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2024 Rule of Law Report
Country Chapter on the rule of law situation in Belgium

Accompanying the document

**COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN
PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL
COMMITTEE AND THE COMMITTEE OF THE REGIONS**

2024 Rule of Law Report

The rule of law situation in the European Union

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ABSTRACT

Consultations continue on draft legislation to increase judicial independence by transferring budgetary management powers from the executive to the judiciary. Further steps have been taken towards improving the digitalisation of justice. Some further progress has been made on providing adequate resources for the justice system, while a workload measurement confirms structural resource deficiencies. Following renewed criticism by the High Council for Justice, the Government has decided not to table a proposal to introduce regular security checks by the National Security Agency on all judges. Directives prohibiting the recording of meetings between lawyers and clients have strengthened lawyer-client confidentiality. An overview of the efficiency of justice remains unavailable, due to a persistent lack of data on court proceedings, while efforts are ongoing to map judicial backlogs.

Elements relating to anti-corruption are included in various relevant strategies and action plans although there is no overall strategy nor a body responsible for coordination of anti-corruption policy. A legislative revision of the Criminal Procedure Code could have a positive impact on the fight against corruption. The Central Office for the Repression of Corruption and prosecution services continues to tackle high-level corruption cases, despite overall limited resources. Measures are being taken to address corruption linked to organised crime groups and drugs trafficking, which is recognised as an important phenomenon. The investigation and prosecution of foreign bribery cases remains difficult. The extension of the overall Code of Conduct for federal public office holders to all members of ministerial private offices was formally adopted. However, important gaps remain in the integrity policy in areas such as revolving doors, as well as rules on gifts and benefits, in particular for members of Parliament. Shortcomings exist regarding the transparency of asset declarations. Draft legislation on contacts with lobbyists for Government members was put forward. Political parties did not reach an agreement on a reform of political party finance legislation prior to the electoral period. The local government level and public procurement are considered as areas at high risk of corruption.

Audiovisual media regulators maintain their operational independence and effectiveness, and the press continues to be effectively governed through self-regulatory mechanisms. High media concentration is counterbalanced by the independence of media regulators and transparency of media ownership. Public service media maintain their independence through well-established safeguards. Some further steps have been taken in strengthening access to official documents, though new proposals fail to grant the Commission for Access to Administrative Documents decision-making powers. Journalist safety continues to face challenges, with recent studies and incidents highlighting a worrying trend of online harassment.

The Federal Human Rights Institute (FIRM/IFDH) established cooperation with the Flemish Human Rights Institute and acquired new tasks. Independent institutions received additional human and financial resources to help carry out their tasks effectively, although some challenges on their distribution remain. Government non-compliance with European Court of Human Rights and domestic court judgments, including a final judgment of a court of last instance, raises serious concerns. Some concerns have been raised regarding civic space.

RECOMMENDATIONS

Overall, concerning the recommendations in the 2023 Rule of Law Report, Belgium has made:

- Some further progress on efforts to provide adequate human and financial resources for the justice system as a whole, taking into account European standards on resources for the justice system.
- No progress on strengthening the integrity framework, including by adopting rules on gifts and benefits for members of Parliament and by strengthening rule of revolving doors for Government and their private offices.
- Some progress on completing the legislative reform on lobbying, establishing a framework including a transparency register and a legislative footprint, covering both members of Parliament and Government.
- Some further progress on efforts to strengthen the framework for access to official documents, in particular by improving request and appeal processes, taking into account European standards on access to official documents.

On this basis, and considering other developments that took place in the period of reference, it is recommended to Belgium to:

- Continue efforts to address the structural resource deficiencies in the justice system, taking into account European standards on resources for the justice system.
- Strengthen efforts to improve the efficiency of justice, particularly to reduce the length of proceedings based on comprehensive statistical data.
- Strengthen the integrity framework, including by adopting rules on gifts and benefits for members of Parliament and rules on revolving doors for government and their private offices.
- Complete the legislative reform on lobbying, establishing a framework including a transparency register and a legislative footprint, covering both members of Parliament and Government.
- Further continue efforts to strengthen the framework for access to official documents, in particular by improving request and appeal processes, taking into account European standards on access to official documents.
- Take measures to ensure compliance by public authorities with final rulings of national courts and the European Court of Human Rights.

I. JUSTICE SYSTEM

The justice system includes 13 first-instance courts of general jurisdiction¹, a number of specialised first instance courts², five appeal courts, a Court of Cassation³ and a Constitutional Court. The judicial branch of the Council of State⁴ acts as the highest administrative court. A non-permanent court of assizes hears the most serious criminal cases⁵. The Constitutional Court is exclusively competent to scrutinise the constitutionality of legislation. Most competences related to justice are federal⁶. The independence of the judiciary and of the prosecution service is enshrined in the Constitution⁷. An independent High Council for Justice⁸ is tasked with recruitment for the judiciary and with fostering the quality of justice through control mechanisms such as audits, as well as by giving advice on justice-related matters to the Government and to Parliament, both on request and on its own initiative. Candidate judges are selected by the High Council for Justice and are appointed for life by the King on the proposal of the Minister of Justice⁹. The College of Courts and Tribunals, which consists of court presidents elected by their peers, is responsible for the general functioning of the courts. The Flemish Bar Association and the French- and German-speaking Bar Association represent lawyers from different parts of the country. Belgium participates in the European Public Prosecutor's Office (EPPO).

Independence

The level of perceived judicial independence in Belgium continues to be high among the general public and is now high among companies. Overall, 61% of the general population and 64% of companies perceive the level of independence of courts and judges to be 'fairly or very good' in 2024¹⁰. The figure has decreased in comparison with 2023 (66%) as well as in comparison with 2020 (63%). The perceived judicial independence among companies has increased in comparison with 2023 (59%), as well as in comparison with 2020 (59%)¹¹.

¹ These courts also hear appeal cases against decisions by the justices of the peace and by the police courts.

² Including 162 justices of the peace, 15 police courts, 9 commercial courts, 9 labour courts and 5 administrative courts.

³ The Court of Cassation reviews decisions of lower courts on points of law in cassation proceedings.

⁴ The Council of State also has an advisory branch, which renders opinions on legislative and regulatory proposals.

⁵ It is composed of 3 judges and a jury of 12 citizens.

⁶ A number of specialised Flemish administrative courts exist.

⁷ Article 151 of the Constitution.

⁸ The High Council for Justice comprises 22 members of the judiciary, 8 lawyers, 6 professors and 8 members from civil society. Half of its members are French-speaking and half are Dutch-speaking.

⁹ The executive can only refuse to appoint the candidate nominated by the High Council for Justice on explicit grounds (for example an irregularity) and cannot decide to appoint a different candidate. Instead, the executive must refer the appointment file back to the High Council and ask for a new proposal. The decision of the executive not to appoint a candidate judge can be challenged before the Council of State. The lawfulness of the proposal of the High Council can also be assessed in the context of such legal action. Figures 61 and 62, 2018 EU Justice Scoreboard.

¹⁰ Figures 51 and 53, 2024 EU Justice Scoreboard, and Figures 50 and 52, 2022 EU Justice Scoreboard. The level of perceived judicial independence is categorised as follows: very low (below 30% of respondents perceive judicial independence as fairly good and very good); low (between 30-39%), average (between 40-59%), high (between 60-75%), very high (above 75%).

¹¹ 60% of the companies in Belgium are either fairly or very confident that their investments are protected by the law and courts in the Member State. 21% of the surveyed companies see the quality, efficiency or independence of justice as one of the main reasons for concern about investment protection in the country. Figures 55 and 56, 2024 EU Justice Scoreboard.

Consultations continue on draft legislation to increase judicial independence by transferring budgetary management powers from the executive to the judiciary. The 2023 Rule of Law Report informed that once the transfer will be completed the governing bodies of the three ‘pillars’ of the judiciary (the Entity Cassation for the Court of Cassation, the College of Court and Tribunals and the College of Public Prosecutors) will be directly responsible for managing staff budgets and policy¹². The three pillars of the judiciary contributed to a draft law prepared by the Ministry of Justice¹³. Each pillar would allocate resources in consultation with the judicial entities falling under their competence, on the basis of an agreement established with the Ministry of Justice¹⁴. On 18 October 2023, the High Council for Justice issued an advisory opinion on the draft law¹⁵, which highlighted concerns as regards the costs and financing of the implementation of this reform, for which no additional resources were planned at the time. Regarding the composition and representativeness of the College of Courts and Tribunals, the Opinion was also critical of the fact that its President and Vice-President could not be dismissed and expressed criticism of the rules for holding a non-confidence vote. The transfer of support services from the Ministry of Justice to the Colleges was another point of concern raised in the Opinion. Moreover, the Opinion expressed concern about the fact that management powers transferred would include decisions on the delegation of magistrates and court staff¹⁶. The High Council for Justice advised against extending this system, as temporary secondments often become permanent, which in turn might not guarantee an effective remedy to structural resources problems¹⁷. The Council of State issued an opinion on 13 February 2024¹⁸. Work on the draft Law is expected to continue once the new Government is in place¹⁹.

Following renewed criticism by the High Council for Justice, the Government has decided not to table a proposal to introduce regular security checks conducted by the National Security Agency on all judges. The 2023 Rule of Law Report noted the concerns about a proposal to introduce both initial and regular (every five years) security checks conducted by

¹² 2023 Rule of Law Report, Country Chapter on the rule of law situation in Belgium, p. 4.

¹³ The draft law to “optimise the autonomous management and the functioning of the judicial order” aims to execute the Act of 18 February 2014 ‘introducing a system of independent management for the judicial organisation’. This Act inserted a series of provisions in the Belgian Judicial Code to enable the autonomous management of resources of the judiciary which have not yet entered into force. The autonomous management of human resources would include decisions on the transfer of magistrates and court staff; Information received in the context of the country visit to Belgium from the College of Courts and Tribunals and from the Court of Cassation.

¹⁴ Each of the three pillars will have a separate three-year management agreement. Existing financial control rules will continue to apply, and the Minister of Justice will retain the ultimate responsibility for the Justice budget, along with the Minister of Budget; Information received in the context of the country visit to Belgium from the College of Courts and Tribunals.

¹⁵ High Council for Justice (2023), Advices on the draft proposal for a law to optimise the autonomous management and the functioning of the judicial order of 18 October 2023.

¹⁶ The draft law foresees an extension of the procedure on the delegation of magistrates and court staff, referred to in the 2022 Rule of Law Report. 2022 Rule of Law Report Country Chapter on the rule of law situation in Belgium, p. 4. The Belgian Government points out that delegations remain in the hands of the judiciary, except rare exceptions in which the College of courts and tribunals intervenes, in the absence of an agreement between the court presidents concerned.

¹⁷ Several remarks in the advisory opinion of the High Council for Justice were taken into account in an amended draft law.

¹⁸ This opinion will however not be made public until the formal publication of the draft law.

