:

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Indicator

Universal Civil Rights

Question

How well does the executive branch and its members uphold and safeguard civil rights, and to what extent do the courts effectively protect citizens against rights violations?

30 OECD and EU countries are sorted according to their performance on a scale from 10 (best) to 1 (lowest). This scale is tied to four qualitative evaluation levels.

- 10-9 = There are no limits or constraints on the realization of civil rights.
- 8-6 = There are no significant limits or constraints on the realization of civil rights.
- 5-3 = There are some significant limits or constraints on the realization of civil rights.
- 2-1 = There are multiple significant limits or constraints on the realization of civil rights.

Finland

Score 10

Civil rights are widely respected and protected in Finland. The national legal and constitutional system guarantees the protection of civil rights to a great extent. The constitution safeguards personal liberty against state and non-state actors. It includes the right to life and security, a prohibition on torture and inhumane treatment or punishment, and the protection of privacy. It ensures equality before the law, equal access to justice and due process under the rule of law, such as the protection against arbitrary imprisonment without due process.

Finland was one of three countries that received the maximum aggregate score of 100 in the category of political rights and civil liberties in Freedom House's 2019 Freedom in the World survey.

The country's legal system provides for freedom of speech, which is also respected in practice. Furthermore, Finns enjoy full property rights and the freedom of religion, with the government officially recognizing many religious groups. The freedoms of association and assembly are respected in law and practice, while workers have the right to organize, bargain collectively and strike. In November 2014, after lengthy and contentious discussions, parliament voted to grant marriage rights to same-sex couples, and adoption-rights legislation for same-sex couples became effective in March 2017.

State actors demonstrate respect for civil rights and effectively safeguard them by identifying, prosecuting and punishing violations. Policies implemented by state

institutions are relatively effective in preventing discrimination based on factors such as sex, gender identity, sexual orientation, physical and mental ability, health, age, ethnic origin, social status, political views or religion.

Functioning as an autonomous and independent entity, the Nondiscrimination Ombudsman is dedicated to advancing equality, preventing discrimination and overseeing issues related to removal from the country (see the Nondiscrimination Ombudsman website at <https://syrjinta.fi/en/front-page>). Additionally, the Ombudsman serves as the National Rapporteur on Trafficking in Human Beings, actively contributing to efforts aimed at enhancing the rights and standing of foreign nationals.

All individuals have equal access to justice and due process under the rule of law.

Denmark

Score 9

According to section 29 of the Danish constitution, “Any Danish subject who is permanently domiciled in the realm and who meets the age qualification for suffrage as provided for in subsection 2 of this section shall have the right to vote in Folketing elections, provided that he has not been declared incapable of conducting his own affairs.”

According to section 31 of the Danish constitution, “The members of the Folketinget shall be elected by general and direct ballot.” More specific rules are laid down in the election act. The election act stipulates that “franchise for the Folketinget is held by every person of Danish nationality who is above 18 years of age and permanently resident in the realm, unless such person has been declared legally incompetent.” The rule on legal competence applies to the Folketing (section 29 of the constitution), but – according to a decision made by parliament in 2016 – not to local, regional or European Parliament elections. Any person above the age of 18 (since 1978) and “permanently resident in the realm” is thus entitled to vote.

Denmark is traditionally an open and liberal society, and has been at the forefront in ensuring the rights of sexual minorities. Basic rights are ensured by the constitution and supplemented with additional laws focused on specific areas, including ethnicity and the labor market. Citizens can file complaints concerning issues of discrimination to the Board of Equal Treatment or bring discrimination cases before the courts.

Discrimination can take various forms and can be perceived differently depending on position, history and social context. Gender-based discrimination in the labor market relates primarily to wages, but also to hiring and career options.

Indirect discrimination can take various forms, notably in rules and regulations. While rules and regulations are general and apply to all citizens, they can effectively

target particular groups. For example, Denmark's requirement of residency for social assistance (which, if not fulfilled, lowers the amount of assistance) is offered to immigrants from outside the European Union. Although it formally treats all immigrants equally, the scheme de facto impacts immigrants from low-income countries with a low employment rate in particular.

Immigration laws have been tightened several times since 2001. While previous parliaments were often split on these changes, recent parliamentary majorities have supported a tightening of immigration policy. Consequently, the recent shift in the position of the Social Democratic Party is significant. The current coalition government has sought to maintain strict immigration policies.

Estonia

Score 9

Civil rights and liberties are safeguarded by the constitution and widely respected by both state and non-state institutions. Equal access to the law and equal treatment are legally guaranteed. Primary legal advice is free for citizens and not linked to the income of the applicant. However, court fees can be rather high, disadvantaging low-income individuals.

Discrimination is prohibited by law, and several governmental institutions have been established to ensure nondiscrimination. The chancellor of justice plays an important role in ensuring that authorities and officials performing public duties do not violate people's constitutional rights and freedoms, and that persons held in detention are not treated in a degrading, cruel or inhumane manner. Individuals can bring concerns directly to the Chancellor's Office or send a letter detailing the issue. The commissioner for equal opportunities acts as an independent expert in monitoring discrimination. In addition to handling citizens' appeals and monitoring the overall situation, the commissioner's office focuses significant efforts on awareness-raising activities.

Implemented policies have achieved varying effects in preventing and combating discrimination. Gender equality has been a long-standing challenge, reflected in the largest gender pay gap in Europe (Eurostat, 2022). Despite several measures introduced by the government to combat the gender pay gap, fundamental change has yet to be achieved. The rights of disabled people have received attention in labor market policies and living environment measures. All public buildings must ensure access for people with disabilities, and employers can apply for special support to employ such individuals.

There has been significant progress in LGBTQ+ rights. In June 2023, the Riigikogu adopted a set of legal acts allowing for the registration of gender-neutral marriages beginning 1 January 2024. The rights of ethnic minorities are protected by the constitution. In 2022, the government moved to finalize the long-pending transition

of Russian-speaking pre-primary and primary schools to instruction in the Estonian language. To ensure the quality of education and protect the rights of both Russian-speaking and Estonian-speaking pupils, a comprehensive package of support measures was adopted. These measures include additional teaching staff and speech therapists, teaching materials, and special training for teachers. Instruction in Estonian was slated to start on 1 September 2024.

In addition to Russians, who are largely second- or third-generation immigrants, Estonia has welcomed a large number of Ukrainian refugees, including children. All school-age Ukrainian children attend school, and efforts are being made to provide them the opportunity to learn in their mother tongue.

A recent opinion poll revealed people's overall satisfaction with the state of human rights in Estonia. Seventy-seven percent of respondents agreed that the Estonian constitution protects people's rights and values, while 79% of Estonian residents are convinced that "everything is in order with human rights in our country" (EIHR 2023).

Citation:

Estonian Institute of Human Rights. 2023. "Public opinion on human rights. 2022." <https://www.humanrightsestonia.ee/en/research-surveys/79-of-estonian-residents-believe-that-human-rights-are-respected-in-estonia/>

Eurostat. 2022. "Gender pay gap statistics." [https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Gender_pay_gap_statistics#:~:text=Highlights&text=In%202022%2C%20women's%20gross%20hourly,in%20Luxembourg%20\(%2D0.7%20%25\).](https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Gender_pay_gap_statistics#:~:text=Highlights&text=In%202022%2C%20women's%20gross%20hourly,in%20Luxembourg%20(%2D0.7%20%25).)

Germany

Score 9

Civil rights in Germany are governed by the basic rights (Grundrechte) that are safeguarded by the Basic Law. According to Article 1 of the Basic Law, these rights act as defenses against the state and bind the legislative, executive, and judiciary branches. In principle, only the state must adhere to these rights. However, derived from Article 1, the state has a protective duty, obligating it to shield citizens from threats arising from the unlawful activities of third parties, i.e., non-state actors (Belling, Herold and Kneis, 2014).

The Basic Law ensures both personal freedom (Article 2) and equality before the law (Article 3), stating that all people are equal before the law and that everyone has the right to personal development, life, and physical integrity. Additionally, the so-called basic judicial rights guarantee Constitutional Court proceedings (Article 101ff.). They prohibit capital punishment, torture, and inhumane treatment of those in custody. Imprisonment not based on a judicial order is possible for a maximum of one day. Furthermore, the judicial basic rights ensure a fair trial, meaning that everyone is entitled to a hearing in accordance with the law. Due to the specifications "all" or "every person," these rights apply not only to citizens but to everyone.

According to the Rule of Law Index, Germany ranks fourth globally for civil justice. The index's score of 0.85 indicates that civil justice is effectively and timely enforced in practice. Consistent with this, Germany is considered free based on the Civil Liberties Index (Freedom House, 2023). However, there is concern regarding the individual expression of religious faith, sexual orientation, or gender identity due to a rise in hate crimes related to antisemitism, Islamophobia, sexual orientation, and gender (Amnesty International, 2023). Another significant concern is the continuing increase in politically motivated crimes.

Discrimination remains a significant issue in various diverse areas of Germany. Preventive measures include an action plan against right-wing extremism introduced by the Federal Ministry of the Interior and Community in March 2023. However, the plan neither recognizes nor addresses systemic and institutional racism. Additionally, there are proposals for a law that would allow transgender, intersex, and non-binary individuals to legally change their gender and name through a simple declaration at a registration office. This would eliminate the current requirement for a psychological expert opinion and court decision (Amnesty International, 2023). Further measures addressing gender discrimination are discussed in the section on gender equality (Policy Efforts and Commitment to Achieving Gender Equality).

Lastly, due process generally prevails in criminal and civil matters (Freedom House 2023), with the Rule of Law Index (2023) allocating a score of 0.76. This score indicates that most people have and can afford equal access to justice, including advice and representation. The score further implies there are no significant barriers in the form of linguistic obstacles or unreasonable procedural hurdles.

Citation:

Amnesty International. 2023. "Amnesty International Report 2022/23: The State of the World's Human Rights." <https://www.amnesty.org/en/documents/pol10/5670/2023/en/#:~:text=Across%20the%20world%2C%20authorities%20continued,the%20hardest%2C%20and%20inequality%20rose>

Belling, D. W., A. Herold, and M. Kneis. 2014. "Die Wirkung der Grundrechte und Grundfreiheiten zwischen Privaten." *Rechtswissenschaften aus europäischer Perspektive im 21. Jahrhundert 2*: 53-111. https://publishup.uni-potsdam.de/opus4-ubp/frontdoor/deliver/index/docId/7455/file/S53-111_aiup02.pdf

BMFSJ. 2021. *Zweites Führungspositionen-Gesetz – FüPoG II*. <https://www.bmfsfj.de/bmfsfj/service/gesetze/zweites-fuehrungspositionengesetz-fuepog-2-164226>

Freedom House. 2023. "Germany." <https://freedomhouse.org/country/germany/freedom-world/2023#CL>

Statistisches Bundesamt. 2023. "Gender Pay Gap 2022: Frauen verdienen pro Stunde 18 % weniger als Männer." https://www.destatis.de/DE/Presse/Pressemitteilungen/2023/01/PD23_036_621.html#:~:text=Dieser%20unerk1%C3%A4rte%20Teil%20entspricht%20dem,%25%2C%20Ostdeutschland%3A%209%20%25

World Justice Project. 2023. "WJP Rule of Law Index, Germany, Civil Justice." <https://worldjusticeproject.org/rule-of-law-index/factors/2023/Germany/Civil%20Justice/>

New Zealand

Score 9

New Zealand has robust legal protections for civil rights, including the Bill of Rights Act 1990, which outlines fundamental rights and freedoms. State actors, including government bodies and agencies, are bound by these legal provisions. Individuals have the right to seek legal remedies through the courts if their civil rights are

violated. Courts can issue remedies or orders to protect individuals' rights and hold authorities accountable for any infringements. The World Justice Project's 2022 Rule of Law Index ranks New Zealand at 10th place in the world with regard to its civil justice measure, which captures the extent to which the civil justice system is accessible and affordable as well as free of discrimination, corruption and improper influence by public officials (World Justice Project 2022).

New Zealand has made significant strides in implementing legislation that prohibits discrimination and promotes equal treatment. The Human Rights Act 1993 and the Employment Relations Act 2000, among others, protect individuals from discrimination in various areas, including employment, education, and the provision of goods and services.

State actors in New Zealand generally respect civil rights, but there are areas for improvement. For example, a report published by the Human Rights Measurement Initiative (HRMI) in June 2023 noted that Māori face a relatively high risk of civil rights violations such as arbitrary arrests (Dunseath 2023). Meanwhile, a 2020 Human Rights Commission report found that the LGBTQ+ community continues to suffer from discrimination (1News 2020).

Citation:

1News. 2020. "LGBT+ community continues to suffer from discrimination – Human Rights Commission." 19 June. <https://www.1news.co.nz/2020/06/19/lgbt-community-continues-to-suffer-from-discrimination-human-rights-commission/>

Dunseath, F. 2023. "Māori most at risk of declining civil and political human rights." Stuff, June 23. <https://www.stuff.co.nz/national/132390654/mori-most-at-risk-of-declining-civil-and-political-human-rights>

World Justice Project. 2022. "New Zealand: Civil Justice." <https://worldjusticeproject.org/rule-of-law-index/factors/2022/New%20Zealand/Civil%20Justice>

Norway

Score 9

State institutions respect and protect civil rights. Personal liberties are well protected against abuse by both state and non-state actors. People cannot be detained without a formal charge for more than 24 hours. A court decision is needed to hold a suspect in prison during an investigation, a matter given more serious consideration in Norway than in many other countries. Access to the courts is free and easy, and the judiciary system is generally regarded by the public as fair and efficient. However, losing a case in court can result in having to pay the full cost of the proceedings. This financial risk, along with the prohibitive fees lawyers may charge, can deter citizens from bringing cases to court. For those with extremely low incomes, there is a state program to cover legal costs. Additionally, most labor union memberships – which are widespread – include insurance against high expenses.

Political liberties are protected by the constitution and the law. The right to free expression was strengthened through a constitutional amendment in 2004. Limitations to freedom of speech, such as hate speech or discrimination, are

regulated by law. All citizens may comment on legislative proposals in hearing procedures.

In 2014, the Sámi minority was granted explicit rights to their own language and cultural expressions. Norway has ratified all international conventions on human and civil rights. The European Convention on Human Rights is incorporated into national law. The right to free worship and other religious activities is ensured.

The historical tradition of a privileged, state-owned Lutheran church ended in 2017, and now all religious communities are treated equally. Political liberties are respected by state institutions. Equality of opportunity and equality before the law are firmly established in Norway.

There is a Parliamentary Ombud for civil rights (established in 1962) and one for Equality and Anti-Discrimination (established in 1972). There was also an Ombud for the Elderly (established in 2021, repealed as of July 2023).

The Sámi minority living in the north has a limited right to self-rule, though there are still some unsettled issues over the use of natural resources in this area. Men and women are nearly on par in terms of education levels. Women's labor-force participation rate is comparatively high among OECD countries. Women earn on average 87.5% of what men do. However, once hours worked, occupation, education, and seniority are taken into consideration, it is difficult to verify significant differences between the earnings of men and women. This finding does not necessarily imply that there is no gender discrimination in the labor market; for example, men may be more readily hired for high-paying occupations.

In 2017, several instances of gender-based discrimination were disclosed as a result of the #MeToo campaign. However, affirmative action in favor of women has been used extensively in the labor market, particularly within the public sector. Despite this, the labor market remains strongly segregated by gender and occupation compared to the situation in many other countries. Some discrimination against non-Western immigrants seems to persist. In some areas of the economy, immigrants find it comparatively difficult to find work and are generally paid lower wages. Unemployment rates are also substantially higher among immigrant populations than among native Norwegians. Although discrimination against immigrants, including in the labor market, is illegal, it does take place in some areas of Norwegian society, though very few discrimination cases are prosecuted.

Citation:

About the Parliamentary Ombud. <https://www.sivilombudet.no/en/about-the-parliamentary-ombudsman/>

The Equality and Anti-Discrimination Ombud. <https://www.ldo.no/en/ldo-english-page/>

Sweden

Score 9

Civil rights and an egalitarian society are core Swedish values. The constitution has a chapter devoted to human rights, and legal certainty is a governing principle for public administration.

However, there are increasing causes for concern. Although discrimination based on sex, transgender identity or expression, religion or other beliefs, disability, sexual orientation, or age is illegal, the Discrimination Ombudsman (DO) reported an upward trend in incidents in 2021, with high numbers continuing in 2022 (DO 2022; 2023). The DO suggests that discrimination occurs in all segments of society, with discrimination based on sex, ethnicity, or age being the most prevalent. The DO also reports a high number of incidents against Muslims or people perceived to be Muslim.

In 2022, the constitution was amended to limit the right to associate with groups that support terrorism, have military operations, or persecute people on the basis of ethnic origins or skin color (Sveriges Riksdag, 2022).

The de facto segregation of suburbs in large metropolitan areas continues, and gang violence remains a significant challenge in some regions, infringing upon citizens' personal freedom of movement. This societal fracturing is cause for concern and an issue that has remained unresolved for quite some time.

Citation:

DO (Diskrimineringsombudsmannen). 2023. "Förekomst av diskriminering, 2023." <https://www.do.se/kunskap-stod-och-vagledning/publikationer-om-diskriminering/2023/forekomst-av-diskriminering-2023>

DO (Diskrimineringsombudsmannen). 2022. "Statistik över anmälningar som inkom till DO 2015–2021." <https://www.do.se/kunskap-stod-och-vagledning/publikationer-om-diskriminering/2022/statistik-over-anmalningar-som-inkom-till-do-2015-2021>

Sveriges Riksdag. 2022. "Kungörelse (1974:152) om beslutad ny regeringsform." https://www.riksdagen.se/sv/dokument-och-lagar/dokument/svensk-forfattningssamling/kungorelse-1974152-om-beslutad-ny-regeringsform_sfs-1974-152/

Belgium

Score 8

Political and civil liberties are extensive in Belgium. Even during the coronavirus crisis, political liberties remained intact. However, civil liberties came under pressure during the crisis, with restrictions on the right to assemble and demonstrate. High tension within police forces resulted in occasional violence, both from and against the police. While these were not part of a deliberate policy to restrict civil liberties, they contributed to a progressive erosion of norms.