¹⁹ Written contribution from the Belgian Government in the context of the country visit to Belgium.

the National Security Agency on all existing magistrates and judicial staff²⁰. The Report notably pointed to European standards on judicial independence and the autonomy of prosecutors, which provide that such security checks might constitute an external pressure and therefore undermine the independence of the judiciary²¹. The High Council for Justice issued opinions on different drafts of the proposal, submitting that guarantees of integrity already exist, notably through the ethics and judicial discipline framework²². Regarding this framework, a second consolidated Report on disciplinary actions was adopted by the General Assembly of the High Council for Justice on 18 October 2023²³. Moreover, the High Council argued that the proposal threatened the separation of powers, due to the risk of interference by the executive in the functioning of the judiciary, thereby also violating the competences of the High Council under the Belgian Constitution²⁴, as well as the principles of legality, legal certainty and proportionality and the right to a fair hearing. In light of these opinions, there are currently no longer any Government initiatives with regard to regular security checks on magistrates and judicial staff²⁵. Four related proposals were discussed by the Parliament until

²⁰ 2023 Rule of Law Report, Country Chapter on the rule of law situation in Belgium, p. 4, p. 5. From a comparative perspective, in the few Member States where bodies comparable to the National Security Agency Conduct security checks on judges, this happens only regarding candidates for judges in specific positions. In one Member State, such security checks were introduced on all judges, but in February 2023 the amendments annulled by the Constitutional Court. Figure 56, 2022 EU Justice Scoreboard.

²¹ Venice Commission, Rule of Law checklist (CDL-AD(2016)007), para. 74; Recommendation CM/Rec(2000)19 of the Committee of Ministers of the Council of Europe, para. 11; Venice Commission opinion (CDL(2022), para. 13. When security/integrity checks are not carried out by self-governing bodies of the judiciary themselves, but by an external body, utmost consideration must be given to respecting the principles of separation of powers and checks and balances. Venice Commission opinion (CDL-AD(2021)046), para. 16.; 2023 Rule of Law Report, Country Chapter on the rule of law situation in Belgium, p. 3, 4.

²² High Council of Justice (2023), Advice on the draft proposal for a law concerning the social statute of the magistrate and the introduction of a security screening of 11 April 2023 and 18 October 2023; negative opinions have also been issued by the College of Courts and Tribunals and the Court of Cassation. These opinions have not been made public; information received in the context of the country visit to Belgium from the High Council for Justice. The Court of Cassation does however point out that it is not aware of any (attempted) structural infiltration of criminal organisations into the judicial system. Information received in the context of the country visit to Belgium from the Court of Cassation.

²³ High Council of Justice (2023) Consolidated report - Measures taken in 2022 to maintain discipline and compliance with general principles of professional conduct, 18 October 2023.

²⁴ In accordance with Article 151, paragraph 3 of the Belgian Constitution. Following the introduction of security checks by a body under the control of the executive the High Council for Justice would only be able to recommend for appointment magistrates who have clear the security checks.

²⁵ Written contribution received in the context of country visit to Belgium from the Government.

early 2024 with regard to the evaluation²⁶ and disciplinary²⁷ systems of magistrates²⁸. It remains to be seen how they will be treated by the incoming legislature.

Directives prohibiting the recording of meetings between lawyers and clients have strengthened lawyer-client confidentiality. Following new guidelines after breaches of lawyer-client confidentiality reported on in the 2023 Rule of Law Report²⁹, no further complaints have been reported³⁰. Criminal investigations with respect to the breaches led to a conviction in first instance³¹. Bar Associations nevertheless report that public authorities, notably in matters related to taxation, often contest the fact that documents in the possession of lawyers are covered by legal professional privilege³². Cases have been reported where penal lawyers have been arrested and interrogated in relation to their clients' alleged criminal practices, which poses a challenge to legal professional privilege³³. Bar associations also report that public authorities, including Government ministers, publicly criticised lawyers' work in ongoing cases³⁴. At the same time, lawyers expressed concerns regarding threats, blackmail and pressure by criminal organisations³⁵.

Quality

Some further progress has been made on providing adequate resources for the justice system, while a workload measurement confirms structural resource deficiencies. The 2023 Rule of Law Report recommended to Belgium to 'further continue efforts made to provide adequate human and financial resources for the justice system as a whole, taking into

²⁶ The High Council for Justice welcomes the intention to reform the evaluation system of magistrates to focus more on positive feedback and coaching rather than repression. The Court of Cassation however criticised the proposal to link two negative evaluations with the automatic launch of a disciplinary proceeding; High Council for Justice (2023), Advices on the draft proposal containing various provisions relating to magistrates' evaluation and discipline of 18 October 2023 and Written contribution received in the context of the country visit to Belgium from the Court of Cassation.

²⁷ The Court of Cassation and FIRM/IFDH raised concerns on the proposals' impact on the independence of the judiciary. The proposed reforms would notably amend the composition of disciplinary tribunals so that two-third of its members be non-magistrates and create a new permanent federal disciplinary prosecutor's office. Written contribution received in the context of the country visit to Belgium from the Court of Cassation and Contribution from FIRM/IFDH for the 2024 Rule of Law Report, p. 14.

²⁸ Proposition of law (20 September 2023) to modify the Judicial Code concerning the disciplinary system of magistrates; Proposition of law (17 October 2023) to modify the Judicial Code with the aim to reinforce the disciplinary system of the judicial order; Proposition of law (17 October 2023) to modify the Judicial Code concerning the disciplinary procedure of magistrates; Proposition of law (14 November 2023) concerning diverse dispositions with regard to the evaluation of magistrates and discipline.

²⁹ Circular No 09/2022 of the College of General Prosecutors of the Courts of Appeal, 11 July 2022. 2023 Rule of Law Report, Country Chapter on the rule of law situation in Belgium, p. 5.

³⁰ Information received in the context of the country visit to Belgium from the Bar Association.

³¹ See 2023, 2022 and 2021 Rule of Law Report, Country Chapter on the rule of law situation in Belgium, p. 5, p. 4 and p. 3 respectively; the decision has been appealed. Information received in the context of the country visit to Belgium from the Bar associations.

³² This leads to judges having to rule on which documents are covered by professional privilege, and then potentially having to disregard documents of which they had prior knowledge; Contribution from the French- and German-speaking Bar Associations for the 2024 Rule of Law Report, p. 3.

³³ Contribution from CCBE for the 2024 Rule of Law Report, p. 16.

³⁴ Contribution from the French- and German-speaking Bar Associations for the 2024 Rule of Law Report, p. 3.

³⁵ Contribution from CCBE for the 2024 Rule of Law Report, p. 16. The Flemish Bar association (OVB) has successfully requested an amendment to the newly proposed Criminal Code to include lawyers in the list of persons with a societal function. Consequently, violence against lawyers will be punished more severely. Since this year, OVB organises resilience trainings to prepare and give tips to lawyers for when they face aggression. OVB also works with (teams of) confidants which lawyers can contact to have a talk about their problems.

account European standards on resources for the justice system³⁶. As noted in prior Rule of Law Reports, a lack of adequate³⁷ human and financial resources remains a challenge for the justice system, which affects the proper functioning of the justice system and is one of the causes for the excessive length of judicial proceedings³⁸. According to the 2024 EU Justice Scoreboard, the number of professional judges per 100 000 inhabitants in 2022 remained below the EU average³⁹. Budget spent on the justice system remained below the EU average as well, although it increased slightly compared to the level of 2021⁴⁰. The Government's 2021 Plan⁴¹ provided for additional financial resources for the justice system and further funding was allocated to remedy the budgetary and staff shortages⁴². In 2023, these additional financial resources continued to be distributed⁴³ among the three pillars of the judiciary based on existing legal frameworks⁴⁴. The results of a workload measurement conducted for judges published on 20 February 2024 showed however that the justice system needs an additional 43% of judges to deal with the workload within the legal working time, which requires a structural increase in resources⁴⁵. In relation to the backlog of court cases, in September 2022, the Committee of Ministers of the Council of Europe called for 'a long-term structural perspective' on judicial staff and budget for Justice and invited Belgium to fill in the legal framework for judicial staff to remedy to the backlogs⁴⁶. On 6 November 2023, the Court of Appeal of Brussels ordered

³⁶ In the 2023 Rule of Law Report the Commission concluded that some progress was made on the recommendation; 2023 Rule of Law Report, Country Chapter on the rule of law situation in Belgium, p.2.

³⁷ According to the Council of Europe recommendations, each state should allocate adequate resources, facilities and equipment to the courts to enable them to function in accordance with the standards laid down in Article 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms and to enable judges to work efficiently, see Recommendation CM/Rec(2010)12 of the Committee of Ministers of the Council of Europe, para. 33.

³⁸ The College of Courts and Tribunals suggests a first reinforcement of 26% of magistrates and 19% of court clerks to deal with proceedings in a reasonable time while guaranteeing acceptable working hours; College of Courts and Tribunals (2024), 'Press release: Memorandum for the next federal Government'.

³⁹ Figure 37, 2024 EU Justice Scoreboard.

⁴⁰ Figure 34, 2024 EU Justice Scoreboard. The Figure shows the general government total expenditure on law courts as a percentage of GDP in 2022 based on Eurostat data. Although Belgium remains below the EU average, a slight increase can be noted between 2021 and 2022. The 2023 data will confirm if this trend continues following the Government's further investments in the justice system.

⁴¹ Plan to make Justice faster, more Human and Firmer. The plan is available on the Team Justice Website.

⁴² An additional EUR 0.5 billion by 2024 on top of the existing annual budget of EUR 2 billion.

⁴³ The Committee of Ministers of the Council of Europe expressed concerns regarding the Executive's choice to continue conditioning the allocation of additional resources on results, which might undermine the quality of judicial work, its independence and citizens' effective access to justice.

⁴⁴ From 2021 to 2023, 181 judicial appointments and 922 judicial staff appointments or recruitments have been made. Since 2019, the net number of magistrates has risen by 107, i.e. 81 more sitting magistrates, 23 standing magistrates and three magistrates for the Court of Cassation. In the meantime, 95.74% of the legal frameworks for magistrates have been filled, compared with exactly 92% in October 2020. The law clerk cadre is currently 86% filled, up from 79% at the start of the legislature. The number of secretaries has also increased. Today, the cadre is 85% filled, compared with 83% in October 2020. Information received in the context of the country visit from the Belgian government.

⁴⁵ The 43% of additional judges needed was calculated on the basis of a 38-hours working week, which corresponds to the legal working time in Belgium. The weight and complexity of different cases has been taken into account in the calculation of the workload. This number corresponds to the number of judges that would be needed to deal with new cases within the deadline and excludes the existing backlog. The results reveal that the current average working time for judges is 52,8-hours per week. College of Courts and Tribunals (2024), Press release: "Our Courts and Tribunals need 43% of additional judges" and written contribution from the College of Courts and Tribunals in the context of the country visit to Belgium.

⁴⁶ Decision of the Committee of Ministers adopted during its meeting of 20-22 September 2022, H46-7 Bell group v. Belgium (Application No. 44825/05) CM/Del/Dec(2022)1442/H46-7, paragraph 7. The Government submitted a renewed Action Plan on 4 April 2024 ahead of the next meeting of the Committee of Ministers.

the Belgian State to publish all the vacancies of magistrates and court clerk positions as well as the calls for applications, within a period of three months⁴⁷. The Government published the vacancies in February 2024⁴⁸. However, the Court of Cassation and the Bar associations also pointed to the difficulty of filling vacancies, notably because the careers of judge and prosecutor continue to suffer from a lack of attractiveness⁴⁹. In this context, on 2 May 2024, the Law concerning a “social statute” of magistrates, that is meant to improve their working conditions by regulating possibilities for leave was signed into law⁵⁰. Despite efforts by the Government to increase the budget for the justice system, structural resource deficiencies persist and budgetary and staff shortages in the justice system remains an important challenge. Overall, taking into account these investments and the publication of vacancies following the above-mentioned judgment⁵¹, some further progress has been made on the recommendation made in the 2023 Rule of Law Report.

Further steps have been taken towards improving the digitalisation of justice⁵². Within the framework of the Government’s *Digital Transformation Plan*, work is ongoing to equip all Belgian courts and tribunals with a single digital case management system (*JustCase*)⁵³, although some delays can be noted in the deployment of the pilot project⁵⁴. The deployment of

⁴⁷ The proceeding was initiated by the French-German Bar association as a response to the Government’s practice of no longer fully completing the legal frameworks for magistrates and court clerks that followed a political austerity decision. Non-compliance would result in a penalty of EUR 1 000 per day of delay for each unpublished position, up to a maximum of EUR 250 000. A similar judgment was issued on 15 December 2023 by the French-speaking Court of first instance of Brussels, which condemned the Belgian State to publish all vacancies for judges, clerks and staff of court clerks. The Belgian State has appealed against the judgment. Contribution from the French-German Bar association for the 2024 Rule of Law report, p. 5; contribution from CCBE for the 2024 Rule of Law Report, p. 20; written contribution from the Court of Cassation received in the context of the country visit to Belgium

⁴⁸ The Belgian State implemented the aforementioned judgments by publishing all vacant positions for court clerks in the Belgian Official Gazette of 12 February 2024 and for magistrates on 19 February 2024 in the Belgian Monitor. Written contributions from the Belgian Government and the Court of Cassation in the context of the country visit to Belgium.

⁴⁹ Written contribution from the Court of Cassation in the context of the country visit to Belgium and Contribution from the French-German Bar association for the 2024 Rule of Law Report, p. 5. They notably point out the difficult working conditions resulting from the underfunding of the judiciary, including a high workload and unattractive remuneration, as barriers to attract and recruit new magistrates.

⁵⁰ Law of 12 May 2024 on the social statute of the magistrate I.

⁵¹ Pointing out to the difficulty of filling in vacancies and the timing of their publication, stakeholders raised the concern that unfilled vacancies might not be republished; French-German Bar association, ASM, UPM, Lignes for Human Rights, M&M, VDM, CCM-ARM, national chamber of court bailiffs (2024), Joint press release: ‘the Rule of Law, I believe in it!’.

⁵² Several measures supporting the digitalisation of the Belgian justice systems are included in the Belgian recovery and resilience plan and will receive funding from the Recovery and Resilience Facility, subject to the fulfilment by Belgium of the relevant milestones and targets. For more details, see Annex to the Council Implementing Decision amending the Implementing Decision of 13 July 2021 on the approval of the assessment of the recovery and resilience plan for Belgium, investment I-2.05, sub-measure 1.

⁵³ Written contribution from the Belgian Government in the context of the country visit to Belgium. The new case management system *JustCase* should eventually replace all eleven case management systems currently in place. In 2024 it will start being deployed in the entities Cassation, the Court of penal executions and the Juvenile Court.

⁵⁴ Written contribution from the Court of Cassation in the context of the country visit to Belgium. The deployment of the pilot project planned at the Court of Cassation for the second quarter of 2023 has been postponed [update ahead of publication].

the platform *Just-On-Web* continued with additional features and applications⁵⁵. The platform serves as a unified online portal for all services linked to the justice system and enables the secure dissemination of all digital information from the judiciary to external users⁵⁶. Following the adoption of the legal basis for the creation of a digital Central Register for judicial decisions (*JustJudgment*)⁵⁷, its operational development continued. It will facilitate access to non-pseudonymised judgments within the judiciary⁵⁸ as well as centralise the pseudonymised case-law for the public. While these developments have further improved the digitalisation of the justice system, there is still room for improvement, as shown by the 2024 EU Justice Scoreboard⁵⁹. An audit on the *Digital Transformation Plan* is being carried out by the Belgian Court of Audit⁶⁰. Several draft laws to further increase the level of digitalisation of the justice system have been tabled by the Government and have been adopted⁶¹. The law on holding virtual hearings in judicial proceedings in civil and criminal matters referred to in the 2023 Rule of Law Report was adopted by Parliament⁶². Although the law is generally aligned with national case-law and European standards⁶³, the Bar associations and other stakeholders have raised some concerns on its possible negative effect on the right to a fair trial, especially in criminal proceedings⁶⁴. Whilst welcoming the considerable efforts made to increase the digitalisation of justice, practitioners consider that the justice system remains insufficiently digitalised⁶⁵.

Access to legal aid has improved. The eligibility thresholds for legal aid have been steadily increasing with a fixed rate until 2023. From 2024, the amount will be indexed each year in light of changes in the consumer price index⁶⁶. The number of people who had access to legal

⁵⁵ As an example, in October 2023, the digital application *JustRestart* was launched and has become the default procedure for collective debt settlements. Debtors can now digitally apply for and monitor a collective debt restructuring. Input from Belgium for the 2024 Rule of Law Report p. 6.

⁵⁶ Written contribution from the Belgian Government in the context of the country visit to Belgium.

⁵⁷ JustJudgment will consist of an internal section which will function as an authentic source for judgments and an external section, containing all case law from the courts and tribunals in pseudonymised form which will be consultable by the public via a search engine. Written contribution from the Court of Cassation in the context country visit; 2023 Rule of Law Report, Country Chapter on the rule of law situation in Belgium, p. 8.

⁵⁸ As this Central Register will only be available within the judiciary, lawyers pointed to a risk of creating a structural inequality of arms between prosecution and defence. Contribution from CCBE for the 2024 Rule of Law Report, p. 20.

⁵⁹ Figures 42 to 50, 2024 EU Justice Scoreboard.

⁶⁰ Information received in the context of the country visit to Belgium from the High Council for Justice.

⁶¹ Law of 19 December 2023 for the digitisation of justice and other provisions; Law of 27 March 2024 for the digitisation of justice and other provisions Ibis; Law of 15 May 2024 for the digitisation of justice and other provisions II; Law of 25 April 2024 on the organisation of videoconference hearings in legal proceedings; input from Belgium for the 2024 Rule of Law Report, p. 6.

⁶² Law of 25 April 2024 on the organisation of virtual hearings in judicial proceedings, has been published on 3 June 2024.. See 2023 Rule of Law Report, Country Chapter on the rule of law situation in Belgium, p. 8.

⁶³ The draft law makes references to the case-law of the Belgian Constitutional Court and the European Court of Human Rights, as well as to the guidelines on videoconferencing in judicial proceedings adopted by CEPEJ; Contribution from FIRM-IFDH for the 2024 Rule of Law Report, p. 16.

⁶⁴ Concerns were raised as regards its effect on the right to impartial treatment and presumption of innocence, and equality before the law. A lack of appearance in person might result in reduced interaction and non-verbal communication, problems with interpretation and could limit the effective and confidential communication between lawyers and their clients. Information received in the context of the country visit to Belgium from the Bar association; Contribution from FIRM-IFDH for the 2024 Rule of Law Report p. 16 and Civil Liberties Union for Europe (2024), Liberties Rule of Law Report 2024 – Belgium (Ligue des droits humains), p. 9/10..

⁶⁵ Contribution from ENCJ for the 2024 Rule of Law Report p. 22.

⁶⁶ The eligibility thresholds for legal aid were raised in September 2020 by EUR 200 and were increased by EUR 100 every year until September 2023.

aid has continued to increase in years 2022-2023 compared to years 2021-2022⁶⁷. The 2024 EU Justice Scoreboard shows that in a specific consumer case, the maximum thresholds for accessing legal aid remain above the Eurostat poverty threshold⁶⁸.

The High Council for Justice is expected to carry out a further assessment of the judicial investigation into an emblematic case. As mentioned in prior Rule of Law Reports, the High Council for Justice has looked into the process of the judicial investigation on the circumstances surrounding the death of Jozef Chovanec⁶⁹, and issued recommendations on structural aspects of judicial investigations in relation to police violence⁷⁰. It is expected to follow-up on the implementation of these recommendations once a judicial decision will be rendered. The respective parties pleaded in January 2024 in an extraordinary hearing of the Council Chamber of Charleroi, with the Public Prosecution requesting that the 31 defendants in the case be dismissed. The order of the Council Chamber will be issued on 25 September 2024. Committee P⁷¹ has also made a number of recommendations regarding the functioning of the airport police⁷².

Efficiency

An overview of the efficiency of justice remains unavailable due to a persistent lack of data on court proceedings, while efforts are ongoing to map judicial backlogs. The 2023 Rule of Law Report found that significant gaps remain in the availability of data on court proceedings. The College of Courts and Tribunals has since continued efforts to map judicial backlogs and to prepare statistical data on court proceedings, including on the average duration of judicial proceedings for all courts under its competence⁷³. These data were published for civil cases⁷⁴ in the first half of 2024, while the mapping continues for commercial cases. Despite these efforts, the lack of statistical data remains a concern⁷⁵. Belgium is still under enhanced supervision by the Council of Europe's Committee of Ministers in the case *Bell v.*

⁶⁷ Between the years 2021-2022 and 2022-2023, an increase of 14.08% was noted, all categories of people combined. When only considering the category of people who had to pass a means test to benefit from legal aid, the increase between the years 2021-2022 and 2022-2023 is of 16.45%. Written contribution from the Belgian Government in the context of the country visit to Belgium.

⁶⁸ Figure 24, 2024 EU Justice Scoreboard.

⁶⁹ On 27 February 2018, a judicial investigation was opened in the judicial area of Charleroi, following the death of Mr Jozef Chovanec. Mr Chovanec had been the subject of an intervention by the aviation police at the Charleroi airport. He had been deprived of his liberty and placed in a cell, where he had beaten himself severely. Following police intervention, he was taken to hospital, where he died.

⁷⁰ High Council for Justice, Special investigation in the case "Jozef Chovanec", 28 October 2020.

⁷¹ The 'Committee P' is the external independent oversight body of the police forces responsible for monitoring compliance with integrity rules.

⁷² Committee P, Leadership and integrity in the airport police forces.

⁷³ Justices of the peace, police courts, all sections of the courts of first instance - except the juvenile court and the section for the execution of sentences - commercial courts, labour courts, courts of appeal. The College is not competent for administrative courts. Information received in the context of the country visit to Belgium from the College of Courts and Tribunals.

⁷⁴ The result of the mapping shows that the overall number of pending civil cases at first instance courts and at the courts of appeal have decreased in 2023, although the situation varies greatly depending on judicial areas. The average length of civil proceedings in 2023 was 251 days at first instance courts and 590 days at the courts of appeal; College of Courts and Tribunals (2024), Annual statistics of courts and tribunals, Data of 2023 for the civil section of first instance tribunals and Data of 2023 for civil cases at the courts of appeal.

⁷⁵ Contribution of the High Council for Justice to the ENCJ country specific input for the 2024 Rule of Law Report.