Since the COVID-19 pandemic, the liberties and rights of EU citizens have been fully restored or even improved. For instance, new rape laws enshrining the principle

of consent entered into force in Belgium (Amnesty International 2023). However, following the immigration waves of 2015 and 2022, the government has hardened its stance on immigrants and political refugees, leading to an erosion of their rights. Amnesty International also highlights the inhumane treatment of prison inmates due to overcrowding in dilapidated prisons (2023, 92).

Citation:

Amnesty International. 2023. "Amnesty International Report 2023: The State of the World's Human Rights." <https://www.amnesty.org/en/documents/pol10/4870/2023/en>

Rule of Law Index (World Justice Project): <https://worldjusticeproject.org/rule-of-law-index/factors/2022/Belgium/>

Latvia

Score 8

Latvia's national legal and constitutional framework guarantees civil rights. These include safeguarding personal liberty against both state and non-state actors, ensuring the right to life and security, prohibiting torture and inhumane treatment, protecting privacy, and ensuring equality before the law. The judiciary is independent, and the government generally respects judicial independence.

Latvia generally upholds civil rights, with no reports of government-committed arbitrary or unlawful killings or disappearances. The legal system prohibits torture and other inhumane treatments and emphasizes equal access to justice and due process under the rule of law. This encompasses protection against arbitrary imprisonment and ensures fair legal proceedings for all citizens.

Some concerns include complaints about prison conditions, particularly regarding ventilation and access to healthcare. There have been reports of ill-treatment of migrants by security forces. There were challenges in handling asylum requests during the emergency near the Belarus border.

The executive branch actively identifies, prosecutes, and punishes civil rights violations, although challenges remain in fully realizing these goals. Freedom of peaceful assembly and association is constitutionally guaranteed and generally respected. However, authorities may deny public demonstration permits for public safety and national security reasons.

The principle of legal equality and the prohibition of discrimination as fundamental rights are enshrined in Article 91 of the constitution and international legal instruments. According to the World Bank Group's publication "Women, Business and the Law 2022," women in the country have legal standing equal to men (U.S. Department of State, 2022). In 2022, the ombudsman received 73 complaints on various aspects of discrimination, similar to the previous reporting period, when 68 complaints were received. Compared to 2020, when there were 49 such applications, citizens are more aware of their rights, the possibilities for their protection, and the need for it.

Citizens have requested the ombudsman's assistance with allegations of discrimination or unjustified differential treatment related to mobbing, COVID-19 restrictions, gender, age, disability, and health status. However, the ombudsman did not find unequal treatment or discrimination in all cases. Latvia implements policies to prevent discrimination based on various factors, including sex, gender identity, and ethnicity. The effectiveness of these measures, including positive discrimination and special representation rights, varies, but there is a concentrated effort to protect the rights of disadvantaged and minority groups.

The right to a fair trial is a cornerstone of the functioning of a democratic state under the rule of law. The protection of other human rights and fundamental freedoms largely depends on the proper guarantee of this right. Article 92 of the constitution ensures these fundamental rights for everyone, and their broad scope must be interpreted in conjunction with Article 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, as well as the case law of the European Court of Human Rights.

In 2022, the Ombudsman's Office received 172 applications related to the aspects of ensuring a fair trial, fewer than the 245 received in the previous reporting period. Most of the issues identified in these applications have already been brought to the ombudsman's attention. An analysis of the statistics for 2022 and earlier years shows a declining trend in mentions of access to justice, the conduct of legal aid providers, the enforcement of rulings, and the grounds for rulings in submissions. For instance, in 2020, the reasons for a decision were raised in 34 submissions; in 2021, this issue was mentioned in 13 submissions; while in the reporting period, it was raised in only four submissions.

In contrast, the number of submissions expressing dissatisfaction with the alleged unfairness of the proceedings has increased, with 34 submissions in 2021 but 42 in the reporting period. These statistics provide only a glimpse of the issues addressed to the ombudsman and do not substantiate whether the situation in Latvia has improved or deteriorated in this respect, as each case requires an individual assessment for an objective judgment. All individuals in Latvia are entitled to equal access to justice and due process under the rule of law. The judicial system strives to maintain this standard, although there are areas where improvements can be made to ensure more equitable access for all.

Citation:

U.S. Department of State. 2022. "Country Reports on Human Rights Practices: Latvia." <https://www.state.gov/reports/2022-country-reports-on-human-rights-practices/latvia/>

The Constitution of the Republic of Latvia. 1992. <https://likumi.lv/ta/id/57980-latvijas-republikas-satversme>

Tiesībsargs. 2023. Tiesībsarga 2022. gada ziņojums. https://www.tiesibsargs.lv/wp-content/uploads/2023/03/tiesibsarga_2022_gada_zinojums.pdf

Pilsonības un migrācijas lietu pārvalde. 2023. Ziņojums par migrācijas un patvēruma situāciju Latvijā 2022. gadā. <https://www.emn.lv/wp-content/uploads/2023/06/ARM-GALA-VERSIJA-LV.pdf>

Portugal

Score 8

In addition to the 1976 ratification of the International Covenant on Civil and Political Rights, the Portuguese constitution delineates broad categories of fundamental rights and guarantees for the population, primarily found in Articles 12 to 27. These rights are generally upheld in practice. However, persistent challenges remain in achieving equal access to these rights and liberties for all citizens in Portugal. As a result, there is a growing trend of discriminatory situations disproportionately affecting marginalized groups, including those with lower socioeconomic status and ethnic minorities such as the Roma community, Afro-descendant, and migrant worker communities. Furthermore, discrimination persists and contributes to sexual and gender-based violence against women, as highlighted in the Amnesty International Report 2022/23 (2023: 302).

According to a 2019 report on racism, xenophobia, and ethnic-racial discrimination, constraints and inequalities persist in areas such as access to fair and decent housing, particularly affecting communities of African descent and Roma. Additionally, there are continuing issues related to school dropout rates among Roma girls due to early and forced marriages and a notably low rate of higher education enrollment within these communities. Gender-based violence remains a grave concern in Portuguese society, resulting in the tragic murders of 25 women since the beginning of 2023, with an estimated 15 of these cases classified as femicide (Agência Lusa, 2023).

In response to these challenges, the government has been implementing measures outlined in the National Strategy for Equality and Non-Discrimination, which was initially introduced in 2018. The most recent step in this effort is the approval of the 2023 – 2026 Action Plans, aimed at consolidating progress and implementing policies related to gender equality, preventing and combating violence against women, and addressing discrimination based on sexual orientation and gender identity (CIG, 2023).

Amnesty International has reported ongoing excessive use of force and mistreatment by police officers. Between May and June 2022, the Council of Europe (CoE) Committee for the Prevention of Torture (CPT) visited various prisons and detention facilities in Portugal to assess the treatment and conditions of detainees. These visits revealed that instances of ill-treatment persist, with some individuals alleging mistreatment by officers from the Public Security Police (PSP) and the National Republican Guard (GNR) during apprehension and after they had been brought under control. Additionally, the committee found some prisoners living in degrading conditions, including dirty and deteriorated cells, broken windows, unpartitioned toilets in shared cells, and malfunctioning electrical installations. In response to these findings, the Portuguese government has initiated some procedures to address the committee's recommendations. However, further investigation is needed to assess the extent of their implementation.

Citation:

Agência Lusa. 2023. “Assassinadas 25 mulheres em Portugal desde o início do ano.” <https://observador.pt/2023/11/22/assassinadas-25-mulheres-em-portugal-desde-o-inicio-do-ano/>

Amnesty International. 2023. “Amnesty International Report 2022/23: The state of the world’s human rights.” <https://www.amnesty.org/en/documents/pol10/5670/2023/en>

Assembleia da República. 2019. “Relatório sobre Racismo, Xenofobia e Discriminação Étnico-racial em Portugal.” <https://app.parlamento.pt/webutils/docs/doc.pdf?path=6148523063446f764c324679626d56304c334e706447567a4c31684a53556c4d5a5763765130394e4c7a464451554e455445637655306c4f5243394562324e31625756756447397a51574e3061585a705a47466bZa554e7662576c7a633246764c7a45335a6a637a4d4455784c574d305a5759744e47497a4e5331684e7a67314c574d78596a63355a6a526d595442684d6935775a47593d&fich=17f73051-c4ef-4b35-a785-c1b79f4fa0a2.pdf&Inline=true>

CIG. 2023. “Aprovados os Planos de Ação 2023-2026 da ‘Estratégia Nacional para a Igualdade e a Não Discriminação – Portugal+Igual.’” https://www.cig.gov.pt/2023/06/aprovados-os-planos-de-acao-2023-2026-da-estrategia-nacional-para-a-igualdade-e-a-nao-discriminacao-portugaligual/?fbclid=IwAR1ertTlReGzopcHL06k9bqjMPVDJWO__A7P80RPj_Ib5q99ScMjpkVhSeA

CPT. 2023a. “Report to the Portuguese Government on the periodic visit to Portugal carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT).” <https://rm.coe.int/1680adcb76>

CPT. 2023b. “Response of the Portuguese Government to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its visit to Portugal.” <https://rm.coe.int/1680adcb8d>

Slovenia

Score 8

Civil rights are codified in the constitution and legislation and are generally respected by state institutions. Oversight and advocacy institutions, such as the Human Rights Ombudsman, play a crucial role in upholding these rights. Established by the 1991 constitution, the Human Rights Ombudsman is an independent and autonomous authority widely respected by the public, with the first Ombudsman taking office in 1994. The Ombudsman’s annual reports are regularly presented to the National Assembly, and the government prepares responses to his findings, criticisms, and proposals.

The Advocate for the Principle of Equality, established in 2016, is less well known despite its numerous activities. This institution protects against discrimination in both the public and private sectors and, in certain cases, for legal entities. It informs, advises, and represents individuals who believe they have been discriminated against and assesses regulations for discriminatory practices.

V-Dem data indicates that civil liberties are generally highly respected in Slovenia, though there was a decline in 2020 and 2021, as noted by Amnesty International. The situation improved in 2022. Despite the existing legal framework, women still earn less than men for the same work, although Slovenia has one of the lowest gender pay gaps. Discrimination against same-sex couples has occurred, but there have been legal improvements. In 2022, the National Assembly amended legislation

to legalize same-sex marriages and adoptions following a Constitutional Court ruling that restricting these rights to heterosexual couples was unconstitutional.

In 2023, after decades of debate and previous refusals to implement the law passed in 2021, the new Long-Term Care Act came into force to address the inadequate care services for Slovenia's growing elderly population. The Ombudsman's 2022 report was critical, highlighting an increase in the number of cases handled compared to pre-pandemic levels, though fewer than during the pandemic in 2020 and 2021. The report covered a wide range of civil rights issues and noted that Slovenian society is becoming more intolerant and desensitized to others, coinciding with a decline in social standards experienced by most citizens.

Citation:

Amnesty International. 2023. "Amnesty International Report 2022/23: The State of the World's Human Rights." <https://www.amnesty.org/en/documents/pol10/5670/2023/en/>

Human Rights Ombudsman. 2023. "Summary of the Work of the Human Rights Ombudsman of the Republic of Slovenia 2022." https://www.varuh-rs.si/fileadmin/user_upload/pdf/lp/LP_2022/Summary_of_the_work_of_the_Human_Rights_Ombudsman_of_the_Republic_of_Slovenia_for_2022.pdf

Republika Slovenia, Zagovornik načela enakosti. 2023. <https://zagovornik.si>

Varieties of Democracy. 2024. "Democracy Report." <https://v-dem.net/>

Spain

Score 8

Spanish state institutions generally respect and protect civil rights. According to the World Justice Project (WJP) Rule of Law Index, Spain is ranked 15th in protecting fundamental rights. Consequently, the rights guaranteed by the constitution and ordinary legislation are enforced. All individuals have equal access to justice and due process under the rule of law. Few infringements occur in practice, such as those concerning illegal immigrants. During the review period, Amnesty International accused Spain and Morocco of a cover-up for failing to properly investigate events at the border of the Spanish enclave of Melilla in 2022, when dozens of migrants and refugees died during a mass attempted crossing.

Courts provide effective protection, even if systematic delays and a lack of adequate resources – both human and technological – undermine this effectiveness to some degree. The legislation acknowledges the right to equal treatment and nondiscrimination for individuals, irrespective of nationality, age, legal status, or residency. Over the review period, there have been enhancements in the legal framework and policies aimed at preventing discrimination. Law 15/2022, enacted on July 12, 2022, is designed to ensure and promote the right to equal treatment and nondiscrimination while upholding the equal dignity of individuals.

The law explicitly prohibits discrimination based on factors such as birth, racial or ethnic origin, gender, religion, belief or opinion, age, disability, sexual orientation or

identity, gender expression, illness or health condition, serological status, genetic predisposition to certain pathologies and disorders, language, socioeconomic status, or any other personal or social circumstance. Article 19 mandates public administrations to promote information and accessibility to justice for particularly vulnerable groups.

To guarantee accessible justice for people with disabilities, the Ministry of Justice promoted a website dedicated exclusively to accessible justice for these individuals. Linguistic minorities can use all the official languages before the courts of their autonomous communities. In 2023, a new government office, the Office for Combating Discrimination, was created within the State Agency for Labor and Social Security Inspection.

Austria

Score 7

Civil rights are guaranteed by the constitution, and Austrian governments have observed these rules.

Systematic intimidation by authorities and unjust arrests or torture have had no place in Austrian postwar constitutional practice.

In the WJP Rule of Law Index for 2023, Austria ranks among the top 7% of the 142 countries surveyed. Specifically, Austria is in the top ten in terms of the effective enforcement of civil rights (10/142). Additionally, Austria is ranked among the top countries for keeping civil justice free from improper government influence (14/142). The country also received a favorable score for the low degree of corruption in civil justice, indicating a system free of bribery and improper influence by private interests (15/142).

The worst score (55/142 and 28/31 in the regional ranking) was received for the question of whether there were any alternative dispute resolution mechanisms that are affordable, fair, and efficient. The score concerning discrimination in civil justice – measuring whether the civil justice system discriminates in practice based on socioeconomic status, gender, ethnicity, religion, national origin, sexual orientation, or gender identity – was also less than fully satisfying (33/142).

Other sources also suggest there remains room for improvement. The 2022 – 2023 Amnesty International Report on human rights points out that the use of Strategic Litigation against Public Participation (SLAPPs) was “concerning” in Austria, as it is in countries such as Bosnia and Herzegovina, Bulgaria and Greece. The same report notes that “at several protests in the capital, Vienna, police prevented journalists from observing and reporting protests or failed to adequately protect them from attacks by protesters.” High fees for accessing courts also create a significant obstacle to the protection of civil rights for many social groups.

Discrimination issues have figured prominently over the years. Cases documented by various NGOs have shown members of the Austrian police to have used cruelty and violence in interactions with non-citizens, especially migrants without a residence permit. The overall impression is that in recent years and decades, the Austrian security apparatus – police and the military – has drifted somewhat to the right. Right-wing populist parties, especially the Freedom Party of Austria (FPÖ), instrumentalize social and economic anxieties among the broader population to blame migrants and refugees for various negative developments, ranging from crime to unemployment. Mainstream political parties have sometimes been reluctant to insist that the guarantees provided by human-rights declarations signed by Austria – for example, the Council of Europe’s Declaration of Human Rights – cover refugees and migrants and must be implemented without reservation.

Citation:

Amnesty International. 2023. “Amnesty International International Report 2022/23. The State of the World’s Human Rights.” <https://www.amnesty.org/en/wp-content/uploads/sites/9/2023/03/POL1056702023ARABIC.pdf>

World Justice Project. 2023. “WJP Rule of Law Index: Austria.” <https://worldjusticeproject.org/rule-of-law-index/country/2023/Austria>

Canada

Score 7

The main protector of human and civil rights in Canada is the Charter of Rights and Freedoms, passed in 1982. It is enforceable by the courts, and the judiciary plays an important role in protecting these rights. However, these rights are not absolute, and a “notwithstanding” clause allows provincial governments to opt out of Charter protections, which they do fairly often. In recent years, that clause has been invoked more frequently by provincial governments – in this case, Ontario, Quebec, and Saskatchewan – a situation that has become a key source of political controversy in Canada. The Charter also only applies to relationships between citizens and governments and does not cover other areas of life, such as links between citizens and private businesses unless those links involve government, such as regulation or licensing, for example (Heritage Canada 2017).

Individuals and groups can bring legal challenges to contest laws, policies or government actions that they believe infringe on their civil rights. Courts provide a forum for these challenges and have the authority to strike down or modify laws that are inconsistent with the Charter.

The Charter guarantees fundamental freedoms such as freedom of expression, assembly, association, and religion. It also includes sections on equality rights, prohibiting discrimination on various grounds, including race, gender, religion, and sexual orientation. Courts play a crucial role in addressing cases of discrimination and interpreting the scope of equality rights to promote a more inclusive and equitable society.

However, none of these rights are absolute, and courts may limit them in accordance with practices they deem compatible with a free and democratic society. Other exemptions, in addition to the general notwithstanding clause cited above, also exist (Library of Parliament, 2018). Courts play a key role in enforcing and protecting these freedoms, ensuring that individuals can exercise their rights without undue interference. The judiciary, particularly the Supreme Court of Canada, is responsible for interpreting the Charter's provisions. Judicial review of relevant statutes allows the courts to assess the constitutionality of laws, regulations, and government actions.

If a law or government decision is found to violate the rights and freedoms protected by the Charter, the courts have the power to declare it invalid or strike it down. Through its decisions, the court clarifies the meaning and scope of specific rights and freedoms. Remedies may include declarations of unconstitutionality, damages, or other measures aimed at rectifying the harm caused by the violation.