Belgium, as regards the excessive length of proceedings⁷⁶. On 5 December 2023, in the case *Van den Kerkhof v. Belgium*⁷⁷, the European Court of Human Rights noted a structural problem of excessive length of civil proceedings in the judicial area of Brussels. Statistical data on court proceedings and the workload measurements⁷⁸ should provide a better understanding of the needs to address structural deficiencies⁷⁹. Concerning administrative cases, the limited data currently available shows that the estimated time to resolve such cases at first instance has increased⁸⁰, and that the clearance rate has decreased below 100%⁸¹. The *Van den Kerkhof v. Belgium* judgment further highlighted the need to have an effective remedy against the length of proceedings while the procedure is still pending⁸². In this regard, a first step has been taken through a reform of the Civil Code⁸³. Furthermore, efforts are ongoing to strengthen alternative dispute resolution⁸⁴.

II. ANTI-CORRUPTION FRAMEWORK

The competence to investigate and prosecute corruption is shared between several authorities. The Central Office for the Repression of Corruption (CDBC-OCRC) remains the specialised central service within the federal police with competences to investigate and support the investigation of serious corruption offences. The ‘Committee P’ is the external independent oversight body of the police forces responsible for monitoring compliance with integrity rules. The Court of Audit exercises external scrutiny of the budgetary, accounting, and financial operations of the federal state, whilst the Interfederal Corps of the Inspectorate of Finance is a public service performing controls related to the legality, feasibility, and appropriateness of public expenditure. The Integrity Bureau within the Federal Public Service for Policy and Support (FOD BOSA) is in charge of integrity management for federal civil servants including a network of integrity coordinators. The Federal Deontological Commission serves as an advisory commission on ethics to the Parliament and high public office holders. Other

⁷⁶ Judgment of the European Court of Human Rights of 4 November 2008, *Bell v Belgium* (application nr. 44826/05). As mentioned in the 2023 Rule of Law Report “the Committee of Ministers expressed deep concerns at the persistent lack of comprehensive statistical data on the first-instance civil tribunals”. Decision of the Committee of Ministers adopted during its meeting of 20-22 September 2022, H46-7 *Bell group v. Belgium* (Application No. 44826/05) CM/Del/Dec(2022)1443/H46-7.

⁷⁷ Judgment of the European Court of Human Rights of 5 December 2023, *Van den Kerkhof v. Belgium* (application nr. 13630/19). This new judgment will be grouped with the case of *Bell v. Belgium*, as part of the enhanced supervision by the Committee of Ministers of the Council of Europe.

⁷⁸ See footnote 43. The College of Courts and Tribunals concluded its workload measurement. The workload measurement conducted by the College of Public Prosecutors should also be concluded in 2024. These should serve as a basis for a new allocation system of resources, based on real needs.

⁷⁹ These two measures are detailed in the ‘communication from Belgium concerning the group of cases of *Bell v. Belgium*’ presented on 4 April 2024 to the Committee of Ministers of the Council of Europe, in the section “Measures to understand and objectify the backlog”.

⁸⁰ Figure 8, 2024 EU Justice Scoreboard. From 235 days in 2021 to 288 days in 2022.

⁸¹ Figure 12, 2024 EU Justice Scoreboard. Clearance rate decreased from 131% in 2021 to 97% in 2022 in administrative cases.

⁸² Judgment of the European Court of Human Rights of 5 December 2023, *Van den Kerkhof v. Belgium* (application nr. 13630/19), paragraphs 46,47.

⁸³ As part of the reform of the Civil Code, the Parliament adopted a Law which introduced the principles of good administration and good organisation as criteria for determining the existence of a fault that may give rise to extra-contractual liability. This means that in situations where a delay in the procedure is the result of poor administration or of the poor organisation of justice, the State may be held extra-contractually liable. This is expected to have a positive impact on the use of remedies; Law on Book Six “extra-contractual liability” of the Civil Code, adopted in plenary on 1st February 2024.

⁸⁴ Written contribution from the Government received in the context of the country visit to Belgium.

preventive systems and institutions exist at regional level. Elements relating to anti-corruption are included in various relevant strategies and action plans although there is no overall anti-corruption strategy nor a body responsible for coordination of anti-corruption policy⁸⁵.

The perception among experts and business executives is that the level of corruption in the public sector remains relatively low. In the 2023 Corruption Perceptions Index by Transparency International, Belgium scores 73/100 and ranks 9th in the European Union and 16th globally⁸⁶. This perception has been relatively stable⁸⁷ over the past five years. The 2024 Special Eurobarometer on Corruption shows that 66% of respondents consider corruption widespread in their country (EU average 68%) and 19% of respondents feel personally affected by corruption in their daily lives (EU average 27%)⁸⁸. As regards businesses, 56% of companies consider that corruption is widespread (EU average 65%) and 28% consider that corruption is a problem when doing business (EU average 36%)⁸⁹. Furthermore, 42% of respondents find that there are enough successful prosecutions to deter people from corrupt practices (EU average 32%)⁹⁰, while 37% of companies believe that people and businesses caught for bribing a senior official are appropriately punished (EU average 31%)⁹¹.

A targeted reform of the Criminal Procedure Code is expected to have a positive impact on the fight against corruption. Two legislative proposals were adopted by the Parliament in March and April 2024 focusing on a targeted reform of the Criminal Procedure Code as regards informants, plea deals, out-of court settlements and statute of limitations⁹². One law makes the rules on extraterritorial jurisdiction more structured and easier to apply – also intending to comply with recommendations of GRECO⁹³ and to align with the Council of Europe Criminal Law Convention on Corruption. It also adapts the statute of limitations – in particular to streamline the system for all crimes, ensuring clarity and adequate length⁹⁴. The second law

⁸⁵ Aspects of fraud are dealt with in the National Security Plan 2022-2025, as are priorities for the police. There are several networks and cooperation platforms at federal level that deal with coordination of some aspects of anti-corruption policy, although no body was identified that coordinates anti-corruption policy as a whole. See also 2022 Rule of Law Report, Country Chapter on the rule of law situation in Belgium, p. 8 and 2023 Rule of Law Report, Country Chapter on the rule of law situation in Belgium, p. 10.

⁸⁶ Transparency International (2024), Corruption Perceptions Index 2023, pp. 2-3. The level of perceived corruption is categorised as follows: low (the perception among experts and business executives of public sector corruption scores above 79); relatively low (scores between 79-60), relatively high (scores between 59-50), high (scores below 50).

⁸⁷ In 2019 the score was 75, while, in 2023, the score is 73. The score significantly increases/decreases when it changes more than five points; improves/deteriorates (changes between 4-5 points); is relatively stable (changes from 1-3 points) in the last five years.

⁸⁸ Special Eurobarometer 548 on Citizens' attitudes towards corruption in the EU (2024). The Eurobarometer data on citizens' corruption perception and experience is updated every year. The previous data set is the Special Eurobarometer 534 (2023).

⁸⁹ Flash Eurobarometer 543 on Businesses' attitudes towards corruption in the EU (2024). The Eurobarometer data on businesses' attitudes towards corruption as is updated every year. The previous data set is the Flash Eurobarometer 524 (2023).

⁹⁰ Special Eurobarometer 548 on Citizens' attitudes towards corruption in the EU (2024).

⁹¹ Flash Eurobarometer 543 on Businesses' attitudes towards corruption in the EU (2024).

⁹² Input from Belgium for the 2023 Rule of Law Report, p. 17.

⁹³ This concerns in particular open recommendations from the GRECO 3rd round evaluation. See GRECO, Third Evaluation Round – Evaluation Report I (2009), Belgium, paras. 108-112.

⁹⁴ Legislative Proposal 55/3514 – Criminal Procedure Code I; input from Belgium for the 2023 Rule of Law Report, p. 17 and information received in the context of the country visit to Belgium from the Ministry of Justice. The legislative proposal is also partially a response to an open infringement proceeding concerning *Directive* (EU) 2017/1371 on the protection of the EU's financial interests (PIF-Directive). See also Ministry

reforms the rules concerning out-of-court settlements and plea deals. In response to criticism of the current rules and practice – including its secrecy and fairness⁹⁵ – the reform increases transparency through publication of the out-of-court settlements as well as adding a possibility for the prosecutor, aside from fines, to ask for a prohibition to carry out public functions for a set time period⁹⁶. As regards plea deals, the law adjusts procedural issues with its application in cases of terrorism or organised crime⁹⁷.

The Central Office for the Repression of Corruption (CDBC-OCRC) and prosecution services continued to tackle several prominent high-level corruption cases, despite overall limited resources. Good cooperation between the CDBC-OCRC and the prosecution service⁹⁸ continues, and initial convictions were obtained in multiple complex and high-level cases⁹⁹. While resources of the CDBC-OCRC have improved over the past years¹⁰⁰, they remain limited overall, particularly considering the increasing number of complex corruption cases¹⁰¹. In the framework of the budgetary procedure, the CDBC-OCRC will request a staff increase from 66 to 81 to respond to this growing number of cases¹⁰². In 2023, the prosecution signalled 361 incoming corruption cases¹⁰³ - 109 of these were dismissed, while 2 cases received an indictment (by January 2024), with others at various stages of the criminal procedure¹⁰⁴. A network of experts is helping the College of Prosecutors-General to develop a coherent and coordinated criminal policy, issuing specific recommendations in the area of economic and fiscal crime¹⁰⁵. The recommendations focus in particular on the link between corruption (and financial crimes) with organised crime, and provide guidance for non-specialised prosecutors on how to deal with these matters. The guidelines are still to be approved by the College of Prosecutors-General¹⁰⁶. Cooperation with the European Public Prosecutor's Office (EPPO) is

of Justice (2024), Important reforms on informers, guilty pleas, out-of-court settlements and statute of limitations adopted.

⁹⁵ 2023 Rule of Law Report, Country Chapter on the rule of law situation in Belgium, p. 12-13.

⁹⁶ Legislative Proposal 55/3515 - Various amendments to the Criminal Procedure Code II and Input from Belgium for the 2023 Rule of Law Report, p. 17. See also Ministry of Justice (2024), Important reforms on informers, guilty pleas, out-of-court settlements and statute of limitations adopted.

⁹⁷ In particular, the law envisages adjusting a number of procedural steps for the prosecution during its application, i.e. prior and during the conclusion of a plea deal, Legislative Proposal 55/3515 - Various amendments to the Criminal Procedure Code II. See also Ministry of Justice (2024), Important reforms on informers, guilty pleas, out-of-court settlements and statute of limitations adopted.

⁹⁸ Information received in the context of the country visit to Belgium from the CDBC-OCRC and written contribution from the CDBC-OCRC received in the context of the country visit to Belgium.

⁹⁹ In particular, convictions were signalled in a number of drugs-related corruption cases uncovered through the encrypted SKY-ECC platform. Investigations linked to a corruption scandal at the European Parliament and cases involving Members of regional Parliaments continue. Information received in the context of the country visit to Belgium from the CDBC-OCRC and Transparency International.

¹⁰⁰ 2022 Rule of Law Report, Country Chapter on the rule of law situation in Belgium, p. 9.

¹⁰¹ Information received in the context of the country visit to Belgium from the CDBC-OCRC and written contribution from the CDBC-OCRC received in the context of the country visit to Belgium.

¹⁰² The lack of a centralised prosecution office in the fight against corruption, however, does not aid in prioritisation of cases; Information received in the context of the country visit to Belgium from CDBC-OCRC and Transparency International and Written contribution from the CDBC-OCRC received in the context of the country visit to Belgium.