Citation:

Library of Parliament. 2018. "The Notwithstanding Clause of the Charter: Background Paper." Marc-André Roy, Legal and Social Affairs Division Laurence Brosseau, Legal and Social Affairs Division, Publication No. 2018-17-E.

Canadian Heritage. 2017. "Guide to the Canadian Charter of Rights and Freedoms." <https://www.canada.ca/en/canadian-heritage/services/how-rights-protected/guide-canadian-charter-rights-freedoms.html>

Czechia

Score 7

The government and administration respect and protect citizens' basic civil rights. However, complaints lodged with the European Court of Human Rights and the Office of the Public Defender of Rights (Ombudsman) indicate concerns about lengthy legal proceedings. The protection of crime victims, especially children who often experience secondary victimization during investigations and prosecutions, remains a significant issue. Additionally, standards of psychiatric care are notably below EU levels.

The Czech legal system guarantees equal access to work, education, and social services, with no official discrimination based on gender, race, religion, or social origin. However, discrimination based on gender, sexual orientation, and ethnicity persists, often manifesting as bias or social norms. A large part of the political spectrum has shown little concern for countering negative or discriminatory attitudes. A significant gender pay gap results in lower pensions and a higher risk of poverty for women. Half of the Roma population lives in social exclusion, and societal perception of the Roma remains strongly negative. Increased electoral participation in Roma-dominated districts during the 2023 presidential elections led to unfounded and unproven accusations of vote buying.

A major case before the Constitutional Court in 2022 concerned the rights of transgender individuals to legally change their sex without undergoing gender reassignment surgery. The court denied the request of a trans citizen, although two Constitutional Court judges filed dissenting opinions.

France

Score 7

Civil rights and political liberties are in principle well protected in France. This was not always the case: Until the 1980s, France's record in this area was more mediocre. Since that time, however, France's judicial system has become a reliable defender of civil rights. The Constitutional Court unilaterally extended its competence to the protection of civil liberties in a famous ruling in 1971. The European Court of Justice and, more importantly, the European Court of Human Rights have played an active role in this process, and the growing independence of the judiciary has helped this evolution.

There have been several critical debates in recent years nonetheless. Following the terrorist attacks of 13 November 2015, the government enacted a state of emergency that allowed for house searches and house arrests, among other elements. The state of emergency was regularly extended until 2017, when several critical measures were voted into law and thus extended indefinitely. A new anti-terrorism bill in 2021 moreover curtailed the scope of data privacy.

Many issues regarding civil liberties came back to the forefront of public debate during the pandemic. While there was quite a bit of debate, the vast majority of the population was ultimately supportive of restrictions such as distancing, mask mandates and curfews. Although some parties and other political actors voiced opposition, this was not comparable to the protests mounted in Germany or the Netherlands.

Finally, a recurring debate in French society concerns the role of religion in the public space. A law from 1905 establishes the principle of separation (*laïcité*). In recent years, this law has been regularly questioned as debates have emerged concerning headscarves, halal food and other religious signifiers, especially in public schools. With little or no exception, this debate concerns the Muslim population. In this context, and more generally, Amnesty International has reported that "racial and religious discrimination persisted, especially targeting Muslim individuals and associations" and blamed "excessive use of force by police continued without accountability" (Amnesty International 2023).

Citation:

Peretti-Watel, Patrick, et al. 2020. "The French General Population's Attitudes toward Lockdown against COVID-19: A Fragile Consensus." *BMC Public Health* 20 (1): 1-8.

Amnesty International. 2023. "Amnesty International Report 2022/23, France report." <https://www.amnesty.org/en/latest/research/2023/02/amnesty-international-report-2022-23>

<https://www.amnesty.org/en/location/europe-and-central-asia/france/report-france/>

Greece

Score 7

The Greek constitution ensures equality before the law (Article 4) and guarantees personal liberty, the right to life and security, protection from torture and inhumane treatment, and the right to privacy (Articles 5–9).

Citizens in Greece generally do not face significant constraints on the realization of their civil rights. They have access to civil courts and can afford legal representation.

A public debate is ongoing in 2023–2024 regarding the legalization of same-sex marriage. The government is preparing a bill to legalize such marriages, though it will limit childbearing options for homosexual couples (e.g., prohibiting surrogacy). Opposition to the bill has been expressed by the Greek Orthodox Church, far-right parties, and some MPs from the ruling party, but the government remains committed to legislating on this issue (Associated Press, 2023).

Since mid-2022, allegations of privacy violations have emerged, particularly concerning the wiretapping of journalists covering immigration and politicians, including ruling party officials and an opposition leader. Greece’s National Intelligence Service has been implicated, and the government denies responsibility, though investigations by prosecuting authorities are ongoing.

While civil rights are generally respected in Greece, there are chronic delays in the administration of justice, even in less sensitive civil law cases. International assessments reflect these issues, with Greece ranking 49th out of 140 countries in the World Justice Project’s Rule of Law Index (2022). Amnesty International (2023) has also reported instances of excessive force used by police, particularly against Roma minority suspects.

Citation:

Amnesty International. 2023. “Greece.” <https://www.amnesty.org/en/location/europe-and-central-asia/greece/>

Associated Press. 2023. “Greek Government Says it Stands By Same-Sex Marriage Even After Opposition by the Church.” <https://apnews.com/article/greece-lgbtq-marriage-orthodox-church-d13cd46d593fad0d7becedee0b0df340>

World Justice Project. 2022. “Greece.” Factor 7 – Civil Justice. <https://worldjusticeproject.org/rule-of-law-index/factors/2022/Greece/Civil%20Justice/>

Ireland

Score 7

The national legal and constitutional system in Ireland guarantees the protection of civil rights. However, financial constraints and an inadequate free legal advice scheme hinder full access to justice, limiting it by resources, knowledge, education and capacity (Liberties Report 2022). Various CSOs and QUANGOs play a crucial role in protecting and advancing civil rights, including the Irish Human Rights and

Equality Commission (IHREC), which reports directly to the United Nations International Convention on Civil and Political Rights and the Fundamental Rights Agency (where Ireland currently holds the chair role), the Free Legal Aid Centers (FLAC), the Irish Council for Civil Liberties, Amnesty International and the Coolock Community Law Centre (which hosts an Environmental Law Officer).

These institutions use the courts to safeguard personal liberty against both state and non-state actors, including rights such as the right to life and security, prohibition of torture and inhumane treatment or punishment, protection of privacy, equality before the law, equal access to justice and due process under the rule of law, such as protection against arbitrary imprisonment without due process. The Good Friday Agreement (1998) proposed a Bill of Rights to advance civil and political rights on the island of Ireland, but this still awaits drafting and implementation.

State actors, including the State Solicitor's Office, the Office of the Attorney General and IHREC, demonstrate respect for civil rights and effectively safeguard them by identifying, prosecuting and punishing violations. However, policies implemented by state institutions are limited in preventing discrimination based on factors such as gender, identity, sexual orientation, physical and mental ability, health, age, ethnic origin, social status, political views or religion. An IHREC assessment (2022) found that more can be done by statutory bodies to address their obligations and public duty to advance equality and human rights. Positive discrimination measures, such as gender candidate quotas, are in use, but there are few special representation rights or autonomy rights protecting disadvantaged individuals or minority groups. The 2023 Enhanced Capacity Bill protects the autonomy of those with restricted decision-making capacity and is currently being enforced.

The UN Human Rights Commission (HRC) has found inadequacies in redress schemes for women and children who had resided in or been confined to state-funded institutions, and for women subjected to surgical procedures during childbirth without their informed consent (Amnesty International, 2023). Additionally, the UN HRC has noted concerns related to access to adequate housing, including for Ukrainians and other refugees, the criminalization of sex work, sexual and reproductive rights, mass surveillance by law enforcement, and limits on donations to advocacy and rights organizations.

Citation:

Civil Liberties Union for Europe. 2022. "Liberties Rule of Law Report 2022 Ireland." https://www.iccl.ie/wp-content/uploads/2022/02/IRELAND_Rule-of-Law-Report_2022.pdf

IHREC. 2023. "Annual Report 2022." <https://www.ihrec.ie/documents/annual-report-2022/>

Amnesty International. 2023. Amnesty International Report 2022/23: The State of the World's Human Rights.

Lithuania

Score 7

Lithuania is a democracy in which political rights and civil liberties are generally respected. Gaining Lithuanian citizenship is relatively easy for all residents, and civil rights are officially protected by the constitution and other legislative provisions. However, some issues affect the effective protection of citizens' rights. According to the U.S. Department of State's 2022 Human Rights report, Lithuania's most significant human rights problems include poor prison conditions and inadequate conditions in foreigner registration centers for irregular migrants who have crossed the country's border with Belarus. Similar criticism was made by Amnesty International in its 2022 report on Lithuania. It noted that while refugees from Ukraine were welcomed and assisted, "other refugees and migrants were forcibly returned to Belarus or arbitrarily detained, denied access to asylum, and in some cases, subjected to torture and other ill-treatment." It also highlighted that same-sex unions had still not been legalized.

Lithuanian authorities seek to prosecute or otherwise punish officials who commit abuses, and Lithuanian courts provide legal protection against illegitimate or unjustifiable interventions in personal life. As noted by the U.S. Department of State, "the government had mechanisms in place to identify and punish officials who may commit human rights abuses or engage in corruption." In the 2022 Freedom House report, Lithuania received a score of 51 out of 60 in the category of civil liberties. The report highlighted that "women, LGBT+ people, members of the Romany minority and some other groups experienced varying degrees of discrimination and under-representation in politics."

The World Justice Project Rule of Law 2023 report ranked Lithuania seventh out of 142 countries in terms of the accessibility and affordability of civil courts for the general public. It also ranked Lithuania as high as fourth place regarding civil justice being free of discrimination based on socioeconomic status, gender, ethnicity, religion, national origin, sexual orientation or gender identity. Lithuania was ranked eighth in terms of the effectiveness of civil justice enforcement and 18th regarding civil justice being free of improper government or political influence.

Citation:

U.S. Department of State. 2022. "Country Reports on Human Rights Practices: Lithuania." <https://www.state.gov/reports/2022-country-reports-on-human-rights-practices/lithuania>

Freedom House. 2023. "Freedom in the World 2023: Lithuania." <https://freedomhouse.org/country/lithuania/freedom-world/2023>

World Justice Project. 2023. "Rule of Law Index 2023, Lithuania." <https://worldjusticeproject.org/rule-of-law-index/factors/2023/Lithuania/Civil%20Justice>

Switzerland

Score 7

Civil rights are guaranteed by the constitution. However, the country does not have a classic constitutional court able to monitor the conformity of federal laws with the constitution outside the context of a particular case. Federal laws are binding for the federal courts. In contrast, the Federal Supreme Court in Lausanne monitors the conformity of federal regulations and cantonal laws with the constitution. With respect to basic civil rights, the European Court of Human Rights complements the Swiss Federal Supreme Court.

In December 2012, a parliamentary attempt to give the Federal Supreme Court the right to abstain from applying federal law if the federal law was incompatible with the constitution failed. The main argument was that in a direct democracy, the constitutional court should not be authorized to declare federal laws void as a whole.

Conflicts between human rights and direct democracy have emerged, particularly in recent years. One such concern was represented by the successful 2004 popular initiative providing for the life imprisonment of particularly dangerous criminal offenders without any opportunity for reexamination. This conflicts with the European Convention for the Protection of Human Rights and Fundamental Freedoms. This convention guarantees periodic reviews in which the necessity for continued imprisonment can be evaluated.

Likewise, there have been conflicts between popular votes at the local and cantonal levels on naturalization and the call by foreign-born individuals for fair and transparent treatment and the opportunity to appeal naturalization decisions. Some observers have argued that the current naturalization procedure fails to conform to the human rights standards set out in the constitution. The Federal Supreme Court decided in 2003 that naturalization procedures previously established by popular vote were unconstitutional, since they violated constitutional norms of non-discrimination and the right to a lawful legal procedure.

The ban on the construction of minarets, approved in a popular vote in 2009, represents a particularly problematic decision. The basic claim of proponents was that minarets signify the potential aggression and power claims of Islam, which in turn need to be suppressed as a strategy for keeping the peace. However, it is evident that the popular initiative was clearly aimed against Islam and the Islamization of Europe. Legal scholars tend to argue that the text of the measure violated the freedom of worship and the non-discrimination rule. Another initiative launched by the People's Party, the text of which prohibited Muslim women from covering their faces in public, was approved by the public in June 2021. Once again, Muslims were targeted, and their right to self-determination was undermined or even completely eliminated.

The approval in 2009 of an initiative to deport foreign criminals is also seen as problematic in terms of respect for fundamental rights. Finally, several measures passed via popular vote have contradicted international law, such as the 2014 initiative on stopping mass immigration. This was not compatible with Switzerland's commitment to the free movement of persons as made in its bilateral agreements with the EU. Parliament therefore decided not to implement the constitutional provision directly (Armingeon and Lutz 2020, 2022).

The major underlying problem is the claim by many political actors that the people have an unrestricted right to decide any matter through popular vote. This conflicts with the basic rule of any liberal democracy that there are limitations to the will of the majority, such as human rights standards and protections for minorities. Switzerland's public debate on the limits to majority rule (via popular vote) shows little cognizance of these traditional limitations to majoritarian rule. This has become very obvious in recent debates over the conflicts between international law and Swiss citizens' decision-making rights in popular votes.

Although anxiety over the ebbing of popular sovereignty extends beyond conservatives, this latter group in particular feels uneasy with the internationalization of law and some recent interpretations of human rights that have been made by professional lawyers. In the right-wing populist and conservative view, the internationalization of law and international court rulings against the results of Swiss referendums contradict Switzerland's legislative culture, which is characterized by the principle of subsidiarity and guided by the idea that popular decisions have the highest degree of legitimacy. Consequently, in the summer of 2016, the country's strongest political party, the Swiss People's Party, collected sufficient signatures for an initiative aiming to give federal law precedence over international law. This initiative was rejected on 25 November 2018. On the other hand, the Federal Constitutional Court has generally assumed (with exceptions) the primacy of international law (Flick Witzig et al. 2022: 223).

Switzerland has proved to be particularly resilient with regard to upholding political rights and democratic standards. The Pandemic Violations of Democratic Standards Index by the V-Dem project ranks Switzerland second out of 144 countries regarding non-violations of democratic standards during the pandemic (measured for the March 2020 – June 2021 period) (Edgell et al. 2021, 2022).

However, the approval in June 2021 of the Federal Act on Police Measures to Combat Terrorism represents an additional threat to civil rights in Switzerland. This law gives the federal police (Fedpol) the power to implement several types of preventive measures, without any judicial decision, in order to prevent a "potential terrorist" from acting in the future. What or who exactly is considered a terrorist is not defined clearly within the framework of the law, which opens the door to potential abuses. In addition, the measure directly targets children beginning from the age of 12, in violation of the rights of children enshrined in the Convention on

the Rights of the Child. The preventive measures include electronic monitoring, a contact ban, a perimeter ban and house arrest. The bar association of the canton of Geneva released a statement opposing this law (2021), arguing that it represents a clear violation of many fundamental rights as well as international conventions including the UN Convention on the Rights of the Child and the European Convention on Human Rights. Many human rights associations, such as Amnesty International, have also explicitly opposed the law and highlighted its threat to civil liberties, activism and basic human rights.

Still on the topic of breaches of human rights, several NGOs have criticized the criminalization of protests and civil disobedience in Switzerland – including those related to climate activism. This relates to restrictive laws on protest authorization as well as excessive police repression (Amnesty International 2023; Humanrights.ch 2023). Another matter of concern is the structural racism and institutional discrimination that persists in Switzerland, which have been comprehensively documented by several studies conducted on behalf of the Service for Combating Racism, a Federal Ministry of Home Affairs project (e.g., Mugglin et al. 2022). A comprehensive review of 304 empirical studies across a large array of policy fields in Switzerland has found “clear indications of institutional and structural discrimination” in the fields of work, housing, administrative procedures and naturalization, as well as in social protection, policing and the justice system to a certain extent (Mugglin et al. 2022: 50).

Citation:

Amnesty International. 2023. “<https://www.amnesty.ch/fr/themes/droit-de-manifester/docs/2023/amnesty-lance-une-nouvelle-campagne>”

Amnesty International. 2021. “Ordonnance relative à la Loi sur les mesures policières (MPT): une surveillance encore plus intrusive.” <https://www.amnesty.ch/fr/pays/europe-asie-centrale/suisse/docs/2021/ordonnance-relative-a-la-loi-sur-les-mesures-policieres-mpt-une-surveillance-encore-plus-intrusive>

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Edgell, Amanda B., Jean Lachapelle, and Anna Lührmann. 2021. “Pandemic Backsliding: Violations of Democratic Standards During Covid-19.” *Social Science & Medicine* 285: 114244. <https://www.sciencedirect.com/science/article/pii/S0277953621005761>

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United Kingdom

Score 7

The UK does not have a written constitution that defines civil rights. However, the Human Rights Act of 1998 and adherence to the European Convention on Human Rights provide a framework for protecting these rights. Despite regular criticisms and occasional talk of leaving the Convention, the UK respects the role of the Strasbourg Court in upholding human rights. GCHQ, part of the UK's security apparatus, has significant capabilities in tracking and evaluating national and international electronic communications, sometimes attracting media criticism. Public opposition to these activities has been relatively mild, with most criticism coming from libertarian pressure groups. More sustained opposition comes from communication firms uncomfortable with government attempts to access private data.

A series of anti-terrorism acts has equipped the UK government with tools to combat terrorism, some of which impose restrictions on the civil liberties of a small minority of the population. While courts and public pressure have occasionally stopped practices like the indefinite detention of non-nationals, the state has often reintroduced similar measures under different names, such as replacing "control orders" with "terrorism prevention and investigation measures." These actions occur under intense media scrutiny.

There is also a movement in the UK to advance the human rights-based approach language promoted by the UN Sustainable Development Goals, particularly evident in recent Scottish government initiatives.

Citation:

<https://unsdg.un.org/2030-agenda/universal-values/human-rights-based-approach#:~:text=The%20human%20rights%2Dbased%20approach,promoting%20and%20protecting%20human%20rights>

United States

Score 7

Since the 1870s, the U.S. federal government has maintained a department dedicated to upholding the fundamental rights of citizens: the Department of Justice (DOJ). The DOJ is one of the most significant institutional actors in the federal government and has played a vital role in U.S. history in pursuing those who seek to infringe

upon individual rights, both inside and outside of the government (Foner 1988). Ultimately, the effectiveness of the DOJ is tied, in part, to the quality of its staff. Generally speaking, the DOJ staff have a high reputation for competence and commitment to the department's historic mission (Johnson 2019).

The head of the Justice Department is the attorney general, and leadership from attorneys general has varied over the years. There have been instances of attorneys general who appeared to be more committed to the political project of the president in whose Cabinet they served. For example, Alberto Gonzales, attorney general under George W. Bush, was accused of orchestrating the removal of federal prosecutors deemed unfriendly to Republican politicians or failing to pursue Democrats for alleged wrongdoings (Eisenstein 2007).

Individuals who believe their fundamental rights have been violated can pursue their claims through the judicial process. The federal courts have heard various cases relating to sex, gender identity, sexual orientation, physical and mental ability, health, age, ethnic origin, social status, political views, or religion. Most of these characteristics are protected by the Constitution – for example, the Equal Protection Clause of the Fourteenth Amendment – or federal statutes such as the Civil Rights Act of 1964 and its subsequent amendments. The Supreme Court has also expanded historic legislation to cover new groups. For instance, the Court recently ruled that the Civil Rights Act protects gay and transgender employees from discrimination, even if this was not part of the original interpretation by the drafters of the legislation in the 1960s (Valenti 2021).

Citation:

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Australia

Score 6

Australia does not have a bill of rights. Instead, civil rights are protected through a significant body of legislation and by the constitution, which contains certain implied rights which are subject to interpretation by the High Court. This was perhaps made most clear to the Australian people when state and territory governments imposed severe lockdown restrictions that were ruled by courts to be legal.

Civil rights in areas such as speech, association, political participation, and privacy are generally respected and enforced. However, recent moves in some states to tighten protest laws may limit civil rights necessary for civil disobedience and social movement activism. The political rights of Indigenous Australians remain insufficiently protected, and these communities are overrepresented in prisons and

the penal system (Amnesty International 2023). Refugees and migrants face political risks that citizens are protected from.

One of the factors (Factor 4) measured by The World Justice Project tracks the protection of fundamental rights, focusing on rights that are firmly established under the United National Universal Declaration of Human Rights. According to this indicator, Australia is a high performer, ranking 19 out of 140 countries tracked by The World Justice Project. However, the trendline for Australia has been downward since 2015. The fundamental rights protection score recorded in 2023 is 0.78, but in 2020 that score was slightly higher at 0.79, and higher still in 2018 (0.81), and 2015 (0.82) (World Justice Project 2023).

Citation:

Amnesty International. 2023. "Amnesty International Report 2022/23: The State of the World's Human Rights." <https://www.amnesty.org/en/documents/pol10/5670/2023/en/>

World Justice Project. 2023. "WJP Rule of Law Index: Countries: Australia." <https://worldjusticeproject.org/rule-of-law-index/country/2022/Australia/Fundamental%20Rights/>

Italy

Score 6

The Italian legal system encompasses a comprehensive set of constitutional provisions and ordinary laws that protect a wide range of civil rights. The judiciary's robust independence ensures the proper enforcement of these rights, at least theoretically. However, in practice, inefficiencies in judicial administration and an excessive backlog of cases lead to lengthy court proceedings. This delays the resolution of penal trials and civil disputes, undermining the effectiveness of personal and property rights protection. The Civil Justice Index by the World Justice Project (2023) ranks Italy 51st out of 141 nations, far below other EU and North American countries.

Overcrowded penitentiaries and the resulting poor living conditions for prisoners, along with their treatment by police officers, frequently draw attention from the Italian media, parliament, and the European Court of Human Rights. The Court has repeatedly condemned the Italian state for failing to adequately protect prisoners' lives (see, for instance, the ECHR judgment of 14 September 2023).

Amnesty International's 2023 report raises humanitarian concerns regarding the rights of refugees and migrants. In February 2023, the Italian parliament passed a decree imposing stricter regulations on NGO rescue ships operating in the Mediterranean Sea. Additionally, the Meloni government has strengthened its cooperation with Libyan authorities to control irregular migration flows from Libya, despite documented human rights abuses in Libyan detention centers.

In a further development, Meloni signed an agreement with Albanian Prime Minister Edi Rama in December 2023 to transfer some migrants rescued in the Mediterranean

by Italian military ships to Albania. While the implementation of this agreement remains uncertain, concerns have been raised that it could violate the principles of non-discrimination and the right to asylum enshrined in national, EU, and international laws.

While Italy has established a comprehensive legal framework to address discrimination, its implementation remains uneven, particularly in areas of gender, physical and mental abilities, and ethnic minorities. The country's ranking of 13th on the Gender Equality Index falls below the EU average, highlighting persistent gender disparities. These inequalities are especially pronounced in the labor market, where Italy has consistently ranked last among EU member states since 2010 (Gender Equality Index 2023). Discrimination against immigrants is also prevalent. While immigrants have access to healthcare services, their rights in other spheres, particularly the labor market, are often inadequately protected. The Italian parliament failed to pass a bill that would have ensured effective access to citizenship for children of foreign nationals born or raised in Italy.

In response to the alarming surge in femicides, the Italian parliament swiftly enacted legislation to combat violence against women in November 2023, with notable support from opposition parties. However, parliament was unable to pass legislation to protect LGBTQ+ individuals from hate crimes.

Citation:

<https://www.amnesty.org/en/documents/pol10/5670/2023/en/>

<https://worldjusticeproject.org/rule-of-law-index/downloads/WJPIndex2023.pdf>

https://eige.europa.eu/modules/custom/eige_gei/app/content/downloads/factsheets/IT_2023_factsheet.pdf

REV: <https://europa.camera.it/osservatorio-sentenze-cedu/sentenze>

Japan

Score 6

The Japanese constitution guarantees all basic human and civil rights, such as the right to life, liberty, the pursuit of happiness, redress of damages, education, private property, as well as freedom of thought, religion, speech, assembly and association. All people are equal under the law and cannot be discriminated against because of race, sex, creed, social status or family origin. Access to the courts is guaranteed by the constitution. Arrests without a judicial warrant, torture and cruel punishments are prohibited. Confessions made under compulsion are not admitted as evidence.

Maltreatment by the police is still common. Suspects may be detained for 23 days before indictment by a judge, with a risk of rearrest and prolonged detention. The right to access a lawyer and to remain silent is not always respected, as investigators press suspects to confess to alleged crimes. In addition, long pretrial detention is thought to encourage forced confessions (U.S. Department of State 2022). While rarely applied, the death penalty has not been abolished and conditions in prisons are harsh.

Japan has a low litigation rate and the use of alternative conflict resolution models are common. The World Justice Project assesses these to be fairly accessible, impartial and effective.

Despite the government's efforts to promote the empowerment of women, Japanese society is still largely patriarchal. The revised Labor Policy Comprehensive Promotion Act, which came into effect in 2020, mandates employers to take actions against the harassment of women, but it failed to introduce punishment for non-compliance. Japan ranked 125 out of 146 countries in the Global Gender Gap Index 2023. Only about 10% of members of the House of Representatives are women.

The Act for Eliminating Discrimination against Persons with Disabilities, which entered into force in 2016, prohibited the unfair and discriminatory treatment of persons with disabilities by administrative organizations and private businesses. Nevertheless, Japan has not signed the Optional Protocol to the Convention on the Rights of Persons with Disabilities, which prevents citizens from submitting their complaints to the UN Committee on the Rights of Persons with Disabilities.

A growing number of municipalities are recognizing same-sex partnerships and issuing partnership certificates. However, the legal weight of these certificates is limited and the right to marriage is still not granted. Japan's legal framework is far less developed than in most other OECD democracies. Although naturalization rules were eased in recent years, some discrimination against Korean and Chinese permanent residents continues. Another discriminated group are refugees. The Japanese government rejects most asylum requests. Foreigners in immigration control facilities are subjected to prolonged detention and inhumane treatment. Foreign workers often face discrimination connected with dangerous working conditions, low wages, and forced overtime work. Since 2021, a smartphone app issued by the Immigration Services Agency of Japan – which is supposed to help verify foreign nationals' residence cards – has been criticized as discriminating against foreign residents and violating privacy rights. The government has not restricted usage of the app and has even advertised it on public trains.

In Japan, there is no independent agency, such as an ombudsperson, that investigates human rights abuses. Because Japan has not signed the First Optional Protocol to the International Covenant on Civil and Political Rights, Japanese citizens cannot submit their complaints to the UN Human Rights Committee.

Citation:

Amnesty International. 2023. "Amnesty International Report 2022/2023. The State of the World's Human Rights." <https://www.amnesty.org/en/wp-content/uploads/2023/04/POL1056702023ENGLISH.pdf>

"Concerns raised over residence card checker app released to public." <https://www.city-cost.com/blogs/City-Cost/GbPm2-living>

Human Rights Watch. 2023. "Japan: 'Hostage Justice' System Violates Rights." <https://www.hrw.org/news/2023/05/25/japan-hostage-justice-system-violates-rights>

OECD. 2021. *Over the Rainbow? The Road to LGBTI Inclusion*. Paris: OECD.

Prime Minister of Japan and His Cabinet. 1946. “The Constitution of Japan.” https://japan.kantei.go.jp/constitution_and_government_of_japan/constitution_e.html

U.S. Department of State. 2022. “2022 Country Reports on Human Rights Practices: Japan.” <https://www.state.gov/reports/2022-country-reports-on-human-rights-practices/japan>

World Economic Forum. 2023. “Global Gender Gap Report 2023.” https://www3.weforum.org/docs/WEF_GGGR_2023.pdf

World Justice Project. “Japan, civil justice.” <https://worldjusticeproject.org/rule-of-law-index/country/2023/Japan/Civil%20Justice/>

Netherlands

Score 6

Universal civil rights and the rule of law are not in acute danger in the Netherlands. But in a 2015 article “Stress test rule of law Netherlands,” a professor who studies institutional aspects of the rule of law concluded that “especially in the functioning of our democratic system, there are insufficient guarantees that rule of law values are protected adequately and in a timely manner” (Brenninkmeijer 2015). In 2020, the Council for Public Administration (Raad voor het Openbaar Bestuur, ROB) wrote an unsolicited opinion entitled “A Stronger Rule of Law.” For too long, the ROB said, the ideas underlying the rule of law have been neglected through ignorance, clumsiness or indifference. For too long, it added, the rule of law had been taken for granted. Rulings by the Council of State from 2023 show that in the child allowance affair, fundamental rights including the rights to privacy, family life and nondiscrimination, were not sufficiently protected.

A fall 2023 evaluation of party programs by the Dutch Bar Association additionally showed that Dutch politicians no longer unconditionally respect fundamental rights or the Dutch constitution. As many as 10 (out of 18) parties featured proposals that directly violated fundamental rights as guaranteed in the constitution or international treaties signed by the Dutch state. In 2021, seven parties did so. Legal experts see problems especially with proposals for asylum, harsher punishment, rules in prisons and the abolishment of laws. For example, setting a maximum number of asylum-seekers per year, as proposed by parties including the BBB, NSC, PVV, BVNL and FvD, would violate international obligations and treaties. The SGP’s suggestion to reintroduce the death penalty raises similar concerns. DENK, according to lawyers, goes too far in proposing mandatory chemical castration for pedosexuals. The VVD goes too far with the supervision of Islamic weekend schools, they say. Standard prison sentences or minimum sentences (JA21, PVV), the imposition of life sentences after three serious crimes (JA21, BBB) and simply scrapping the nitrogen law (BVNL) would also violate existing legal standards, according to lawyers. Furthermore, according to the lawyers, FvD seeks to restrict freedom of speech with “LGBTI+ propaganda.”

At both the elite and mass level there is clear evidence that the Netherlands is backsliding democratically, with political leaders showing greater tendencies to

undermine the rule of law and the constitution, and the public demonstrating lower levels of support for democracy and lower levels of trust in institutions.

Citation:

A. Brenninkmeijer. 2015. "Stresstest rechtsstaat Nederland." *Nederlands Juristenblad* 16: April 24.

ROB. 2020. "Een sterkere rechtsstaat. Verbinden en beschermen in een pluriforme samenleving."

Groene Amsterdammer. 2023. "In de kou." *Tamar de Waal* March 15.

Twee uitspraken van de Raad van State inzake de kindertoelagen tonen opnieuw aan dat de rechtsbescherming van grondrechten niet adequaat is.

NOS. 2023. "Nieuws." November 5.

Nederlandse Orde van Advocaten. 2023. "NovA-commissie toetst verkiezingsprogramma's op rechtsstatelijkheid." *Nieuwsoverzicht* September 13.

Platform O, Van Ommeren. 2023. "Rechtsstaatagenda en -monitor: zeer noodzakelijk!" 09 augustus.

Groene Amsterdammer. 2023. "Hoe het demonstratierecht steeds meer wordt uitgehold." March 23.

Israel

Score 5

Most civil rights in Israel are not constitutionally protected. There are two basic laws that safeguard civil rights – the Basic Law: Human Dignity and Freedom, and the Basic Law: Freedom of Occupation. Other civil rights rely on the court's interpretation of these laws. Consequently, the protection of civil rights hinges on the Supreme Court.

The right of due process is protected by legislation and overseen by the court.

There is a law against discrimination on the basis of sex, sexual orientation or religion. The current government's coalition agreement aims to change this law, weakening protections against discrimination. However, this has not materialized yet. In addition, the attorney general is responsible for protecting civil rights in policymaking (legislation and decisions).

Over the past year, efforts to overhaul the judiciary have put civil rights protections at risk. Senior politicians argue there is no need for the court to protect civil rights, claiming politicians would assume this role. Additionally, a clause in the coalition agreement signed by the current government proposes to transfer more responsibilities for family issues from the court to religious courts. Although this change has not yet been legislated, if it is it will affect the rights of women, who face discrimination in religious courts. This proposal also demonstrates the limited commitment of many within the government, especially those belonging to religious parties, to protecting civil rights.

Moreover, the police have begun systematically violating civil rights by preventing protests against the government, using extreme violence and arresting protesters without cause, thereby implying a political motivation.

The policies implemented by the state are generally effective in preventing discrimination. The civil service code of conduct emphasizes the prevention of discrimination and the importance of impartial service provision. Government practices and procedures are also impartial. There is affirmative action for women in the civil service, along with special positions opened for various minorities to increase equity and diversity. Additionally, each ministry should meet a quota for recruiting people with disabilities or an Arab background. According to the State Comptroller (2021), the outcomes of these measures are limited and insufficient. Although more employees come from disadvantaged groups, they are often not recruited to managerial positions. Furthermore, the 10% goal for recruiting Arab employees has not been updated for many years and does not reflect their share in the population or labor force.

There has been significant progress toward equality for same-sex couples and families. Recently, the right to adoption was also expanded to include same-sex couples and there are laws against workplace discrimination.

All individuals have access to the court system and, as mentioned earlier, the ability to petition the Supreme Court was expanded to increase access.

Citation:

State Comptroller. 2021. "Inclusive employment of various populations in the civil service." <https://www.mevaker.gov.il/sites/DigitalLibrary/Pages/Reports/7302-8.aspx>

Hungary

Score 4

Generally, civil rights in Hungary are protected by the constitution (Basic Law), but subordinate laws and practical applications often blur these constitutional provisions. During the Orbán era, several severe and systematic issues have arisen, reflecting the illiberal regime's logic and the democratic decline the government is engaging in to cover and maintain the corrupt practices of the Fidesz elite. Ideologically, same-sex marriages and feminism are incompatible with the conservative, traditional view of society upheld by the regime. Consequently, LGBTQ+ issues are alien to the regime. Provisions in the constitution (e.g., marriage as a bond between men and women, the heteronormative nuclear family model enshrined in the constitution – see Takács et al. 2022) and laws like the Lex NGO and the Sovereignty Protection Act significantly reduce legal certainty for these communities and their ability to organize. Rather than preventing discrimination, the government fosters it in this respect.

Furthermore, the Child Protection Act of 2021 conflated homosexuality with pedophilia and led to absurd measures, such as obliging bookstores to sell LGBTQ+ books in sealed packages (Rédai 2023). Migrants are another group in society that faces legal and practical restrictions. All these groups are subject to othering in the narrative pushed by the populist government. The scapegoating of minority groups

for domestic problems and the us-and-them narrative aims to secure power. With checks and balances having largely been removed from the system and the government having secured a two-thirds supermajority in the 2022 parliamentary election, only the EU can prevent the government from continuing and widening its attack on these groups. The former head of state, Katalin Novák (who resigned in February 2024 due to public outrage caused by offering a presidential pardon in a pedophilia case), once turned against the government when vetoing a highly controversial law on whistleblowing that aimed to restrict the rights of homosexual and transgender people. Novák referred to the potential increase in mistrust among community members and criticized the fact that the law did not meet EU requirements. Despite these instances, the government has continued to target these communities.

Citation:

Rédai, D. 2023. "Lesbian Resistance Through Fairytales. The Story of a Children's Book Clashing with an Authoritarian Anti-Gender Regime in Hungary." *Journal of Lesbian Studies* (1-17).

Takács, J., Fobear, K., and Schmitsek, S. 2022. "Resisting Genderphobia in Hungary." *Politics and Governance* 10(4): 38-48.

Poland

Score 4

Poland's national legal and constitutional system formally guarantees the protection of civil rights in connection with health, social status and political opinions. However, this stands in stark contrast to many state policies. In 2022, the UN advocated for Poland to introduce 200 amendments concerning civil rights. Although Polish law bans employment discrimination based on sexual orientation, in 2023 the rights organization ILGA-Europe certified Poland as having the worst record on LGBTQ+ rights in the EU for the fourth time since 2020 (Camut 2023). Civil and criminal proceedings targeted LGBTQ+ rights defenders, and activists, including those responsible for the Hate Atlas map, faced SLAPPs. Additionally, there were instances of local homophobic actions such as "LGBT-free zones" being declared by authorities or the "homobuses."