¹⁰³ Out of which 6 concerned corruption in the private sector, with 355 related to the public sector (including 84 cases related to bribery in the public sector and 100 related to abuse of function in the public sector)

¹⁰⁴ Written contribution from the College of Prosecutors-General in the context of the country visit to Belgium

¹⁰⁵ These expertise networks (or REN) are part of the regular structure of the College of Prosecutors-General and are made up of various prosecutors with expertise on specific matters to aid in the College's decision-making.

¹⁰⁶ Written contribution from the prosecution office received in the context of the country visit to Belgium.

going well, although minor issues as regards reporting of cases continue to be signalled¹⁰⁷. The EPPO has signaled four corruption cases among its open cases (which consists of 4.3% of its total open cases) in 2023 in Belgium¹⁰⁸.

Measures are being taken to address corruption linked to organised crime groups and drugs trafficking, which is recognised as an important phenomenon. The authorities recognise that cases of corruption concerning public officials linked to organised crime groups and drug-related crimes are an increasing concern. A type of case often cited is the unauthorised access to databases by public officials to obtain specific data for criminal groups, in return for substantial payments¹⁰⁹. Since 2023 the Federal Magistrate, which was appointed as Belgium's first "national drugs commissioner", is working on a catalogue of critical functions that support the fight against subversive organised crime and is also involved in various projects relevant for the fight against corruption¹¹⁰. Further specific measures to prevent anti-corruption specifically linked to drugs and organised crime (such as awareness-raising among persons with critical functions) are yet to be developed¹¹¹. As an action against organised crime, a new law on administrative enforcement entered into force on 17 February 2024 (the 'DIOB law'), allowing local authorities to close or deny a license for businesses suspected of functioning as providing cover for criminal activities such as drug or human trafficking or money laundering after conducting an "integrity investigation"¹¹².

The integrity policy within the police remains insufficient to tackle existing challenges and adequately prevent cases of criminal infiltration within law enforcement. The 184 local police zones maintain disparate integrity policies, with few horizontal aspects shared between them¹¹³. Smaller police zones are not able nor willing to maintain an effective integrity policy¹¹⁴, which also affects the response to possible cases of criminal infiltration¹¹⁵. The authorities did not move forward on a Code of Conduct for the entire integrated police, as

¹⁰⁷ In some cases, confusion over the EPPO's competences affects immediate reporting to the EPPO (the cases get reported to the "regular" prosecution). Contribution from EPPO for the 2024 Rule of Law Report p. 12 and 2023 Rule of Law Report, Country Chapter on the rule of law situation in Belgium, p. 11.

¹⁰⁸ EPPO (2024), Annual Report, p. 17.

¹⁰⁹ The police indicated that the main targets of bribery by drugs-related organised crime groups are the police, customs, port and local officials. Written contribution from the CDBC-OCRC received in the context of the country visit to Belgium. See also 2022 Rule of Law Report, Country Chapter on the rule of law situation in Belgium, p. 9 and 2023 Rule of Law Report, Country Chapter on the rule of law situation in Belgium, p. 11-12.

¹¹⁰ Information received in the context of the country visit to Belgium from the Ministry of Justice and Ministry of Interior.

¹¹¹ No direct contact between the CDBC-OCRC and the drugs commissioner has been noted so far. Information received from the Ministry of Justice and Ministry of Interior in the context of the country visit and Written contribution from the CDBC-OCRC received in the context of the country visit to Belgium.

¹¹² Legislative Proposal 55-3152 on administrative enforcement. The bill has been approved by the Federal House of Representatives at its session of 16 November 2023; it includes a responsible department at ministerial level as well as a register centralising information necessary for the communes to conduct said integrity investigations. Information received in the context of the country visit to Belgium from the Ministry of Interior and Transparency International.

¹¹³ 2022 Rule of Law Report, Country Chapter on the rule of law situation in Belgium, pp. 10-11 and 2023 Rule of Law Report, Country Chapter on the rule of law situation in Belgium, pp. 11-12.

¹¹⁴ 2023 Rule of Law Report, Country Chapter on the rule of law situation in Belgium, pp. 11-12 and Information received in the context of the country visit to Belgium from the Federal Police Integrity Department and the Committee P.

¹¹⁵ I.e. the use of corruption by organised criminal groups to gain access to certain public institutions.

recommended by GRECO¹¹⁶, and the Federal Police's integrity cell remains understaffed and underfunded¹¹⁷. A small number of integrity trainings for police management are however planned to take place in 2024¹¹⁸. While the Minister of Interior has proposed consolidating the number of police zones to make them more resilient (in line with the previously conducted evaluation of the entire police¹¹⁹), it is unclear whether such a proposal will move forward within the government for the time being, as it is at the end of its mandate¹²⁰. The independent police monitoring committee acknowledged that a more transversal anti-corruption policy in the police is necessary, also in light of the threat of infiltration by organised crime¹²¹.

The investigation and prosecution of foreign bribery cases remains difficult with few cases moving forward. As indicated in previous Rule of Law Reports, the implementation of some OECD recommendations, in particular on investigations and prosecution of foreign bribery cases has not been finalised, although the issue of limitation periods of investigations is being addressed with the targeted legislative revisions of the Criminal Procedure Code described above¹²². Investigations and prosecutions of foreign bribery cases continue to be difficult given the complex operations in third countries and the resource situation, as well as overall difficulties in gathering evidence in these cases¹²³. The prosecution has reported only five cases of foreign bribery registered between 2021 and 2023¹²⁴. Work on a mechanism to more easily report possible foreign bribery cases to the prosecution remains in early stages¹²⁵.

The Code of Conduct for federal public office holders was extended to all members of ministerial private offices, although integrity policy for Ministers, their private offices as well as members of Parliament continues to have gaps. On 17 July 2023, the Parliament approved the law – previously proposed by the government¹²⁶ – that extends the application of the existing Code of Conduct for federal public office holders to all staff members of the Federal Government (i.e., including the ministerial private offices), whereas previously only heads and deputy heads of these private offices were covered¹²⁷. A specific Code of Conduct

¹¹⁶ See 2022 Rule of Law Report, Country Chapter on the rule of law situation in Belgium, p. 10 and GRECO, Fifth Evaluation Round – Compliance Report, Belgium, recommendation xvi, paras 75-81.

¹¹⁷ Information received in the context of the country visit to Belgium from the Federal Police Integrity Department and the Committee P.

¹¹⁸ Input from Belgium for the 2024 Rule of Law Report, p. 12 and information received in the context of the country visit to Belgium from the Federal Police Integrity Department and the Committee P.

¹¹⁹ 2023 Rule of Law Report, Country Chapter on the rule of law situation in Belgium, pp. 11-12.

¹²⁰ Information received in the context of the country visit to Belgium from Transparency International. See also 2022 Rule of Law Report, Country Chapter on the rule of law situation in Belgium, p. 10.

¹²¹ Information received in the context of the country visit to Belgium from Committee P.

¹²² OECD (2018), Phase 3 evaluation of Belgium: additional written report and 2021 Rule of Law Report, Country Chapter on the rule of law situation in Belgium, p. 7.

¹²³ 2022 Rule of Law Report, Country Chapter on the rule of law situation in Belgium, p. 9.

¹²⁴ Three in 2021; one in 2022; one in 2023. Written contribution from the Prosecution Service in the context of the country visit to Belgium.

¹²⁵ Information received in the context of the country visit to Belgium from the prosecution service. See also 2021 Rule of Law Report, Country Chapter on the rule of law situation in Belgium, p. 7.

¹²⁶ The extension of the Code of Conduct (and consequent partial fulfilment of one of the Rule of Law Report's recommendations) was reported on extensively in the 2023 Rule of Law Report, Country Chapter on the rule of law situation in Belgium, p. 13.

¹²⁷ Law of 17 July 2023 modifying the Law of 6 January 2014 creating a Federal Deontological Commission and containing the Deontological Code for public mandate holders; see also Input from Belgium for the 2024 Rule of Law Report, p. 10.

remains in force for Ministers¹²⁸. However, gaps remain in the overall integrity policy, particularly due to the absence of any monitoring and enforcement mechanism¹²⁹. The Federal Government also decided that staff members of autonomous public companies listed on the stock exchange may no longer be seconded to a ministerial private office, following revelations that private offices of several ministers included seconded employees that were still being paid by such a company, raising allegations of conflicts of interest¹³⁰. In this context, the Federal Deontological Commission also published an opinion in October 2023 advocating for a broader reform concerning civil servants that are seconded to ministerial private offices¹³¹. Concerning the federal civil service, a network for integrity coordinators is being rolled out following the creation of an Integrity Bureau within the federal civil service. The royal decree establishing the integrity bureau included an obligation for all federal entities to designate an integrity coordinator¹³².

Shortcomings concerning the verification and transparency of assets and interest declarations remain, with no further steps taken. As outlined in previous Rule of Law reports, the system of asset declarations does not ensure adequate verification and transparency, as the Court of Audit receives the declarations in sealed envelopes and declarations are only accessible by investigating judges in the context of criminal investigations¹³³. In 2023, out of the 873 persons required to submit asset declarations, 11 failed to do so¹³⁴. There are no current plans by Parliament to take the issue forward due to concerns related to breach of privacy of top executive officials,¹³⁵ despite the existing GRECO recommendations¹³⁶. Civil society organisations criticised the lack of transparency of asset declarations as well as the set-up of the whole system¹³⁷. In relation to declaration of additional mandates, 9 567 persons out of the

¹²⁸ As Ministers are not covered by the aforementioned Code of Conduct for federal public office holders. 2023 Rule of Law Report, Country Chapter on the rule of law situation in Belgium, p. 13.

¹²⁹ As recommended multiple times by GRECO – a number of GRECO recommendations remain unimplemented. GRECO, Fifth Evaluation Round – Compliance Report (2022), Belgium, recommendation iii and paras. 115-120 and GRECO, Fourth Evaluation Round – 3rd Interim Compliance Report (2022), paras. 60-62.

¹³⁰ Royal decree of 30 August 2023 amending the royal decree of 19 July 2001 on the filling of the policy-making bodies of the federal public services and on the staff members of the federal public services designated to be part of a cabinet of a member of a Government or of a College of a Community or a Region; see also 2023 Rule of Law Report, Country Chapter on the rule of law situation in Belgium, p. 14 and input from Belgium for the 2024 Rule of Law Report, p. 10.

¹³¹ While the government is holding consultations over this opinion, no actions or revisions have been announced. Federal Deontological Commission (2023), Own-initiative advice nr. 2023/4 of 13 October 2023 on the secondment of staff from public bodies to ministerial private offices and the transparent working of these bodies and Written contribution from the Federal Deontological Commission received in the context of the country visit to Belgium.

¹³² The roll-out of this network is supported by EU funding under the Technical Support Instrument. 2023 Rule of Law Report, Country Chapter on the rule of law situation in Belgium, p. 15 and Information received in the context of the country visit to Belgium from the Integrity Bureau.

¹³³ As noted in the 2023, 2022, 2021 and 2020 Rule of Law Report, Country Chapter on the rule of law situation in Belgium, pp.15-16, p.12, p. 8 and p. 8 respectively. GRECO repeated the previous remarks (as mentioned in the 2022 Rule of Law report) from the Fifth Round Evaluation Report in its most recent compliance report. See GRECO, Fifth Evaluation Round – Compliance Report (2022), Belgium, recommendations xii and xiii, paras 63-66.