Also, sexual and reproductive rights in Poland faced restrictions following the Constitutional Tribunal ruling in January 2021 and subsequent UN calls for decriminalization of abortion in April 2022. The death of a woman who was denied an abortion led to protests. The European Court of Human Rights sought Poland's response to five cases of abortion denial. Despite the government reporting only 32 abortions in 2021, Abortion Without Borders supported 44,000 women that year, including 1,515 from Ukraine. In 2022, the number of registered abortions grew to 161, but the actual number was likely higher. Some human rights defenders, doctors providing help for women, and even women using the day-after pill faced harassment and legal charges.

Judicial reforms have faced scrutiny, leading to the suspension of judges and disciplinary proceedings. International concerns persisted over attacks on judicial

independence, causing the suspension of the Polish Recovery and Resilience Plan from the EU. In October 2022, the ECHR ruled that Judge Paweł Juszczyszyn's suspension violated his fair trial and privacy rights. Additionally, individual rights have been violated by the misuse of the Pegasus spyware system against lawyers, judges and politicians who criticize the ruling party. Calls from the European Parliament in January 2023 for the Polish prosecutor's office to initiate investigations and clarify the law have gone unheard.

Concerns have risen about the treatment of refugees. On the one hand, Poland opened its borders to Ukrainians, included them in social and educational systems, and granted them full rights in the labor market. On the other hand, attitudes toward refugees from Asia and the Middle East coming from Belarus since July 2021 have been characterized by hostility from authorities.

Citation:

Amnesty International. 2023. "Poland 2022." <https://www.amnesty.org/en/location/europe-and-central-asia/poland/report-poland>

Camut, N. 2023. "Poland Still Worst Country to Be Gay in the EU: Report." June 5. <https://euobserver.com/rule-of-law/157105>

Slovakia

Score 4

The Slovak constitution and national legal system formally guarantee the protection of civil rights. Section 2 of the constitution states that every person is entitled to their human rights and freedoms, including safeguarding personal liberty against both state and non-state actors, the right to life and security, the prohibition of torture and inhumane treatment or punishment, and the protection of privacy. Section 4 stipulates that membership in any national minority or ethnic group must not be used to the detriment of any individual. Section 7 ensures equality before the law, equal access to justice, and due process under the rule of law, including protection against arbitrary imprisonment without due process. However, the constitution and legal system inadequately address the prevention of discrimination based on factors such as sex, gender identity, and sexual orientation (for further details, see the constitution).

Despite these formal guarantees, practical realization issues are significant. Amnesty International's 2022/23 report, *The State of the World's Human Rights*, is highly critical of Slovakia. The report highlights ongoing discrimination against Roma individuals and human rights violations against Ukrainians arriving in the country due to the war. It also notes the vacancy in the Public Defender of Rights office following the expiry of Mária Patakyová's term in March. The appointment of Róbert Dobrovodský on 1 December 2022 left the office nonfunctional for several months, leading to increased complaints about human rights violations.

The situation for the Roma minority is particularly problematic. The Roma are the most vulnerable segment of society, frequently subjected to mistreatment by state

authorities, including the police, and racial discrimination, especially in the labor market and access to education, where segregation is prevalent. According to an Amnesty International report, there has been no significant effort to improve the living conditions of the Roma community.

In 2022 and 2023, members of parliament from the leading coalition party OĽANO proposed several amendments to restrict abortion, but none of these proposals passed. Slovakia has also made no progress toward ratifying the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention).

LGBTQ+ individuals remain stigmatized, and their rights are insufficiently protected. Same-sex marriage is not possible due to a 2014 constitutional amendment defining marriage as “a unique union of a man and a woman” (Guasti & Bustikova, 2020). Registered civil partnerships are not legally recognized. In October 2022, negative attitudes toward the LGBTQ+ community culminated in a terrorist attack in Bratislava, where two gay individuals were shot. The police identified the assailant as a young man with anti-LGBTQ+ and antisemitic views.

Citation:

Amnesty International. 2023. “Report 2022/23: The State of the World’s Human Rights.” <https://www.amnesty.org/en/documents/pol10/5670/2023/en/>

The Constitution of the Slovak Republic. <https://www.prezident.sk/upload-files/46422.pdf>

Guasti, P., and L. Bustikova. 2020. “In Europe’s Closet: The Rights of Sexual Minorities in the Czech Republic and Slovakia.” *East European Politics* 36 (2): 226-246.

DOI: 10.1080/21599165.2019.1705282

Indicator

Effective Corruption Prevention

Question

To what extent are public officeholders prevented from abusing their position for private interests?

30 OECD and EU countries are sorted according to their performance on a scale from 10 (best) to 1 (lowest). This scale is tied to four qualitative evaluation levels.

- 10-9 = Legal, political and public integrity mechanisms effectively prevent public officeholders from abusing their positions.
- 8-6 = Most integrity mechanisms are effective and provide disincentives for public officeholders to abuse their positions.
- 5-3 = Few integrity mechanisms are effective and provide disincentives for public officeholders to abuse their positions.
- 2-1 = Public officeholders can exploit their offices for private gain as they see fit without fear of legal consequences or adverse publicity.

Denmark

Score 10

Denmark is among the least corrupt countries in the world and ranks first (followed by Finland and New Zealand) on Transparency International's Corruption Perceptions Index 2023. Norms against corruption are strong and the risk of media exposure is high. In the past, there were occasional cases of a local government official accepting "services" from business in exchange for contracts with the municipality, but such cases are rare. There have also occasionally been cases of criticism against local officials for overspending on hospitality (e.g., meals) and gifts to external contacts. Again, such cases are rare. As an example that corruption can happen in Denmark, Transparency International still refers to a court case in 2017 that led to the conviction of several employees of IT vendor Atea A/S for bribery and embezzlement. The employees had offered electronic devices to government employees, some of whom were convicted for accepting these devices.

Citation:

Transparency International. 2023. "Corruption Perception Index 2023." www.transparency.org/en/cpi/2023

Finland

Score 10

The overall level of corruption in Finland is low, providing a strong example of how the consolidation of advanced democratic institutions can reduce corruption. Transparency International's 2023 Corruption Perceptions Index ranked Finland at second place out of 180 countries.

Several individual mechanisms contribute to Finland's success, including strict auditing of state spending; new, more efficient regulations on party financing; legal

provisions that criminalize the acceptance of bribes; full access for the media and the public to relevant information; public asset declarations; and consistent legal prosecution of corrupt acts.

Despite the various integrity mechanisms in place, there remains potential for abuse. Political appointments processes continue to be used to fill positions in Finland. Although only about 5% of citizens are members of political parties, two-thirds of state and municipal public servants belong to political parties. Recently, several charges of political corruption involving bribery and campaign financing have come to light and attracted media attention.

Public accounting standards help detect corruption. Regulations on party financing set limits on campaign contributions. Parties receive direct public funding. There are also regulations on spending, reporting and oversight of party financing. However, the State Audit Office lacks adequate sanctions to enforce compliance.

There are rules for political officeholders regarding asset declarations, conflict of interest and codes of conduct. Additional regulations aim to enhance the transparency of public procurement procedures. The integrity mechanisms described above are effectively implemented and monitored. Public officeholders who abuse their positions are prosecuted and penalized.

Citation:

Hung-En Sung. 2004. "Democracy and Political Corruption: A Cross-National Comparison." *Crime, Law & Social Change* 41: 179-194.

Transparency International. 2023. "Corruption Perceptions Index 2023." <https://www.transparency.org/en/cpi/2023>

Canada

Score 9

Most Canadian governments have conflict-of-interest rules and ethical guidelines that legislatures use to discipline their members and control behavior within the civil service. Members of government do not necessarily have to abide by these rules, except when they receive media coverage and negatively affect a government's election prospects. However, the rules enforced within the civil service are more binding and can lead to dismissal or, in rare cases, criminal charges.

Conflict-of-interest rules are designed to ensure public officials act impartially and make decisions in the best interest of the public rather than for personal gain. Specific regulations vary among federal, provincial, and municipal levels, but common principles guide conflict-of-interest standards in Canada. Commissioners or ethics officials typically conduct investigations, and penalties for violations can include fines, reprimands, or other measures.

At the federal level, the Conflict of Interest and Ethics Commissioner oversees compliance with conflict-of-interest rules for members of Parliament, Senators, and

certain public officeholders. Similar roles exist at the provincial and territorial levels, often under the title ethics commissioner or a similar designation.

The federal government operates under the Conflict of Interest Act, which establishes rules and guidelines for public officeholders. The act outlines prohibited activities, disclosure requirements, and measures to prevent and address conflicts of interest. Public officeholders are generally required to recuse themselves from any decision-making process where they have a private interest that could reasonably be seen to conflict with their public duties.

Public officeholders are typically required to publicly disclose their financial interests, including assets, liabilities, and other financial arrangements. This disclosure is intended to provide transparency and allow for scrutiny of potential conflicts of interest. Other rules govern the acceptance of gifts and benefits. In general, these are discouraged, and public officeholders are required to disclose gifts and benefits received in their official capacity. There are often restrictions on accepting gifts that could reasonably be seen as influencing the individual's decision-making.

To prevent potential conflicts of interest after leaving public office, post-employment restrictions are often imposed. These may include limitations on working for organizations that were subject to the individual's official responsibilities or lobbying the government for a specified period after leaving office (Parliament of Canada).

Citation:
Parliament of Canada. "Overview of the Conflict of Interest Act." <https://ciec-ccie.parl.gc.ca/en/publications/Pages/CoIA-LCI.aspx>

Estonia

Score 9

Transparency and corruption have been subjects of substantial governmental and public concern over the years. This focus has led to Estonia's high international ranking, reflecting low levels of corruption, in various indexes (see, for example, the Corruption Risk index). Estonia has established a robust institutional and legal framework to combat corruption, including the National Audit Office, the parliamentary Anti-Corruption Select Committee, the Anti-Corruption Act, the Public Procurement Act and Anti-corruption Action Plans.

Political party financing is regulated by the Act of Political Parties and monitored by a special body – the Political Parties' Financing Surveillance Committee (PPFSC). Political parties receive direct funding from the state budget, while private donations form just a minor share of their budgets. Only individuals can make donations to parties. All donations are reported to the PPFSC. There are no limits on the size of donations, which has led to investigations when a low-income individual has made

substantial contributions. However, if a wealthy entrepreneur were to donate €500,000 to a party, which might influence its policy positions, there are no legal grounds for an investigation.

Civil servants and political officeholders, including members of parliament (MPs), must annually declare their assets and conflicts of interest. There have been several instances of conflicting interests in funding decisions, resulting in the cancellation of those decisions or the dismissal of the civil servant involved. Since 2021, all ministries and government agencies have been required to register their meetings with lobby groups and publish this information on their websites. In total, more than 2,700 meetings were reported in 2022 – 2023 (Ministry of Justice 2020).

About 98% of public procurement in Estonia is organized electronically, which has increased the transparency of these processes. Yet companies still occasionally perceive the conditions of public procurement as being designed to privilege particular procurers, and steps to improve these procedures are expected (Action Plan 2021 – 25: 5).

Citation:

Ministry of Justice. 2020. Anti-Corruption Action Plan, 2021-2025. <https://www.korruptsioon.ee/et/korruptsiooni-enetus/korruptsioonivastased-strateegiad-ja-tegevuskavad>

New Zealand

Score 9

New Zealand's public sector is considered one of the least corrupt in the world. The 2022 Corruption Perceptions Index, published by Transparency International, ranks New Zealand joint second with Finland in terms of anti-corruption efforts (Transparency International 2022).

Several measures are in place to prevent public officeholders from abusing their positions for private interests. These measures include codes of conduct, conflict of interest rules, transparency mechanisms such as public declarations of assets, specific laws addressing bribery and corruption, and protections for whistleblowers who report misconduct or abuses of power.

There are also regulations and laws regarding party financing aimed at promoting transparency and preventing corruption. Not only are political parties required to disclose their sources of funding and donations, but political finance laws set limits on the amount of money individuals or organizations can donate to political parties.

Independent oversight bodies, such as the Office of the Auditor-General and the Office of the Ombudsman, oversee government activities and investigate complaints related to potential abuses of power. The Electoral Commission has primary responsibility for overseeing compliance with party financing regulations.

However, while these regulations and enforcement capacities significantly promote accountability, the New Zealand political system is not entirely immune to potential loopholes or abuses. For example, concerns exist regarding the lack of transparency in the lobbying industry (Espiner 2023) and the so-called revolving door practices in which individuals shift between government positions and private sector jobs, and vice versa (Kuhner 2020). There are also ongoing concerns about party financing rules.

The Independent Electoral Review was established in 2022 and reported back in November 2023. It recommended that parties forgo access to unlimited donations revenue in exchange for greater state funding; it also proposed a cap on political donations and limiting donors solely to the population of registered voters. It remains to be seen how the new government will respond to this recommendation, which would likely reduce funding for the two major parties and the smaller libertarian right-wing party, but benefit other smaller parties (Independent Electoral Review 2023).

Citation:

Espiner, G. 2023. "Lobbyists in New Zealand Enjoy Freedoms Unlike Most Other Nations in the Developed World." RNZ, March 25. <https://www.rnz.co.nz/news/lobbying/486670/lobbyists-in-new-zealand-enjoy-freedoms-unlike-most-other-nations-in-the-developed-world>

Independent Electoral Review. 2023. "He Arotake Pōitanga Motuhake, Independent Electoral Review, Final Report." November. <https://electoralreview.govt.nz/assets/PDF/Independent-Electoral-Review-Final-Report-Executive-Summary-and-List-of-Recommendations.pdf>

Kuhner, T. K. 2020. "Reputation vs reality: how vulnerable is New Zealand to systemic corruption?" The Spinoff, 6 March. <https://thespinoff.co.nz/politics/06-03-2020/reputation-vs-reality-how-vulnerable-is-new-zealand-to-systemic-corruption>

Transparency International. 2022. "Corruptions Perceptions Index." <https://www.transparency.org/en/cpi/2022>

Norway

Score 9

Norway emphasizes transparency in its civil service to minimize the risk of corruption. This involves providing access to public information and ensuring transparency in decision-making processes. The general public – and hence the media – has access, in principle, to all documents in any case through the Freedom of Information Act. Any party directly involved in a case also normally has extended rights to information. A principle of transparency also regulates public procurement processes.

Government agencies are required to implement internal control systems to prevent and detect corruption. Regular audits of financial transactions and processes are conducted to ensure compliance. Independent oversight bodies, such as Økokrim (the National Authority for Investigation and Prosecution of Economic and Environmental Crime) and the Office of the Auditor General, play a crucial role in monitoring and enforcing laws related to corruption. Whistleblower protection

mechanisms are in place, allowing employees to report suspicious activities without fear of retaliation.

The financing of political parties is strictly regulated, and all donations from private individuals must be declared and open. The economic interests of all members of parliament and cabinet members are publicly accessible through a separate register. Political commitment to combating corruption is crucial. Norwegian authorities have consistently expressed their dedication to addressing corruption and have taken steps to strengthen legislation when necessary. Continuous efforts are made to reform and improve public sector practices to minimize corruption risks. This includes streamlining processes, enhancing efficiency, and reducing bureaucratic obstacles. The use of data analytics and technology is increasingly employed to identify irregularities and potential corruption within government operations.

Transparency International, an international civil society organization, has an active Norwegian branch that surveys the situation in Norway and provides training for public sector officials on how to implement anti-corruption measures.

Citation:

Stortinget. 2024. "Register of Members' Appointments and Economic Interests." <https://www.stortinget.no/en/In-English/Members-of-the-Storting/Registered-Interest/>

National Authority for Investigation and Prosecution of Economic and Environmental Crime (Økokrim). <https://www.okokrim.no/oekokrim-in-english.549343.no.html>

Transparency International Norway. <https://www.transparency.no/in-english>

Sweden

Score 9

Corruption is addressed by a special unit within the Swedish Prosecution Authority (Åklagarmyndigheten, n.d.). Sweden's transparency systems, characterized by low power discretion within the administration, high freedom of the press, and an autonomous judiciary, result in the country having one of the lowest levels of corruption globally. It ranks 5th out of 143 countries. The country excels in both de facto and de jure transparency. However, there has been concern in the past decade regarding attempts by Swedish companies conducting transactions abroad to gain a competitive advantage (Corruption Risk, 2023).

The Government Offices issued an action plan to combat corruption in public administration for 2021 – 2023. The strategies include better controls integrated into organizational operations, risk analyses, increased knowledge and ethical practices, routines for handling suspected corruption, and collaboration for experience sharing (Government Offices, 2020). A report evaluating this action plan and the efforts of public agencies against corruption was expected on December 31, 2023, but was not yet available at the time of writing this report.

Citation:

Corruption Risk. 2023. "Sweden." <https://www.corruptionrisk.org/country/?country=SWE>

Government Offices of Sweden. 2020. "Ett utvecklat arbete mot korruption i den offentliga förvaltningen. Handlingsplan mot korruption 2021-2023." <https://www.regeringen.se/regeringsuppdrag/2020/12/uppdrag-att-framja-arbetet-mot-korruption-i-den-offentliga-forvaltningen/>

Åklagarmyndigheten. n.d. "Korruptionsbrott." <https://www.aklagare.se/om-brottsligheten/olika-brottstyper/Korruptionsbrott/>

Switzerland

Score 9

Corruption in Switzerland is rare according to international rankings. Indeed, Switzerland is consistently rated as being among the most successful countries with respect to corruption prevention. The country is governed by the rule of law, has clear rules on corruption that are implemented effectively, offers high wages to public officials, and is based on a decentralized democracy with parties that efficiently control and audit public officials.

However, there are opportunities and incentives for political and societal elites to abuse their positions for private interests. This is due to the country's small size and the correspondingly small number of people interacting in elite positions; to the culture of amicable agreement; and to the very pragmatic problem-solving culture. In addition, holders of elite positions know they are highly likely to meet again in the future (and probably in different roles). This creates opportunities for the creation of broad informal networks, a reluctance to engage in close mutual surveillance and incentives for the non-observance of formal rules.

Given the considerable overlap between economic and political elites (Bühlmann et al. 2012), critics have pointed to processes in which politicians' economic interests may influence their decisions in parliament. Although it is legal, and does not fall within the realm of corruption, Swiss non-professionalized parliamentarians frequently sit on several organizational boards (e.g., of health insurance companies) in addition to their political activities, which leads to conflicts of interest.

There have been recurrent scandals about corruption. However, the overall level of corruption seems to be very low in Switzerland as compared with other countries. If there is evidence of corruption, officeholders are held accountable and face penalties. The problems listed above are clearly minor in international comparison. In contrast, Switzerland is little inclined to sanction domestic companies that engage in corruption or laundering (Transparency International Switzerland 2023).

As of the last national election, transparency rules on the private financing of political parties have been implemented. However, they are less stringent than those of other European democracies. This is due to the lack of public financing provided to political parties and the corresponding notion that the state must not monitor or intervene in the exchanges between citizens and their nonpublic organizations.

The members of the national parliament are required to disclose their links to organizations.

Citation:

Felix Bühlmann, Thomas David, and André Mach. 2012. "Political and Economic Elites in Switzerland." *European Societies* 14 (5): 727-754. DOI: 10.1080/14616696.2012.709531

Transparency International Switzerland. 2023. "Rapport Poursuite Penale de l'Entreprise." https://transparency.ch/wp-content/uploads/2023/01/Rapport_Poursuite_penale_de_lentreprise.pdf

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Germany

Score 8

It is generally assumed that corruption is relatively rare in Germany. This implies that cases of corruption are nonetheless detected, such as the procurement of masks for the pandemic (Handelsblatt, 2021) or the case of overspending and bribery at the public broadcaster RBB (Tagesschau, 2022).

Germany has robust legal frameworks to combat corruption. Relevant laws include the Criminal Code (Strafgesetzbuch), which criminalizes corruption-related offenses such as bribery, embezzlement, and fraud. Germany is also a signatory of the United Nations Convention against Corruption (Corruption Risk, 2023). Additionally, the Lobbying Register Act, which requires representatives of special interests to register at the Bundestag, came into force in January 2022. Regulatory bodies such as the Federal Financial Supervisory Authority and the Federal Court of Audit oversee financial institutions, auditors, and accounting practices to ensure compliance with regulatory standards.

As for party financing regulations aimed at preventing corruption, parties are required to report their finances annually. However, there are very few limitations on procuring private income. For instance, only donations from corporations and anonymous donations over a certain amount are banned, and income sources such as political foundations are prohibited. Public funding is allocated based on the results of the previous elections, with no specific regulations on how the funds should be distributed. Parties are banned from vote buying, which constitutes the only regulation on party spending. Sanctions for violating the laws include fines or the loss of public funding (EuroPam, 2017).

Regarding the regulations for officeholders, including ministers and members of parliament, they are required to declare interests in a company, gifts, further remunerated activities, and stocks that come with more than 25% of voting rights. Members of parliament must also declare additional income sources and positions on advisory bodies of companies and foundations. Members of parliament only face sanctions for late or non-filing of their declarations with the president of the parliament. The head of state, in contrast, is not bound by the financial disclosure legislation (EuroPam, 2017).

Both the financial reports by political parties and the declarations by officeholders are made public. While Germany receives a full score for its de jure transparency, it has a de facto transparency score of 9.5 out of 14, which is below the regional average. This score results from the fact that some public financial data is only partially accessible or available (Corruption Risk, 2023).

The Council of Europe's Group of States Against Corruption (GRECO) made 14 recommendations, raising various issues regarding the implementation of integrity mechanisms. The 2022 GRECO report considers only one of these recommendations to be implemented satisfactorily: the training on integrity for the Federal Police. Still, GRECO criticizes Germany for not enhancing the monitoring capacities of the Federal Police. The other recommendations have either been only partly implemented or not implemented at all. The report specifically criticizes that many representatives of special interests are not affected by the Lobby Register Act and that further rules should be implemented to disclose more detailed information about lobbyist contacts (GRECO, 2022).

Citation:

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Ireland

Score 8

The history of corruption in Ireland includes several high-profile tribunals concerning land rezoning, planning, media and telephone licenses, construction and the meat industry, involving prominent politicians. Public awareness of corruption is high, leading to high self-assessment scores in GRECO and TPI benchmarking exercises, although these scores can often be attributed to perception and awareness. Nonetheless, there have been genuine instances of planning and policing corruption, particularly in relation to issuing and recording traffic penalties in recent years.

Established public accounting standards facilitate the detection of corruption. The Standards in Public Office Commission (SIPO) regulates and monitors party and political financing, including third-party political financing from abroad. This involves limits on private income, direct public funding of parties, spending regulations, reporting, oversight and sanctions. Rules for officeholders with a certain income or level of function include asset declarations, conflict of interest

declarations and associated reporting, sanctions, oversight and enhancing accountability. The system of public procurement procedures, guided by EU directives, is complex but transparent, covering scope, information availability and open competition.

The Regulation of Lobbying Act, passed in 2015, established an extensive web-based register for lobbying, actively used by lobbyists. The database is searchable by lobbyist, target, content and intended outcomes, promoting open and transparent policymaking (Murphy 2018). The Office of Lobbying Regulation, within SIPO, has an enforcement role. Independent of government, industry and other sectional interests, these integrity mechanisms are effectively implemented, with relatively good compliance, prosecutions and penalties, leading to two recent high-profile ministerial resignations.

Surveys of trust in public institutions in 2022 found that 76% of respondents in Ireland had high expectations for the fair processing of applications for government benefits or services (Boyle et al. 2022). However, 39% also believed that a public employee in Ireland was likely to accept a bribe, the fourth highest percentage among countries surveyed. GRECO (2022) found that Ireland had satisfactorily implemented only three of 11 previous GRECO recommendations related to ethics, standards in public office, and judicial appointments, rating the compliance level as “globally unsatisfactory.” While the “non-compliance procedure” was applied, some issues have since been addressed. In July 2023, the government approved orders to transfer responsibility for functions related to ethics legislation and the Standards in Public Office Commission to the Minister for Public Expenditure, NDP Delivery and Reform. These include functions under the Ethics in Public Office Act 1995, the Standards in Public Office Act 2001 (known as the Ethics Acts), the Regulation of Lobbying Act 2015, the Regulation of Lobbying (Amendment) Act 2022, the Ministerial and Parliamentary Offices Act 1938 (as amended), and the Electoral Act 1997 (as amended), addressing one of the outstanding issues in GRECO (2022) compliance.

Citation:

Boyle, R., O’Leary, F., and O’Neill, J. 2022. *Public Sector Trends*. Dublin: Institute of Public Administration (IPA).
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Latvia

Score 8

Several mechanisms are in place to prevent public officials from abusing their positions for private interests. Latvia has established public accounting standards to detect corruption. The State Treasury is responsible for developing public sector

accounting standards legislation. According to the Latvian Association of Certified Auditors and the Association of Accountants, Latvian public sector accounting standards are based on accrual-based principles (IFAC, CIPFA 2020). The financial statements for central and local governments and government-related entities are broadly International Public Sector Accounting Standards (IPSAS) compliant, except for accounting for tax revenue, which will continue to be on a cash basis with the ultimate goal of transitioning to an accrual basis for tax accounting.

Regulations concerning party financing aim to prevent corruption and include bans and limits on private income, direct public funding, spending regulations, reporting, oversight, and sanctions. To ensure transparency, legality, and compliance, the Law on Financing of Political Organizations (Political Parties) requires parties to submit key data to the Corruption Prevention and Combating Bureau. This information is then published online and includes details on donations, membership fees, election revenue and expenditure declarations, and annual reports.

Officials are subject to rules such as asset declarations, conflict of interest regulations, and codes of conduct; these include income and asset reporting, incompatibilities, sanctions, and oversight. Rules have been established to enhance the transparency of public procurement procedures, covering scope, information availability, and open competition. The National Audit Office has also assessed procurement conducted during COVID-19.

Citation:

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United Kingdom

Score 8

The United Kingdom is relatively free of explicit corruption, such as bribery or fraud, and there is little evidence that such corruption influences decision-making at the national level. Anti-corruption regulations were consolidated in the 2004 Corruption Bill, and the UK consistently scores well on most international comparisons of corruption.

Occasional episodes of limited and small-scale corruption do arise at the local level, usually related to property development. Parliamentarians are subject to strict rules regarding declarations of payments. Those found in breach, even on a minor scale,

are subject to punishment by their peers based on investigations by the Parliamentary Commissioner for Standards. A common penalty is suspension from the House of Commons. If the suspension exceeds 10 days, it can trigger a recall petition from voters. If more than 10% of the constituency electorate signs the petition, the member of Parliament must resign.

Although cases of corruption are infrequent, the fact that some (often obscure) politicians fail to adhere to the rules highlights a gap between politicians' behavior and public expectations, a lingering effect of the 2009 expenses scandal. A more subtle form of corruption occurs when politicians leave office and subsequently lobby for specific interests, exploiting their connections. For example, former Prime Minister David Cameron was implicated in the lobbying scandal involving Greensill, a financial services company that collapsed with huge debts in 2021. Allegations resurfaced when Cameron was appointed foreign secretary in November 2023.

During the COVID-19 pandemic, contracts awarded to firms associated with Conservative parliamentarians led to an inquiry by the National Audit Office. The inquiry criticized the suspension of normal procurement rules, which resulted in highly profitable contracts, such as those involving Conservative member of the Lords, Baroness Mone. These actions have been widely condemned in the media and public debate. The most plausible explanation is that the government, in its desperation to secure necessary supplies, failed to exercise due diligence, rather than deliberate corruption. The public inquiry into the handling of the pandemic, conducted by Baroness Hallett, has shed some light on these matters, but her final report is not expected until 2025 or later.

Australia

Score 7

Australia is a low-corruption country with evidence suggesting that instances of explicit corruption, such as bribery, are extremely rare. However, there is a widespread perception of corruption in public life, partly due to a lack of transparency or practices not conducive to the public interest. Political financing practices and government contract awarding processes raise concerns about favorable treatment and inappropriate personal gain.

Questions of propriety are also occasionally raised with respect to the awarding of government contracts. Tender processes are not always open, and “commercial-in-confidence” is often cited as the reason for non-disclosure of contracts with private sector firms, raising concerns of favorable treatment extended to friends or favored constituents. Questions of inappropriate personal gain have also been raised when ministers leave parliament to immediately take up positions in companies they had been responsible for regulating – most recently occurring after the 2022 election.

In the past year, the federal government has established a new National Anticorruption Commission (NACC) with broad powers to investigate corruption

across the Commonwealth public sector (Knaus 2023). It states and territories have operated with integrity agencies for several decades, so the creation of this new body addresses a major gap in the country's integrity framework. It remains to be seen whether the new organization will have a positive impact not only on actual corruption, but also on perceptions of corruption in the community. Despite the new institution, there remain concerns that whistleblowers, who expose corruption, are inadequately protected across Australian jurisdictions (Transparency International 2023).

Citation:

Transparency International. 2023. "Stronger Whistleblower Protections Key to Holding 'Big Four' Accountable, Hears Parliamentary Inquiry." Transparency International Australia. <https://transparency.org.au/whistleblower-protections-key/>

Knaus, Christopher. 2023. "Australia Lifts Ranking on Global Anti-Corruption Index After Hitting Record Low." The Guardian January 31. <https://www.theguardian.com/australia-news/2023/jan/31/australia-lifts-ranking-on-global-anti-corruption-index-after-hitting-record-low>

Austria

Score 7

The 2021 Index for Public Integrity (Subcategory: Corruption Risk Forecast Report) ranks Austria 13th in the world for public integrity, showing significant change over the past 12 years: "Its good control of corruption showed in recent years when a new generation of politicians broke the established integrity norms, but they were eventually brought to account for their acts. Although in the past the country managed to control corruption despite low transparency and high reliance on networking, the limits of these past arrangements seem to have been reached. To prevent further abuse of office as seen in recent scandals, Austria needs more fiscal transparency, access to information and transparent monitoring of assets and interests of public officials."

Other sources have drawn a considerably less favorable picture. In 2023, Group of States Against Corruption (GRECO) criticized the state of affairs in Austria harshly, pointing to severe deficiencies regarding transparency and noting political influence exerted on staffing top positions within the police (Graber and Schmid 2023). Further, the same source criticized a notable lack of transparency, integrity, and quality standards at the level of cabinet ministers, cabinet staff, and general secretaries. It was even suggested to disclose the financial circumstances not only of the officeholders themselves but also of their spouses and other close relatives.

The branch of special prosecutors dedicated to combating political corruption (WKStA), established in 2011 and currently featuring about 40 prosecutors, is partially independent from the Ministry of Justice. However, the WKStA's independence is limited to certain aspects of its activities, leading some observers to argue that the possibility of political influence remains. GRECO inspectors also criticized that the established reporting duties to the Ministry of Justice are extremely

time-consuming and may keep prosecutors away from other tasks (Graber and Schmid 2023). These reports were also seen as a potential gateway to indiscretions and interventions in ongoing inquiries. The WKStA continues to suffer from attacks by the executive branch.

A final fact worth noting is the alarming state of public views on Austrian authorities concerning corruption: In 2023, no less than 62% of the electorate considered Austria a “corrupt” or “very corrupt” country (Seidl 2023). The three major parties (ÖVP, SPÖ, and FPÖ), the ORF, and the building authorities were considered the most corrupt organizations, while the Austrian army (Bundesheer) was viewed as the least corrupt among 21 possible choices. Several recent corruption scandals involved local politicians who have considerable leeway in deciding on construction projects.

Citation:

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Seidl, Conrad. 2023. “Jeder Vierte hält Österreich für ein sehr korruptes Land.” <https://www.derstandard.at/story/2000145265188/jeder-vierte-haelt-oesterreich-fuer-ein-sehr-korruptes-land>

<https://www.corruptionrisk.org/transparency/>

Belgium

Score 7

Belgium has extensive financial disclosure legislation to prevent officials from entering situations of conflict of interest. However, these regulations have limited effectiveness due to a lack of control, fines, and transparency in reporting.

In 2013, the OECD published a report on bribery, expressing disappointment at Belgium’s lack of priority in combating bribery. The report highlighted the lack of resources for investigations, prosecutions, and sentencing. The EuroPAM database reveals that the situation remains largely unchanged. In practice, this translates into repeated situations that do not qualify as explicit corruption but are morally unacceptable to the public. A recurrent issue is the creation of semi-public entities run by political appointees who get involved in payment or procurement situations that test the limits of the law. While legal provisions to reinforce transparency and prevention remain lacking, public scandals and proactive actions by the judiciary are progressively addressing these issues. Recently, the risk of outright corruption has increased due to the global expansion of criminal organizations and shifts in political balances, such as Middle Eastern countries seeking political support in European parliaments. Belgium is particularly exposed to these risks. The Port of Antwerp is one entry point exploited by drug traffickers, and the presence of international institutions in Brussels makes it tempting to lobby politicians. The absence of a well-funded anti-corruption agency in Belgium reinforces these risks.

Citation:

https://fr.wikipedia.org/wiki/Liste_d%27affaires_politico-financi%C3%A8res_belges

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Europese anticorruptiewaakhond geeft België minder dan 2 op 10 | De Standaard : https://www.standaard.be/cnt/dmf20220124_98043706

Onderbemand en geen leiding: strijd tegen corruptie is zwalpende sloopstanker | De Standaard: https://www.standaard.be/cnt/dmf20190514_04400141

Regering voert strijd op tegen corruptie bij politie en cipiers | De Standaard: https://www.standaard.be/cnt/dmf20220807_97544880

France

Score 7

Corruption has historically been an issue in French politics, associated especially with low levels of campaign financing. Throughout the 1990s, a series of scandals led to lawsuits and sometimes to the conviction of leading politicians. Things have improved, but scandals continue to play a role in French politics. Most importantly, the leading candidate of the conservative camp in 2017, François Fillon, would probably have had a serious chance at winning the presidential election had it not been for two parallel scandals that clearly alienated a nontrivial share of his voters.

The first bill introduced by Emmanuel Macron’s government after the 2017 election dealt with the “moralization of politics,” barring parliamentarians from employing family members, and increasing oversight of their travel and representation budgets. This has apparently led to new and more in-depth monitoring of candidates to government positions.

There are nonetheless several ongoing issues. Former President Nicolas Sarkozy received guilty verdicts in two different cases in 2021, one concerning campaign finance and the other corruption. He has appealed both decisions, and new rulings were expected in the first quarter of 2024.

The Macron government has not been free of scandals, and Macron put an end to the traditional convention that indicted ministers would be expected to step down from government. Two ministers have recently faced trial. Minister of Labor Olivier Dussopt stood trial in November 2023 due to irregularities in public contracting when he was mayor of the city of Annonay. Minister of Justice Eric Dupond-Moretti was recently acquitted of charges of conflict of interest.

Overall, the situation appears to have improved over the long term, but the government has provided sometimes contradictory signals. A study by French Anti-corruption Agency (AFA), a state agency attached to the Ministry of Justice, shows

an increase in recorded abuses between 2016 and 2020. At the same time, this recently created agency (December 2016) certainly has had a beneficial effect.

However, the failure to renew the public service status of Anticor (Le Monde 2023), the reference anti-corruption NGO in France, sent a contradictory sign. Thanks to this status, the NGO could easily intervene in civil lawsuits and force national prosecutors to take action.