¹³⁴ Court of Audit (2024), Press Release – Nearly all lists of mandates and asset declarations were submitted.

¹³⁵ Written contribution from the Parliament received in the context of the country visit to Belgium.

¹³⁶ GRECO, Fifth Evaluation Round – Compliance Report (2022), Belgium, recommendations xii and xiii, paras 63-66.

¹³⁷ Written contribution from Cumuleo received in the context of the country visit to Belgium and Information received in the context of the country visit to Belgium from Transparency International. Cumuleo has criticized what it calls a “taboo” on transparency of asset declarations, calling the system “inadequate”

9 609 required by law to submit a declaration of their mandates in 2023 complied with this requirement, although due to a lack of adequate verification, the correctness of declarations remains solely the individual responsibility of the person declaring them¹³⁸. Some criticism has been voiced that the template to submit information linked to these mandates (such as remuneration) remains unclear, and also that the existing system does not oblige any declaration of actual conflicts of interest¹³⁹. An opinion of the Federal Deontological Commission concerning the accumulation of functions in the public sector has not yet been followed up¹⁴⁰. Processes at regional level also received criticism concerning their vagueness and lack of transparency, checks and sanctioning¹⁴¹.

There has been some progress on completing the reform of lobbying legislation as draft lobbying rules for Government members were put forward. The 2023 Rule of Law Report recommended to Belgium to ‘complete the legislative reform on lobbying, establishing a framework including a transparency register and a legislative footprint, covering both members of Parliament and Government’¹⁴². The Government had committed to a lobbying reform in its coalition programme¹⁴³. On 3 May 2024, the outgoing Government adopted the draft law and decree¹⁴⁴ envisaging rules for contacts between lobbyists and members of the federal executive¹⁴⁵ and sent them for advice to the Council of State and the Data Protection Authority¹⁴⁶. Following the advice of these bodies, the incoming Government will be responsible for proceeding this reform, as it remains to be conclusively adopted. The outgoing Parliament had committed to its own reform using similar definitions as the Government and avoid duplication of registrations¹⁴⁷. However, Parliament did not adopt any concrete regulation prior to the end of the Government’s term and dissolution of Parliament ahead of the legislative elections in June 2024¹⁴⁸. As initial steps have been taken forward to adopt rules on lobbying for the Government, but none for Parliament, there has been some progress on the recommendation made in the previous years.

¹³⁸ Court of Audit (2024), Press Release – Nearly all lists of mandates and asset declarations were submitted and written contribution of Cumuleo received in the context of the country visit to Belgium.

¹³⁹ Written contribution of Cumuleo received in the context of the country visit to Belgium.

¹⁴⁰ In its opinion of 20 December 2023, the Federal Deontological Commission calls for the establishment of a list of public mandates and an obligatory declaration of multiple public mandates. Neither the government, the public administration nor parliament have so far responded to the opinion. Information received in the context of the country visit to Belgium from the Federal Deontological Commission. See also 2023 Rule of Law Report, Country Chapter on the rule of law situation in Belgium, p. 15.

¹⁴¹ Court of Audit (2024), Press Release – Report to Wallonian Parliament on the process of drafting the cadastre of mandates and the institutional register.

¹⁴² In the 2023 Rule of Law Report, the Commission concluded that no progress was made on this recommendation; 2023 Rule of Law Report, Country Chapter on the rule of law situation in Belgium, p.2

¹⁴³ The issue was included in the government’s coalition agreement. See 2022 Rule of Law Report, Country Chapter on the rule of law situation in Belgium, p. 13.

¹⁴⁴ The draft law regulates the substance of the reform, while the draft decree foresees the necessary rules on data protection for data included in the transparency register.

¹⁴⁵ Draft legislation foresees a transparency register, managed by the Prime Minister’s Office, with registration obligations for lobbyists and all ministerial private offices. Input from Belgium for the 2024 Rule of Law Report, p. 10 and Written contribution from the Prime Minister’s Office received in the context of the country visit to Belgium.

¹⁴⁶ Council of Ministers (2024), Notification Point 56 – Ministerial Council of 3 May 2024.

¹⁴⁷ Written contribution from the Prime Minister’s Office and the Parliament administration received in the context of the country visit to Belgium.

¹⁴⁸ Input from Belgium for the 2024 Rule of Law Report, p. 10.

While ministers are already subject to a policy on gifts, there has been no progress in relation to the introduction of rules on gifts and benefits for members of Parliament. The 2023 Rule of Law Report recommended to Belgium to ‘strengthen the integrity framework, including by adopting rules on gifts and benefits for members of Parliament [...]’¹⁴⁹. Ministers and members of ministerial private offices are already covered by separate policies on gifts, as described in previous Rule of Law Reports¹⁵⁰. Shortcomings identified in previous Rule of Law Reports¹⁵¹ have not been fully addressed. Parliament remains without clear and consistent rules on gifts and benefits. The House of Representatives has no current plans to introduce any changes; the Senate has reportedly worked on a gifts register, without concrete details available at this stage and the work will have to be redone, as the Senate was dissolved prior to the June parliamentary elections¹⁵². Opinions requested by Parliament on the topic of gifts and provided during 2021 by the Federal Deontological Commission were not taken forward¹⁵³. The Federal Deontological Commission continues to offer individual advice – upon request – to members of Parliament, Government and high public office holders on potential conflicts of interest and interest in this mission has increased over the last year¹⁵⁴. Therefore, as no changes were made to introduce rules on gifts and benefits for members of Parliament, no progress has been made on this part of the recommendation of the 2023 Rule of Law Report.

There has been no progress on rules on “revolving doors” as gaps remain without clear steps forward. The 2023 Rule of Law Report recommended to Belgium to ‘strengthen the integrity framework, including by adopting [...] rules on revolving doors for Government and their private offices’¹⁵⁵. There are some rules in place on ‘revolving doors’ for members of Parliament and public officials, including in the existing Code of Conduct for public office holders and the Ministerial Code of Conduct¹⁵⁶. However, the existing rules on revolving doors continue to have important gaps. There are no clear or binding rules regarding cooling-off periods or transitory restrictions for either ministers, their staff, or members of Parliament, thus limiting their effectiveness¹⁵⁷. The recommendations contained in the own initiative opinion by the Federal Deontological Commission on the topic have not been taken forward by any

¹⁴⁹ In the 2023 Rule of Law Report, the Federal Deontological Commission concluded that some progress was made on this part of the recommendation; 2023 Rule of Law Report, Country Chapter on the rule of law situation in Belgium, p.2

¹⁵⁰ The Ministerial Code of Conduct, as adopted on 16 June 2023; and the extension of the Code of Conduct for public mandate holders. See 2023 Rule of Law Report, Country Chapter on the rule of law situation in Belgium, p. 16.

¹⁵¹ 2020 Rule of Law Report, Country Chapter on the rule of law situation in Belgium, p. 8; 2021 Rule of Law Report, Country Chapter on the rule of law situation in Belgium, p. 8 and 2022 Rule of Law Report, Country Chapter on the rule of law situation in Belgium, pp. 12-13.

¹⁵² Written contribution from the Parliament received in the context of the country visit to Belgium.

¹⁵³ Information received in the context of the country visit to Belgium from the Federal Deontological Commission and Federal Deontological Commission (2021), Advice nr. 2021/3 on prevention of corruption for parliamentarians (gifts) and Federal Deontological Commission (2021), Interpretative Advice 2021/5 on prevention of corruption for parliamentarians (gifts).

¹⁵⁴ In total, the Federal Deontological Commission produced five individual sets of advice on conflict of interest (one at the request of a Minister and four at the request of MPs), two general ones at the request of ministers and three own-initiative ones on various topics in 2023. Written contribution from the Federal Deontological Commission received in the context of the country visit to Belgium.

¹⁵⁵ In the 2023 Rule of Law Report, the Commission concluded that some progress was made on this part of the recommendation; 2023 Rule of Law Report, Country Chapter on the rule of law situation in Belgium, p.2

¹⁵⁶ 2023 Rule of Law Report, Country Chapter on the rule of law situation in Belgium, p. 17.

¹⁵⁷ 2022 Rule of Law Report, Country Chapter on the rule of law situation in Belgium, p. 13-14.

institution¹⁵⁸. Additionally, a study commissioned by the Minister of Public Administration, indicates that the Belgian Government insufficiently takes into account the appearance of conflicts of interests in certain cases of “revolving doors” between the public and private sector. The study recommends a thorough risk analysis and a further study whether legislative or policy changes can help in addressing the issue, including a monitoring mechanism¹⁵⁹. Therefore, in the absence of concrete steps to address these gaps, no progress has been made on this part of the recommendation as regards the issue of revolving doors made in the 2023 Rule of Law Report.

Discussions on a broader reform of the political party financing framework stalled, with no reform adopted ahead of the elections. While the Government had committed to reform outdated political party financing rules in its programme¹⁶⁰, political parties did not manage to reach an agreement on the reform ahead of the general election in June 2024¹⁶¹, notwithstanding multiple expert studies and advice, including a citizens’ panel that presented concrete recommendations in the course of 2023¹⁶². The lack of a major reform, despite four years of work on the issue and its inclusion in the government’s coalition agreement, was criticised by a number of stakeholders, including a member of Parliament, journalists and civil society organisations¹⁶³. Discussion on more minor reforms – such as a prohibition on foreign donations or a ceiling for expenditures on social media – seen as a possible way forward¹⁶⁴, also stalled over political disagreements¹⁶⁵.

New whistleblower protection rules are being implemented, although stakeholders point to the complexity of the rules. Whistleblower protection rules are being implemented, following the adoption of two separate laws, one for the private sector, and one for the public sector, at the end of 2022¹⁶⁶. Further implementing legislation was adopted in the reporting

¹⁵⁸ Recommendations from the Commission include, inter alia, introducing legally binding general rules on revolving doors, including a cooling-off period for particular high-level functions (ministers, heads of private offices, high-level civil servants), among other measures such as lobbying bans for former ministers and better preventative action on conflicts of interest. Written contribution from the Federal Deontological Commission received in the context of the country visit to Belgium and 2023 Rule of Law Report, Country Chapter on the rule of law situation in Belgium, p. 17.

¹⁵⁹ Loyens, Kim, Revolving door constructions and conflicts of interest, Utrecht University.

¹⁶⁰ Government Coalition Agreement (2020), p. 83 and 2023 Rule of Law Report, Country Chapter on the rule of law situation in Belgium, p. 18.

¹⁶¹ The failure to reach such an agreement was widely reported in the media. See for example De Standaard (2024), Government parties fail to enact savings on themselves and VRTNWS (2024), After years of debate ultimate attempt of Vivaldi to reform political party finance fails.

¹⁶² 2023 Rule of Law Report, Country Chapter on the rule of law situation in Belgium, p. 18.

¹⁶³ One Member of Parliament pushing for this reform was particularly critical of its failure, while the citizens of involved in the citizens panel also expressed disappointment. VRTNWS (2024), After years of debate ultimate attempt of Vivaldi to reform political party finance fails. See also Information received in the context of the country visit to Belgium from Transparency International.

¹⁶⁴ Written contribution from the Parliament administration received in the context of the country visit to Belgium.

¹⁶⁵ VRTNWS (2024), Disagreement within majority in Commission on political party financing and RTBF (2024), Reform of political party financing – why is it blocked?