Citation:

Le Monde. 2023. "Anticor: comprendre les raisons du non-renouvellement de l'agrément et ses conséquences." December 28. https://www.lemonde.fr/les-decodeurs/article/2023/12/28/anticor-comprendre-les-raisons-du-non-renouvellement-de-l-agrement-et-ses-consequences_6208149_4355770.html

Israel

Score 7

The Department of the Accountant General in the Ministry of Finance is responsible for budget execution and government contracting. This department ensures that all government communications comply with the law. It has the authority to withhold funds or halt communications if it deems them illegal or problematic. Each ministry has a permanent employee from the general accounting office. The department is regarded as very powerful, and the accountant in each ministry often succeeds in preventing corruption or misuse of power.

The law on party funding limits private donations to political parties and candidates. Individual candidates can receive donations of ILS 1,000–2,000 from each donor, while a political party can receive donations of no more than ILS 5,000 from each donor. Parties represented in the Knesset receive funding from the state.

Each officeholder must submit a conflict of interest statement as well as a statement of assets. In practice, many ministers and members of the Knesset do not comply, and enforcement is very weak. Each party or candidate is required by law to publish all sources of donations received, including the donor's identity and the amount. This regulation is followed.

The state comptroller is responsible for overseeing party donation rules. After each election, the state comptroller issues a report detailing violations of the Party Funding Law. However, the comptroller lacks sanctioning powers and, as a result, parties often disregard the imposed fines.

Lithuania

Score 7

Over the years, Lithuanian institutions have adopted a legal framework that disincentivizes public officeholders from abusing their positions. The new amendments to the Law on the Prevention of Corruption, which took effect at the beginning of 2022, were welcomed by the Council of Europe Group of States against

Corruption. In its most recent report of 2022, the group stated that “if each institution can and does effectively design, implement and oversee its own anti-corruption policy within the framework of the law and with the supporting role of the Special Investigation Service and the Chief Official Ethics Commission, it can lead to an efficient and mature system of anti-corruption prevention, but there are several conditions for such a system to work in practice.” It made particular reference in this regard to additional efforts at raising awareness and the provision of practical guidance for officials on integrity standards.

In addition to this law, there are norms aimed at increasing the transparency of political decisions, limits on party funding, requirements that officeholders declare their assets and conflicts of interests, and rules governing public procurement. Lithuanian authorities have also increased penalties for corruption-related crimes, linking these to the damage caused or benefits obtained from the illegal activities. According to EuroPam data based on 2020, Lithuania’s regulatory index score was higher than the European average in the areas of financial disclosure, political financing and conflict of interest.

One of Lithuania’s key corruption prevention measures is an anti-corruption assessment of draft legislation, which grants the Special Investigation Service the authority to carry out corruption tests. According to the Lithuanian Corruption Map of 2022 – 2023, measured by the Special Investigation Service based on surveys, the institutions viewed as most corrupt were hospitals, the courts, the parliament and municipalities. Favors to party members, nepotism and the adoption of laws that favored particular interest groups were considered to be among the most widespread forms of corruption.

Thirty-four percent of the general population considered corruption to be a very serious problem (fifth most serious issue), 24% of business executives viewed it as a very serious problem (seventh most serious issue) and 32% of civil servants considered it a serious problem (fifth most serious issue). However, the assessed dynamics continued to show a positive trend, with the shares in all three groups – especially civil servants – stating that corruption had decreased in the last five years larger than those stating it had increased.

In 2023, several events attracted significant publicity in the area of corruption control. One was the “Skaidrinam” (“Making it transparent”) initiative by activist Andrius Tapinas, who collected information on the potential manipulation of rules governing expense compensation for municipal council members. The evidence of suspected fraud led the Special Investigation Service to initiate pretrial investigations into members of 19 municipal councils.

Another high-profile political corruption case involved allegations of corruption within Lithuania’s Liberal Movement and Labor Party, which prompted the Special Investigation Service to start an investigation in 2017. The parties were suspected of accepting bribes and trading political influence. For instance, two Liberal Movement

members allegedly accepted bribes of more than €135,000 on behalf of the party from a vice president of a major business group in exchange for political decisions that benefited the corporation.

In April 2022, the court of first instance acquitted all the suspects in this case. However, in November 2023, the Court of Appeal of Lithuania convicted individuals who were previously acquitted, including businessman Raimondas Kurliauskis, then-Seimas members Eligijus Masiulis, Vytautas Gapšys, Šarūnas Gustainis and Gintaras Steponavičius. Charges included “bribery, trading in influence and abuse of power.” Additionally, the legal entities UAB concern “MG Baltic” (now UAB “MG grupė”), the Liberals’ Movement of the Republic of Lithuania political party (now the Liberal Movement), and the Labor Party were found guilty.

The improvement in the control of corruption in Lithuania has also been noted by Corruption Risk assessments. This organization stated that “Lithuania has managed to construct good constraints to corruption both on the side of government and civil society/freedom of the press, with a dense network of public accountability mechanisms and good access to information. Lithuania was fifth in the world on transparency but lagged in digitalization of the commerce register, land register and tracking current public expenditures. Nevertheless, the country has been on a positive trend for the past decade.”

Similar assessments on recent positive trends were provided by the European Commission in its 2023 Rule of Law report on Lithuania. The report stated that “the implementation of the anti-corruption agenda in 2022 – 2033 advanced well with the adoption of the first implementation action plan. Investigations and prosecutions of corruption-related offenses continue to be carried out efficiently while shortcomings in relation to investigation and prosecution of foreign bribery cases were raised. Public procurement remains a high-risk area for corruption. Laws such as the Law on Corruption Prevention, the Law on the Adjustment of Public and Private Interests, and the whistleblower legislation are being efficiently implemented. Further efforts were taken in view of the efficient implementation of the integrity rules.”

In the World Bank’s 2022 Worldwide Governance Indicators, Lithuania scored 76.42 out of 100 on the issue of corruption control, with its score having fluctuated in the 80th percentile over the last several years.

Citation:

European Commission. 2023. “Rule of Law Report, Country Chapter on the Rule of Law in Lithuania, Brussels.” July 5. SWD (2023) 815 final. https://commission.europa.eu/publications/2023-rule-law-report-communication-and-country-chapters_en

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Slovenia

Score 7

In general, officeholders who break the law or engage in corruption are investigated. However, the relatively poor performance of various oversight institutions is evident, likely due to certain legal and procedural loopholes in prosecuting abuse of office. In 2023, Eurobarometer found that 38% of respondents in Slovenia believe those caught committing minor corruption offenses are adequately punished, while only 18% believe the same for those caught bribing senior officials. Despite the Commission for the Prevention of Corruption being quite active, it is not as respected today as it was ten years ago. The commission's powers remain relatively limited, with GRECO (Group of States Against Corruption) calling for adequate financial and human resources in 2023. The commission's reports and findings often face public criticism, including from politicians, and are not always respected. The president of the commission believes systemic changes and education in integrity, accountability, and transparency are necessary.

Overall, while there are mechanisms to investigate and address corruption among officeholders, the effectiveness of these efforts is hindered by institutional weaknesses and insufficient resources. The public perception reflects a lack of confidence in the adequacy of punishments for corruption, particularly for higher-level offenses.

The commission's online app, ERAR, continues to provide transparency into transactions of public and state-owned companies but is generally considered inferior to its predecessor, Supervizor. In 2023, a Eurobarometer survey found that 83% of Slovenians believe corruption is widespread, although this is 4% less than in 2022. The Corruption Perception Index shows no progress in the fight against corruption in Slovenia, with the index score at 56 in 2023. The score has fallen below 60 for the previous two years, whereas it was 60 or above from 2015 to 2020. For a decade, the public has viewed corruption as one of Slovenia's biggest problems, especially systemic corruption.

In 2023, the OECD raised concerns about the lack of enforcement of foreign bribery offenses, noting that Slovenia has not prosecuted any foreign bribery cases since joining the Anti-Bribery Convention in 1999. GRECO was also dissatisfied with Slovenia's progress in 2023, finding that only five of the 15 recommendations from the Fifth Round Evaluation Report had been satisfactorily implemented or addressed. Key recommendations, such as developing an integrity plan for the government and promoting awareness of integrity issues, had not been fully implemented.

In 2023, the Slovenian Commission for the Prevention of Corruption addressed high-profile issues, including alleged corruption in the healthcare sector and cases

involving politicians, such as a member of parliament, a minister, and Prime Minister Robert Golob. The commission investigated alleged unauthorized pressure from Prime Minister Golob on former Interior Minister Tatjana Bobnar and other Interior Ministry employees. The Law on Whistleblower Protection also came into force in 2023.

The 2013 Law on Political Parties prohibits donations from companies to political parties, while foreign funding has been banned for decades. Annual financial reports submitted by parties to the Agency of the Republic of Slovenia for Public Law and Related Services show that parties rely heavily on public funds. Parties receiving at least 1% of votes in the previous parliamentary elections are entitled to state budget funds.

In 2023, the law was amended to allocate 10% of the total party funding budget equally among all eligible parties, with the remaining 90% distributed according to their vote share. This distribution was in place from 2000 – 2013; in the past ten years, the shares were 25% and 75%, respectively. Indirect public party funding includes additional funds for organizational and administrative support. The Court of Audit is required to audit parties' financial reports, but sanctions for breaches of the law are rarely implemented.

Citation:

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Spain

Score 7

Corruption levels in Spain have declined since the real estate bubble burst in the wake of the economic crisis, partly due to the criminal, political, and social prosecution of corrupt politicians and officials. Spanish courts have a solid record of investigating and prosecuting corruption cases, but the system is often overburdened and cases move slowly. According to the WJP Rule of Law Index, Spain is ranked 23rd in the absence of government corruption. However, in 2023, Spain's score in Transparency International's Corruption Perceptions Index fell slightly, although Spain continues to rank comparatively highly at 35th place out of 180 countries (2019: 30 out of 180 countries). The 2023 Special Eurobarometer on Corruption shows that 89% of respondents consider corruption widespread in their country (EU average 70%) and 41% feel personally affected by corruption in their daily lives (EU average 24%).

On February 16, 2023, parliament adopted the whistleblower protection law. The law stipulates that, within a maximum period of 18 months from its enactment, the government must endorse an Anti-Corruption Strategy. This strategy is intended to assess the objectives outlined in the law and address the requisite measures to cover potential loopholes.

In December 2022, the Independent Office for Regulation and Supervision of Procurement sanctioned the National Public Procurement Strategy, aiming to prevent corruption and irregularities in implementing public procurement legislation. The effectiveness of the Council of Transparency and Good Governance has improved. In 2022, the General Intervention of the State Administration (IGAE) strengthened its assessments of fraud risks in public grants and subsidies.

In implementing the RRG, other administrative levels have established mechanisms for preventing corruption. For example, all implementing entities must have an anti-fraud plan. Public procurement procedures have also been improved to enhance transparency. As mentioned earlier, the audit office is responsible for auditing party accounts. The law governing party financing was reformulated in 2015 and remains unchanged, despite a request from the Court of Auditors.

In 2020, the Congress of Deputies agreed on a code of conduct for members of parliament. This document represents a further step in improving the transparency of members' activities. Additionally, a Conflict of Interest Office of the Congress has been created to monitor compliance with integrity rules. According to the 2022 annual report, most members of parliament follow the code. However, the rules of procedure of the Congress do not contain any sanctions for noncompliance (Oficina de Conflicto de Intereses de las Cortes Generales 2023).

The electoral law establishes that the function of deputy is “incompatible” with “any other profession or remunerated activity.” However, the Congressional Statute Commission grants a number of exceptions.

Citation:

Oficina de Conflicto de Intereses de las Cortes Generales. 2023. “Informe anual correspondiente al año 2022.” https://www.congreso.es/public_oficiales/L14/CORT/BOCG/A/BOCG-14-CG-A-311.PDF
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United States

Score 7

The U.S. Constitution has few explicit rules limiting corrupt activities by members of Congress. The Ineligibility Clause bans members of Congress who vote for an executive branch pay increase from subsequently being appointed to that office (Mayer and Sulkowski 2018). However, this restriction can be easily circumvented. For example, when Barack Obama appointed Senator Hillary Clinton as his Secretary of State, she was constitutionally ineligible because she had voted for a

pay increase for the Secretary of State position as a senator. Clinton circumvented this by accepting a voluntary pay decrease. The Twenty-Seventh Amendment, the final amendment to the U.S. Constitution, prohibits members of Congress from voting for their own pay increase without another election intervening (Tillman 2018).

Beyond this, the Constitution leaves each chamber of Congress with the responsibility to regulate its own internal affairs (Thompson 2000). This means that the House and the Senate can set their own rules to guard against corruption. As a result, certain practices that may be banned in one chamber can be permissible in the other. For example, House members are not allowed to sit on corporate boards, but senators are allowed to do so.

Over the years, various ethics laws have been passed to limit members' activities. There are many loopholes in the existing arrangements. For example, members of Congress and their families are permitted to hold financial interests in businesses they oversee in Congress.

Enforcement is left to each chamber of Congress, which each have their own ethics committees. These committees enforce the rules inconsistently. It is rare for a member to be ejected from Congress for violating ethics rules, but it is not unheard of. In December 2023, the Republican-controlled House of Representatives voted to expel Republican Congressman George Santos after the House Ethics Committee accused him of misusing his campaign funds for personal gain (Martin 2023).

The problem of self-regulation also applies to the Supreme Court. Some members of the Court claim that Congress cannot regulate them, but this is inconsistent with long-standing practices in other areas. In 1922, Congress created the Judicial Conference of the United States, which sets administrative standards for the federal court. Although the body consists of judges and is currently self-regulating, Congress could establish more stringent ethics standards (Gephardt 2023).

Citation:

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Czechia

Score 6

Corruption and clientelism are widespread. All governments pledge to fight corruption, but none have adequately addressed the issue. There are no public statistics on the number of successfully prosecuted public officials. Problems with politicians have started from the very top. Former Prime Minister Andrej Babiš, leader of the opposition ANO party, built his business empire, the Agrofert

conglomerate, with initial funding from unclear sources; his activities have frequently provoked controversy. The largest concern involves the use of EU funds to finance a business temporarily separated from his main business and quietly put under the ownership of family members. It was returned to his control after receiving the subsidy. In January 2023 a court dismissed the case against Babiš and criticized the prosecution's work.

In the fall of 2022, French prosecutors opened a case against Andrej Babiš for money laundering connected to the purchase of real estate in Southern France, which came to light in the Panama Papers. The EU has continued to regard the “blind trust” in which Agrofert Holding was placed as unsatisfactory for Babiš's claim to avoid conflicts of interest, as he has always been the clear beneficiary of his firms' activities. The use of EU subsidies, which depend on Czech government decisions, therefore remains problematic. The government has so far made no steps toward requesting the return of any subsidies from Agrofert.

The current government parties used Babiš's alleged corruption to campaign against him. However, they were slow to introduce promised changes to the law on conflict of interests. Although they complained of ANO's obstruction of the parliamentary process, with a clear parliamentary majority they could have overruled this.

The legal amendments, as finally passed, ensured that an owner of a firm could not escape accusations of conflict of interest by claiming to have transferred control to a trust. This forced Babiš to sell his print media empire, but he could still own online media. Another loophole, supported also by the ODS and two other government parties, would still allow a firm owned by a minister to bid for public contracts.

The rules for party and campaign financing and their enforcement are a contested political issue. In April 2015, the Ministry of Interior submitted an amendment to the law on political parties to parliament. The proposal was based on the Group of States against Corruption of the Council of Europe (GRECO) recommendations to Czechia issued in 2011 and came into force in January 2017. The law introduced financial limits for party financing and electoral campaigns, the mandatory establishment of transparent accounts, and greater revenue regulation of political parties and movements.

The first scandal for the Fiala government, elected in 2021, revolved around campaign financing. The STAN party accepted donations from an anonymous account in Cyprus. During the January 2022 parliamentary debate, the chairman of STAN and the minister of interior expressed a commitment to return any irregular donation. The Office for the Oversight of the Political Parties and Political Movements (Úřad pro dohled nad hospodařením politických stran a politických hnutí, ÚHHPSH) reported that one-third of political parties did not submit their 2022 annual financial reports. This noncompliance violates the law, and the office noted that it represents a 25% increase in noncompliance. However, all 37 parties, movements, and political subjects eligible for state subsidies complied with the law.

Citation:

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<https://www.transparency.cz/vlada-slibila-zakrocit-proti-stretu-zajmu-zatim-se-odvazila-jen-k-dilcim-krokum/>

Greece

Score 6

Greece has implemented a comprehensive legal framework to prevent and sanction the abuse of public office. The constitution outlines procedures for holding government ministers accountable for criminal acts committed during their tenure (Article 86). Legislation adopted in 2003 details ministerial criminal liability, and the Criminal Code, amended in 2019, penalizes corrupt acts by public officials, including civil servants (Article 235). Additionally, laws passed in 2001 and 2014 enhanced protections for whistleblowers.

In 2019, Greece consolidated its anti-corruption efforts under a new independent public authority, the National Transparency Authority (EAD), responsible for formulating and monitoring the National Anti-Corruption Plan, such as the plan for 2022–2025 (National Transparency Authority, 2023).

New legislation in 2021 aligned with the European Directive of 2018 on anti-money laundering. In 2023, a law empowered public entities to identify and manage integrity risks and anticipated the operation of a central repository of corruption risks within the public administration. Another 2023 law established a common framework for recovering and managing frozen and confiscated assets derived from criminal activities.

Further, in 2022, Greece introduced a new code of conduct for public employees and codified past legislation on political party financing. In 2023, new laws streamlined asset declaration requirements for public officeholders and improved regulations on public procurement.

Despite these robust frameworks, implementation gaps persist, particularly delays in investigating and prosecuting public officeholders. These challenges stem from a complex regulatory environment, inadequate administrative personnel in courts, and sluggish procedures exacerbated by backlogs of other civil and criminal cases.

Nevertheless, barring the inefficiencies of the justice system, most integrity mechanisms are effective, providing significant disincentives for public officeholders to abuse their positions.