¹⁶⁶ For more information on the legislation, see 2023 Rule of Law Report, Country Chapter on the rule of law situation in Belgium, p. 18-19. The adopted laws are “The Law of November 28th 2022 on the protection of whistleblowers in the private sector”, published in the Official Journal on 15 December 2022, which entered into force on 15 February 2023, and “The Law of December 8th 2022 on the protection of whistleblowers in the federal public sector”, published in the Official Journal on 23 December 2022, which entered into force on 3 January 2023.

period¹⁶⁷. Civil society stakeholders see the legislation as overly complex¹⁶⁸. Furthermore, they signalled issues as regards implementation for businesses in an international setting¹⁶⁹ and the readiness of the personnel designated to receive whistleblower reports to take on their roles and to manage and follow-up of these reports made through the internal and external reporting channels¹⁷⁰. The Federal Ombudsperson (as the external whistleblowing reporting channel) indicates having received a significant number of reports, mainly from the private sector¹⁷¹. An initial evaluation of the rules and their implementation is foreseen by the end of 2024, two years after their adoption¹⁷².

The local government level and public procurement are considered as areas at high risk of corruption. Businesses' attitudes towards corruption in the EU show that 28% of companies in Belgium (EU average 27%) think that corruption has prevented them from winning a public tender or a public procurement contract in practice in the last three years¹⁷³. Public procurement remains an area at high risk of corruption and stakeholders signal low transparency of government contracts, both those high-value contracts included in transparency obligations under EU legislation as those below the threshold¹⁷⁴. At local government level, a number of allegations of conflict of interest involving mayors and aldermen, often linked to real estate transactions, were detected in the period 2022-2024¹⁷⁵. Nonetheless, the response of the audit institutions and the regional governments charged with oversight of these cases, is indicated as being on point and appropriate¹⁷⁶. Recent research indicates that nearly half of the civil servants at the urbanism departments of Flemish communes have dealt with cases where they suspect possible conflicts of interest¹⁷⁷. Overall, these cases continue to raise concerns about a low awareness of the concept of conflict of interest in particular at local level, therefore creating a

¹⁶⁷ Input from Belgium for the 2024 Rule of Law Report, p. 13

¹⁶⁸ In particular, some multinationals, citing regulatory complexity, have chosen to set-up group-wide reporting channels, even if it is not obligatory under the Belgian law. Information received in the context of the country visit to Belgium from Transparency International and written contribution received in the context of the country visit to Belgium from Transparency International

¹⁶⁹ In particular, some multinationals, citing regulatory complexity, have chosen to set-up group-wide reporting channels, even if it is not obligatory under the Belgian law. Information received in the context of the country visit to Belgium from Transparency International and written contribution received in the context of the country visit to Belgium from Transparency International

¹⁷⁰ Contribution from FIRM-IFDH for the 2024 Rule of Law Report, pp. 12-13 and information received in the context of the country visit to Belgium from FIRM-IFDH.

¹⁷¹ Information received in the context of the country visit to Belgium from the Ombudsperson and Input from Belgium for the 2024 Rule of Law Report, p. 13. 271 whistleblowing files have been opened at the Ombudsperson, 208 for the private sector and 63 for the public sector, although the data collection does not further disaggregate which sort of offences or violations these requests refer to. It is thus unclear how many cases are linked to possible corruption or integrity violations.

¹⁷² Information received in the context of the country visit to Belgium from FIRM-IFDH and the Bureau of Integrity.

¹⁷³ Flash Eurobarometer 543 on Businesses' attitudes towards corruption in the EU (2024). This is 1 percentage points above the EU average.

¹⁷⁴ Stakeholders – such as the civil society organisation Stichting Overheidsopdrachten and company Tender Experts - signal that they do not believe the transparency requirements are adequately checked by the authorities. On average, only in 30% of cases the responsible authority makes public who won the contract. De Tijd (2023), Government barely gives transparency about procurement worth billions and De Tijd (2023), The invisible billions of the Belgian government.

¹⁷⁵ Separate allegations of conflicts of interest were detected in at least four municipalities in Belgium, all involving possible conflicts of interest of mayors in relation to real estate transactions. See 2023 Rule of Law Report, Country Chapter on the rule of law situation in Belgium, p. 14.

¹⁷⁶ Information received in the context of the country visit to Belgium from Transparency International.

¹⁷⁷ Willemsen, Y. (2023), Looking at real estate interests of local politicians in their own commune.

high risk of corruption. Public procurement remains another area at high risk of corruption – with media outlets signalling low transparency of government contracts, both those high-value contracts included in transparency obligations under EU legislation as those below the threshold¹⁷⁸.

III. MEDIA PLURALISM AND MEDIA FREEDOM

Belgium¹⁷⁹ upholds media pluralism through a legal framework that includes constitutional safeguards for press freedom and freedom of expression¹⁸⁰. The oversight and promotion of media diversity are divided among the Flemish, French, and German-speaking Communities, with each Community having its own regulatory authority and public service broadcaster. Access to documents is firmly established in the Belgian Constitution¹⁸¹ and further regulated in secondary legislation¹⁸².

Audiovisual media regulators maintain their operational independence and effectiveness, and the press continues to be effectively governed through self-regulatory mechanisms. The legal safeguards that guarantee the independence and effectiveness of media regulators remain solid¹⁸³. Although media regulators consider current resources sufficient, the introduction of new tasks, particularly from EU legislation like the Digital Services Act and the European Media Freedom Act, will require finding qualified personnel and securing the necessary budget¹⁸⁴. Notably, at least one media regulator's request for additional staffing to manage these new tasks was declined due to budgetary constraints¹⁸⁵. Media regulators generally perceive technological advancements as a significant challenge, particularly in the context of the difficulties to recruit qualified IT professionals¹⁸⁶. In the press sector, press councils continue to handle complaints and monitor deontological standards without external influence¹⁸⁷. However, recent challenges in regulatory coherence between the audiovisual media regulator for the French-speaking Community (*Conseil Supérieur de l'Audiovisuel de la Communauté française*) and the French-speaking press council (*Conseil de déontologie*

¹⁷⁸ Stakeholders – such as the civil society organisation Stichting Overheidsopdrachten and company Tender Experts - signal that they do not believe the transparency requirements are adequately checked by the authorities. De Tijd (2023), Government barely gives transparency about procurement worth billions and De Tijd (2023), The invisible billions of the Belgian government.

¹⁷⁹ Belgium ranks 16st in the 2024 Reporters without Borders World Press Freedom Index compared to 31rd in the previous year.

¹⁸⁰ Articles 19, 25, 32 and 150 of the Belgian Constitution protect freedom of expression and press. At federal level, the law on the protection of journalistic sources protects journalists from attempts to reveal their sources, as well as any kind of investigative measures taken by the judicial authorities to circumvent the right of journalists not to reveal their sources.

¹⁸¹ Article 32 of the Belgian Constitution.

¹⁸² Law of 11 April 1994 on the transparency of administration; Law of 12 November 1997 on the transparency of administration in provinces and municipalities.

¹⁸³ Input from Belgium for the 2024 Rule of Law Report, p. 20-21, as confirmed by the audiovisual media regulators during the country visit.

¹⁸⁴ Information received in the context of the country visit to Belgium from the Belgian media regulators (the *Vlaamse Regulator voor de Media*, the *Conseil Supérieur de l'Audiovisuel de la Communauté française* and the *Medienrat der Deutschsprachigen Gemeinschaft*).

¹⁸⁵ Information received in the context of the country visit to Belgium from the *Conseil Supérieur de l'Audiovisuel de la Communauté française*, the media regulator for the French-speaking Community.

¹⁸⁶ Information received in the context of the the country visit to Belgium from the Belgian media regulators.

¹⁸⁷ Information received in the context of the the country visit to Belgium from the Belgian press councils. The websites of the *Conseil de déontologie journalistique* and the *Raad voor Journalistiek* publish decisions on complaints.

journalistique) raised concerns about conflict of competences regarding the delineation of regulatory responsibilities¹⁸⁸.

High media concentration is counterbalanced by the independence of media regulators and transparency of media ownership. Although both the Flemish and French-speaking media markets are highly concentrated¹⁸⁹, this is generally perceived as necessary to ensure the financial viability of the media sector¹⁹⁰. The high concentration is also counterbalanced by independence of media regulators¹⁹¹ and efforts towards transparency of media ownership¹⁹². The Flemish media regulator issues a detailed annual report on media concentration across all sectors¹⁹³. None of the three media regulators have been empowered to review media market concentrations in parallel to competition authorities but they all three provide an overview of audiovisual media services¹⁹⁴. Although these resources only partially cover information on beneficial ownership, the current measures are deemed sufficient for ensuring transparency regarding the ownership structure and individuals in control of media companies¹⁹⁵.

Public service media maintain their independence through well-established safeguards. Public service media in Belgium benefit from support of the general public¹⁹⁶. While public service media reported regularly receiving requests to adjust or prevent broadcasts, mostly from lawyers or representatives of private companies, they did not raise instances of concern where such actions have been successful¹⁹⁷. In all three linguistic communities, supervisory board members of public service media are appointed based on the proportional representation of political parties within their respective parliamentary assembly. Following a reform by the Flemish Government in 2022, the Flemish public service media provider now also includes four independent board members¹⁹⁸. These appointments are made based on the individuals' expertise and independence, following recommendations from an independent external consultancy firm. Following this reform, legislators in the French-speaking and German-

¹⁸⁸ Information received in the context of the the country visit to Belgium from the *Conseil de déontologie journalistique*, as reported on its website. See Council of Europe, Platform to promote the protection of journalism and safety of journalists, "The Higher Broadcasting Council Encroaches on the Jurisdiction of the Journalistic Ethics Board". The issue involves the *Conseil Supérieur de l'Audiovisuel* overstepping its regulatory competence by handling complaints directly, rather than referring them to the *Conseil de déontologie journalistique* as required, thereby risking infringing the press council's jurisdiction over journalistic ethics.

¹⁸⁹ Media Pluralism Monitor 2024, Country report Belgium, p. 15.

¹⁹⁰ Information received in the context of the country visit to Belgium from the Belgian media regulators and journalist associations.

¹⁹¹ Media Pluralism Monitor 2024, Country report Belgium, p. 12.

¹⁹² Media Pluralism Monitor 2024, Country report Belgium, p. 14.

¹⁹³ Available on the website of the Flemish media regulator, the *Vlaamse Regulator voor de Media*.

¹⁹⁴ European Commission Rule of Law Report 2023, Country Chapter on the rule of law situation in Belgium, p. 20.

¹⁹⁵ Information received in the context of the the country visit to Belgium from the journalist associations, the *Vlaamse Vereniging van Journalisten* and the *Association des journalistes professionnels*.

¹⁹⁶ According to European Parliament's Flash Eurobarometer: News & Media Survey 2023, 56% of respondents in Belgium stated that they trust public TV and radio stations as a news source, above the EU average of 48%.

¹⁹⁷ Information received in the context of the country visit to Belgium from the Belgian public service media, the *Vlaamse Radio- en Televisieomroeporganisatie*, the *Radio-télévision belge de la Communauté française* and the *Belgischer Rundfunk*.

¹⁹⁸ Art. 12(1) of the Flemish Decree on radio broadcasting and television.

speaking Communities are also exploring initiatives to include independent members in the board of their respective public service media¹⁹⁹.