Citation:

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National Transparency Authority. 2023. "NACAP 202-2025, Implementation Report, 1st semester of 2023." https://aead.gr/images/manuals/esskd/2022-2025/NACAP__S1_2023_Final.pdf

Public procurement: Laws 4412/2016 and 5079/2023

Criminal liability of government ministers: Law 3126/2003

Anti-money laundering: Law 4816. 2021. Source. Volume, section. Page OR URL

Protection of whistleblowers: Laws 4254/2014 and 4990/2022

Establishment of the EAD authority. 2019. Law 4622/2019.

Political party financing: Presidential Decree 15/2022

Asset declaration. 2023. Laws 5026/2023 and 5072/2023.

Management of integrity risks of public entities – repository of corruption risks in public administration: Law 5013/2023.

Management of frozen, including seized and confiscated assets derived from criminal activities: Law 5042/2023

Italy

Score 6

Corruption remains a pervasive problem within the Italian administration, as evidenced by numerous cases brought to light by the judiciary and the media and by Italy's relatively low ranking compared to other European countries on the main indices of perceived (Transparency International Corruption Perception Index, CPI 2022; World Bank Control of Corruption Index, Kaufmann and Aart Kraay 2023) and objective corruption (Transparency International Global Corruption Barometer; University of Goteborg Quality of Government Indicators, Charron et al. 2022).

Given the detrimental impact of corruption on public trust, the efficiency and effectiveness of public administration, and the nation's ability to deliver essential public goods, the Draghi government (February 2021 – July 2022) made combating this pervasive phenomenon a central pillar of its agenda. This commitment was particularly evident in the implementation of the National Recovery and Resilience Plan (PNRR), which presented a unique opportunity to streamline governance processes and enhance transparency. In line with this commitment, the Anti-Corruption Authority (ANAC) was granted significant enhancements, especially regarding its oversight role in public contracts.

The regulations governing public procurement were amended in accordance with the objectives of PNRR. First, Delegated Law 78/2022 (under the Draghi government) instituted changes, followed by Legislative Decree 26/2023 (under the Meloni government), which introduced further modifications to the Public Procurement Code. These changes have strengthened the oversight functions of the ANAC (ANAC, Annual Report 2023).

These revised regulations mark the latest advancement in Italy's ongoing anti-corruption efforts, which have resulted in a noticeable improvement in the country's standing on various corruption indices. From 2014 to 2023, Italy's ranking in Transparency International's Corruption Perception Index has risen from 69th to 53rd, demonstrating the nation's progress in combating corruption. However, problems remain, particularly in the regulation of interest groups and party financing.

The Meloni government has implemented a series of measures aimed at streamlining the operations of public administrations in the execution of the PNRR. While these measures aim to expedite the process and reduce bureaucratic hurdles, they also raise concerns about potential ambiguities that could be exploited for corrupt practices.

Citation:

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Netherlands

Score 6

In the public eye, corruption is not perceived as a significant problem in the Netherlands. However, in Transparency International's 2022 Corruption Perceptions Index, the Netherlands dropped two points to ninth place internationally – its lowest ranking ever. This decline can be attributed to two major causes. First, the structural influence of organized crime, particularly around the mass-scale production and distribution of drugs, has compromised the integrity of the public administration and political officials at all levels of government. This influence is evident in the significant rise in street violence, bombings, and assassinations in larger cities such as Amsterdam and Rotterdam, which are linked to conflicts within organized crime gangs. Second, Dutch politics has failed to respond adequately to past calls by GRECO and the Council of Europe for stricter self-regulation. There have been delays in passing regulations on political integrity, poor control of political party funding and insufficient monitoring of lobbyists' influence. Recently, three top-level Dutch politicians quickly transitioned to lobbying roles for the gambling, weapons and energy industries. Previously, three former prime ministers moved to consultancy or corporate board positions. Additionally, protections for whistleblowers and regulation and oversight of political party finances remain weak or nonexistent. For example, members of parliament and even part-time university professors are formally obliged to register their paid secondary functions but frequently fail to do so without facing significant sanctions.

Organized drug-related crime is significantly undermining democracy and public safety in the Netherlands. Evidence shows that most serious episodes of violence, including bombings and assassinations against journalists, whistleblowers, lawyers and rival individuals within criminal networks, is drug-related. More concerning is the undermining of local and regional politics and the corruption of civil servants within the police and judiciary. Criminal information brokers corrupt officials to sell

sensitive information or obtain passports and other valuable documents for significant sums of money in the underworld. Certain sectors of the Dutch economy, including farming, transport and hospitality, are particularly vulnerable to deep penetration by organized crime.

Of particular concern is the high level of corruption in the Caribbean part of the kingdom, particularly Bonaire. The proximity to large-scale drug production activities and the weakness of local institutions have undermined political, governmental and social structures on the islands.

Citation:

NRC-H. 2023. "Omkoping in het buitenland? Vinden we in Nederland geen probleem." September 14.

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Portugal

Score 6

From a legal standpoint, the Portuguese Penal Code directly addresses the criminalization of power abuse and corruption in Articles 372° to 374°-B. Moreover, the implementation of public accounting standards, as per Annex II of the Accounting Standardization System for Public Administrations (SNC-AP), outlined in Decree-Law No. 192/2015, Article 6, aims to ensure financial oversight of public expenditure. This framework theoretically facilitates corruption detection. Additionally, the Law on the Financing of Political Parties and Electoral Campaigns, outlined in Law No. 19/2003, sets limits on private income for political parties while also providing public funds for election expenses and annual subsidies. Public officeholders convicted of power abuse face penalties, including imprisonment for up to three years or fines, as stated in Decree-Law No. 48/95, Article 382. The enforcement of these regulations – encompassing reporting, oversight, and sanctions – is the responsibility of the Political Accounts and Financing Entity (ECFP), which, however, encounters significant operational challenges.

Despite these legal frameworks, three crucial issues arise. First, regarding party financing regulation, scholars note that political financing in Portugal was largely unregulated until a 2003 law (Law No. 19/2003, of June 20). This law, amended eight times, most recently in 2018, attempted to address these issues. Despite a 2000

ban on corporate donations, challenges remain due to companies disguising illegal contributions. The current framework lacks stringent penalties for those circumventing the law by indirectly covering campaign costs. While the law provides a functional regulatory structure, the primary issue lies in its implementation and adoption by parties and candidates.

The ECFP, tasked with monitoring financial information, faces legal and practical challenges. The 2018 amendment expanded its responsibilities without increasing resources, as highlighted by the ECFP's chairperson. The ECFP tends to focus more on formal account reporting than on substantive oversight. Additionally, the National Anti-Corruption Strategy 2020 – 2024 (ENAC) has emphasized the need for the publication of political parties' accounts to be more efficient, uniform, and accessible. However, these proposed measures lack specific details, such as deadlines, methodologies, or clear guidelines on their implementation.

Second, concerning gifts and hospitality, the codes of conduct for parliament and the executive suffer from low compliance, unclear hospitality limits, and a lack of oversight and sanctions. Access to gift and hospitality registers is problematic, with the parliamentary register difficult to access online and the ministerial register available only onsite.

Portugal's 2019 Transparency package reforms have introduced some improvements. For example, the regime governing the functions of political office holders and high public officials mandates that all such individuals, including judges, prosecutors, and senior public officials, must submit declarations of their interests and assets (Law No. 52/2019 of 31 July). However, these improvements are limited by inadequate enforcement mechanisms, oversight gaps, and insufficient regulation of post-office employment and gift acceptance.

Despite advancements, the system primarily serves as an initial vetting procedure and lacks mechanisms for ongoing supervision or enforcement. Verification of declarations, overseen by the Constitutional Court and the Transparency Entity (ET), faces issues like legal uncertainties, limited resources, and superficial examination processes. No effective internal body within the parliament is responsible for verifying MPs' declarations or addressing potential conflicts of interest.

Third, regarding the transparency of public procurement procedures, Portugal has seen significant progress, particularly with the development of the Portal BASE, a public procurement platform. This platform is designed to provide details on all contracts formed under the Public Procurement Code (CCP) and is further supported by the Observatory of Public Works, which offers statistical analysis of public procurement activities. Despite these advancements, the transparency level in Portugal's public procurement processes still does not meet expectations.

The Portal BASE, although aimed at increasing transparency, encounters several challenges. The platform is not particularly user-friendly for various stakeholders

and falls short in ensuring the complete publication of all procedures and their associated information. In addition, many public bodies have not fully or properly adhered to their obligation to disclose information. Moreover, the enforcement of regulations and the application of sanctions related to public procurement transparency remains notably weak.

Corruption remains a significant issue in Portugal, affecting both the private and public sectors. The 2022 Transparency International Corruption Perception Index report indicates minimal progress in combating corruption, with 41% of surveyed individuals believing corruption had increased in the previous 12 months. The report criticizes the Portuguese government's National Anti-Corruption Strategy (ENAC) 2020 – 2024 for ineffective implementation and lack of progress. The European Commission's rule of law report also highlights issues such as insufficient resources for preventing, investigating, and prosecuting corruption cases in Portugal, along with a lack of effective implementation and monitoring of integrity mechanisms and regulations (EC, 2023).

Portugal's lack of investment in these areas is also evident in the 2022 GRECO Report from the Group of States Against Corruption. This report assesses the implementation of recommendations from the Fourth Evaluation Round and found that the majority of the recommendations (twelve out of fifteen) remain only partially implemented. Only three of the fifteen recommendations were satisfactorily implemented, labeling the overall compliance as "globally unsatisfactory." For example, regarding members of parliament, the report highlights the absence of rules or mechanisms to assess interactions between deputies and third parties, establish appropriate sanctions for improper actions, and evaluate the effectiveness of the conflict of interest prevention system (GRECO, 2022).

Finally, it is essential to acknowledge that Portugal experiences significant delays in the prosecution of corruption cases. These delays are particularly pronounced in the legal proceedings against prominent public figures and business leaders. Notably, the legal cases against former Prime Minister José Sócrates (2005 – 2011) and Ricardo Salgado, ex-head of Banco Espírito Santo (BES), are in danger of exceeding the statute of limitations for various crimes within the forthcoming two years (Expresso, 2023; Observador, 2022). These postponements not only impede the legal process but also amplify the challenges in combating corruption effectively.

Moreover, recent developments regarding the investment in human resources dedicated to fighting corruption within the Judiciary Police (Polícia Judiciária, PJ) are noteworthy. The national director has emphasized that "The PJ now possesses unprecedented resources. These personnel are expected to serve for many years," signaling a substantial step forward in Portugal's commitment to addressing this widespread issue (DN/Lusa, 2023).

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Japan

Score 5

Corruption in Japanese politics has been fueled by patron-client relationships between politicians and voters. The introduction of state subsidies for political parties in 1994 aimed to eliminate such practices. At the same time, total donations to a particular party or political funding entity were limited to JPY 20 million per year from an individual, and to between JPY 7.5 million and JPY 100 million per year from a company, depending on the company size. Moreover, a maximum annual donation ceiling of JPY 1.5 million per person to an individual candidate was introduced. Both political parties and politicians are required to disclose their expenditures and the sources of their revenues, though such reports are not fully transparent.

The new rules have only partially weakened clientelistic practices, however. Corruption scandals are still relatively frequent in Japanese politics. For instance, in September 2023, former Parliamentary Vice Minister of Foreign Affairs Akimoto

Masatoshi was arrested under on allegations he had received a bribe from a company that promoted the construction of offshore wind power plants.

Collusive and corrupt ties between bureaucrats and businesspersons have been connected with the practice of *amakudari* – assuming highly paid jobs in public institutions or private companies after retiring from a ministerial position. While *amakudari* is officially prohibited, bureaucrats still find ways to bypass the law.

Japan is a signatory to the WTO Agreement on Government Procurement, the UN Convention Against Transnational Organized Crime, the UN Convention Against Corruption, and the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions. In the 2020 Corruption Risk Forecast, Japan was evaluated relatively well in terms of social integrity but below average in terms of transparency. In its 2019 report, the OECD recommended Japan be more proactive in detecting foreign bribery.

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Hungary

Score 4

Corruption is one of Hungary’s central problems (European Commission 2021: 10-14), and the level of corruption perceptions in Hungary is very high. The country ranks 77th out of 180 countries in the Transparency International Corruption Perceptions Index 2022, behind neighbors such as Slovakia, Slovenia, Croatia and Romania. Widespread corruption has been a systemic feature of the Orbán government, with benefits and influence growing through Fidesz informal political-business networks. Members of the Fidesz elite have been involved in several large-scale corruption scandals, with many people accumulating substantial wealth in a short period. Such individuals have enjoyed protection from portions of the judiciary. Hungary has for some time led OLAF’s list of member states in which irregularities in the use of EU funding have been identified, and has conspicuously failed to cooperate with the European Union’s anti-fraud agency. In 2021, the legal anti-corruption framework was further weakened by a narrowing of the scope of application for public procurement rules. The government implemented no specific measures to limit corruption during the COVID-19 pandemic, and special procurement rules have been applied. Only after the strong intervention of the

European Union (Article 7 procedure) and the freezing of EU assets did the government engage in procedural and institutional changes. An investigatory report by the Budgetary Control Commission of the European Parliament labeled these reforms as a kind of Potemkin Village, whereby the reforms as officially described do not translate into sustainable reform. What is missing is the political will to fight corruption. The fact that Hungary still refuses to join the European Public Prosecutor's Office shows where the government stands. Joining the Office would make many expensive institutional reforms completely unnecessary. In 2022, bowing to pressure from the European Commission, the government set up a new institution called the Integrity Authority. However, this has a weak mandate, and little power beyond issuing periodic reports on its observations. Nevertheless, the Integrity Authority has been critical of the lack of transparency in public procurement, and has flagged several issues related to businesspeople with close ties to the government. The system of asset declarations has been reformed several times in recent years and is relatively stringent on paper. However, there is no associated oversight mechanism, so false statements or underreporting may not be detected, rendering the system almost useless (K-Monitor 2023).

Citation:

Citations:

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Slovakia

Score 4

The Registry of Public Contracts and Public Sector Partners significantly facilitates corruption detection. These tools ensure that public procurement processes are more transparent, with all details of tenders publicly accessible. Anti-corruption legislation also includes rules on conflicts of interest and asset declarations for high public officials. However, enforcement and investigation based on these regulations are reportedly inadequate.

For instance, in late 2023, Prime Minister Robert Fico purchased a luxury flat in a prestigious area of Bratislava but did not disclose the price or details of the transaction despite media pressure (Hajčáková 2024). Many other public officials face similar unresolved questions regarding their assets. While major anti-corruption stakeholders emphasize transparency, it alone is insufficient. There is a lack of coordination, enforcement, and accountability within the anti-corruption framework. Thus, while transparency raises public awareness, it does not guarantee effective investigation, prosecution, and justice. Slovakia experiences a mismatch between high perceived corruption and a low rate of investigated high-level corruption cases.

Rules governing the financing of political parties are established under Law 85/2005 on Political Parties and Political Movements. This law outlines regulations on private income, direct public funding, spending limits, reporting, oversight, and sanctions (see Law 85/2005). The Ethical Codex of the Civil Servant, effective from Jan. 1, 2020, under government regulation 400/2019, governs civil service ethics.

Despite these anti-corruption safeguards, their impact on the scope and scale of corruption in Slovakia is limited, with some describing the situation as “transparent corruption.” Like other countries in the region (see Langr, 2018), systemic corruption persists in Slovakia. The Group of States Against Corruption reports that Slovakia has made minimal progress in preventing corruption and promoting integrity within the central government (based on data from previous administrations).

During the 2020 – 2023 term under the OĽANO-led governments, combating corruption was a primary focus. Notable results include establishing the Office for the Protection of Whistleblowers and significantly increasing the number of investigated cases. High-ranking civil servants and judges were among those under criminal investigation, with some already sentenced. Nonetheless, there is ongoing debate about the legality of certain investigations. The Prosecutor General’s Office invoked Article 363 of the Penal Code to halt investigations in nearly 30 cases, including some where higher-level courts had upheld the legality of the charges. Notably, high-level politicians from the anti-corruption governments have been included in investigations. For example, in August 2023, the National Criminal Investigation Agency began investigating the director of the Slovak Secret Service, the previous director (appointed in 2020), and the director of the National Security Office (based on research for the EUPACK project).

Additionally, the caretaker government led by Eduard Heger was dismissed in May 2023 amid a corruption scandal involving Agriculture Minister Vlčan. Vlčan’s firm received a €1.4 million subsidy from the Environment Ministry’s competitive call. Despite other applications, the company won, and Vlčan refused to return the subsidy, opting to step down instead (see Benediktovičová, 2023).

Citation:

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Poland

Score 3

Poland has developed many institutions to fight corruption, including the Internal Security Agency, the National Revenue Administration, the Ministry of National Defense, the Supreme Audit Office, the police and the Border Guard. There are also rules for officeholders intended to ensure transparency, prevent conflicts of interest and promote ethical conduct, such as asset declarations and incompatibility regulations. A sound framework for public procurement debarment is also in place. However, Poland has fallen short in the area of combating foreign bribery.

In 2022, Poland received its lowest score since 2012 on the Corruption Perceptions Index (CPI), with 55 points and a ranking of 45th place. The main reasons for this decline included disruptions to the rule of law, such as the politicization of the Constitutional Tribunal and the prosecutor's office, pressure on courts and individual judges, and the dismissal of charges against high-ranking officials. A significant erosion with regard to fundamental financial principles was also evident. Negative shifts in the public finance system were caused by substantial spending outside the state budget. This situation undermined the effectiveness of the budget law – particularly the state budget – as the primary tool for managing state finances. Additionally, the government had employed mechanisms to understate the state budget deficit and circumvent the stabilizing expenditure rule (Dudek and Kotecki 2023).

The PiS government lacked an effective anti-corruption policy. A damning report by the Supreme Audit Office in December 2022 revealed that the Government Anti-Corruption Program for 2018 – 2020 had failed in most of its planned tasks. The program's implementation was chaotic and poorly coordinated, with limited success in areas such as training. No subsequent document outlining priorities and tasks for anti-corruption policy had been introduced since the program's conclusion in 2020 (NIK 2022).

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