Some further steps have been taken in strengthening access to official documents, though new proposals fail to grant the Commission for Access to Administrative Documents decision-making powers. The 2023 Rule of Law Report recommended to Belgium to ‘continue efforts to strengthen the framework for access to official documents, in particular by improving request and appeal processes, taking into account European standards on access to official documents²⁰⁰’. Although legal standards for public access to documents are strong, the operational aspects and mechanisms for ensuring this right have been subject of ongoing reform and discussion. Since the 2023 Rule of Law Report, Belgium has initiated some steps to strengthen the legal framework for access to official documents. The Act ratifying the Council of Europe Convention on Access to Official Documents at the federal level was adopted, marking a constructive step forward²⁰¹. The federal parliament has recently adopted a legislative proposal - which it considers a first step - to enhance transparency and public access (e.g., by broadening the scope of public entities subject to transparency requirements). Some civil society organisations argue that it falls short of fully realising the needed reforms²⁰². In particular, the legal act failed to grant the Commission for Access to Administrative Documents (CTB-CADA)²⁰³ the decision-making powers in appeals related to access to documents, allowing it to go beyond its current advisory role²⁰⁴. A stakeholder also criticised what they consider to be overly broad exceptions to access documents, such as for documents related to “policy strategy”²⁰⁵, although similar exceptions adopted in the legislation of the Flemish Region were allowed by the Constitutional Court²⁰⁶. Therefore, some further progress has been made on the recommendation made in the 2023 Rule of Law Report, while significant room for improvement remains.

Journalist safety continues to face challenges, with recent studies and incidents highlighting a worrying trend of online harassment. The Council of Europe Platform for the Protection of Journalism and Safety of Journalists (which has registered four alerts)²⁰⁷, alongside the Media Freedom Rapid Response²⁰⁸ and reports from the Flemish initiative for the safety of journalists (Persveilig.be)²⁰⁹ have documented a number of instances of online

¹⁹⁹ Information received in the context of the country visit to Belgium from the Belgian public service media, the *Vlaamse Radio- en Televisieomroeporganisatie*, the *Radio-télévision belge de la Communauté française* and the *Belgischer Rundfunk*.

²⁰⁰ In the 2023 Rule of Law Report, the Commission concluded that some progress was made on the recommendation; 2023 Rule of Law Report, Country Chapter on the rule of law situation in Belgium, p.2

²⁰¹ ENNHRI, State of the rule of law in the European Union - Reports from National Human Rights Institutions (Belgium) – 2024, p. 3. This was later confirmed by additional input sent by ENNHRI during the country visit.

²⁰² Legislative proposal amending the Law of 11 April 1994 on the transparency of administration and to repeal the Law of 12 November 1997 on the transparency of administration in provinces and municipalities.

²⁰³ *Federale Commissie voor de toegang tot bestuursdocumenten – Commission (fédérale) d'accès aux documents administratifs*.

²⁰⁴ ENNHRI, State of the rule of law in the European Union - Reports from National Human Rights Institutions (Belgium) – 2024, p. 25 and written contribution received from Cumuleo in the context of the country visit to Belgium.

²⁰⁵ Written contribution received from Cumuleo in the context of the country visit to Belgium.

²⁰⁶ Written contribution received from the Government in the context of the country visit to Belgium.

²⁰⁷ Council of Europe, Platform to promote the protection of journalism and safety of journalists – Belgium. Three Council of Europe Platform alerts related to action by law enforcement authorities or a regulator and one alert related to the harassment of a journalist.

²⁰⁸ European Centre for Press and Media Freedom, Media Freedom Rapid Response – Belgium.

²⁰⁹ Persveilig.be, Report on aggressions against journalists in 2023.

harassment and intimidation targeting journalists. According to a recent study by three Belgian universities, more than half of the journalists experienced transgressive conduct, such as verbal aggression, discrimination, physical violence, and sexual harassment²¹⁰. Verbal aggression, both online and offline, was the most common and affected almost 41,3% of journalists. 8% of journalists also reported being victims of discrimination and 5,4% reported to have faced physical violence. Over 7% of surveyed journalists experienced sexually transgressive behaviour. The study further highlights that female journalists are disproportionately more likely to be subject to inappropriate behaviour²¹¹. The largest part of verbal aggression occurs online (68,5%)²¹². A positive step is the recently adopted Criminal Code to include journalists in the list of persons with a societal function, which means that violence used against them will be more severely punished²¹³. Other forms of harassment faced by journalists included legal threats and the threatening of journalistic sources to not share information²¹⁴. Stakeholders mentioned a case of unilateral judicial proceedings initiated by a politician requesting all media to be prohibited from reporting on details of an ongoing criminal investigation into racist comments he allegedly made²¹⁵. This raised concerns about the potential preventive censorship, which stakeholders consider contrary to constitutional protections that uphold journalistic freedom and the public's right to be informed²¹⁶.

IV. OTHER INSTITUTIONAL ISSUES RELATED TO CHECKS AND BALANCES

Belgium is a federal state with significant powers residing at the level of the Regions and Communities. At the federal level, Belgium has a bicameral parliamentary system. The Parliament is composed of the House of Representatives and the Senate. Legislative proposals can originate from the Government and from Members of both Houses of Parliament²¹⁷. The advisory branch of the Council of State provides opinions on draft legislation and the jurisdictional branch has competence to suspend and annul administrative acts. The Constitutional Court has exclusive competence to review the constitutionality of legislative acts adopted by the Federal Parliament and by the Parliaments of the Regions and Communities. In addition to the justice system, independent authorities play an important role

²¹⁰ UGent, ULB and Université de Mons, "Portrait of Belgian Journalists" in 2023. The findings of this study were also confirmed by the Belgian journalist associations during the country visit and by the ENNHRI, State of the rule of law in the European Union - Reports from National Human Rights Institutions – 2024, p.110.

²¹¹ Specifically, 64.1% of female respondents reported having experienced such behaviour at least once in the course of their work, compared to 51.4% of male respondents. Sexually transgressive behaviour was reported by nearly one in five women (18.6%), a figure starkly higher than the 1.2% of men who reported similar experiences. Discrimination was almost three times as likely to be reported by women (14.8%) than men (4.4%). Conversely, a higher proportion of men (6.6%) reported experiencing physical violence compared to women (3.2%).

²¹² Information received in the context of the country visit to Belgium from the Dutch and French-speaking public service media, the *Vlaamse Radio- en Televisieomroeporganisatie* and the *Radio-télévision belge de la Communauté française*.

²¹³ Articles 79 and 111 of the future Criminal Code.

²¹⁴ UGent, ULB and Université de Mons, "Portrait of Belgian Journalists" in 2023.

²¹⁵ Information received in the context of the country visit to Belgium from the Belgian journalist associations and press councils. See website of the Flemish Journalist association, *Vlaamse Vereniging van Journalisten*; Council of Europe, Platform to promote the protection of journalism and safety of journalists, "Court Bans HLN and VTM Nieuws from Publishing Extracts from Witness Statements in Criminal Investigation" and ENNHRI, State of the rule of law in the European Union - Reports from National Human Rights Institutions – 2024, p. 91.

²¹⁶ Article 25 of the Belgian Constitution. See website of the Flemish Journalist association, *Vlaamse Vereniging van Journalisten*.

²¹⁷ The Senate can only propose legislation in certain fields.

in checks and balances. The Federal Institute for the Protection and Promotion of Human Rights (FIRM/IFDH) and the Flemish Human Rights Institute function as the federal and regional Human Rights bodies. The Interfederal Centre for Equal Opportunities and Opposition to Racism and Discrimination (Unia) functions as the equality body at the federal, regional and community levels, except on the Flemish level, where the Flemish Human Rights Institute functions as the equality body²¹⁸.

Stakeholders are mostly satisfied regarding their involvement in policymaking, while centralising consultations would enhance transparency and accountability. At the same time, the Government only consults the general public on draft legislation on an *ad hoc* basis²¹⁹. The time allocated for online consultations falls within an interval of four to eight weeks, depending on the complexity of the draft policy²²⁰. Comments received during the consultation need to be considered by policy makers²²¹. On the other hand, the Government regularly consults with stakeholders, such as social partners, at an early stage when a policy problem is being discussed²²². Representatives of Business associations also informed that they are usually consulted on draft laws that affect them²²³. Furthermore, on 1 February 2024, in the context of citizens' participation, the House of Representatives amended its Rules of Procedure allowing it to establish mixed committees and citizens' panels within the House²²⁴. The share of laws adopted through an emergency procedure in the House of Representatives remained around 10%²²⁵.

The Federal Human Rights Institute (FIRM/IFDH) established cooperation with the Flemish Human Rights Institute and acquired new tasks. The 2023 Rule of Law Report found that the FIRM/IFDH had continued to play an active role during its second year of activity, while the establishment of the Flemish HRI required close cooperation between the two governance levels²²⁶. In 2023 FIRM/IFDH has issued numerous opinions and made recommendations on important topics subject to societal debate²²⁷. The quality of its work is

²¹⁸ The Institute for the equality of women and men functions as the equality body responsible for guaranteeing and promoting gender equality at the federal regional and community levels, except on the Flemish level.

²¹⁹ "Systemising the use of consultation for both primary and subordinate regulations across all ministries as well as developing a central platform on which all consultations are published would enhance the transparency and accountability of the regulatory system in Belgium". OECD (2022), Better Regulation Practices across the European Union 2022, OECD Publishing, Paris, p. 148.

²²⁰ Ibidem, p. 58.

²²¹ Ibidem, p. 66.

²²² Ibidem, p. 54.

²²³ Information received in the context of the country visit to Belgium from VBO-FEB. In Belgium, 24% of the surveyed companies perceive the frequent changes in legislation or concerns about quality of law-making process as a reason for the lack of confidence in investment protection. Figure 56, 2024 EU Justice Scoreboard.

²²⁴ Amendment to the Rules of Procedure of the House of Representatives with regard to joint committees and citizens' panels, Official Gazette, 9 April 2024.

²²⁵ During the period from 1 December 2022 until 30 November 2023, the urgency procedure has been requested for 57 items out of 539 items (10.58%). Up until 30 November 2023, it had been used in 10.62% of cases under the 55th parliamentary term. Input from Belgium for the 2024 Rule of Law Report, p. 23.

²²⁶ 2023 Rule of Law Report, Country Chapter on the on the rule of law situation in Belgium, p. 23. FIRM/IFDH has a B-status accreditation as an NHRI, meaning a recognition as an NHRI partially conform. Principles relating to the Status of National Institutions (The Paris Principles), adopted by General Assembly resolution 48/134 of 20 December 1993; 2023 Rule of Law Report, Country Chapter on the rule of law situation in Belgium, p. 23, 24.

²²⁷ In 2023 FIRM/IFDH issued 14 advisory opinions (of which 12 upon request of Parliament of the Government.

widely appreciated²²⁸ and it receives sufficient funding from Parliament to fulfil its mandate. National legislation transposing the Whistleblowers Directive²²⁹ has extended the mandate of FIRM/IFDH, providing it with additional resources to fulfil this task thereby enabling it to provide better support to whistleblowers²³⁰. In 2024, the Institute received the mandate of Prevention mechanism against torture and other cruel, inhuman or degrading treatment or punishment at the federal level²³¹, for which it has received additional funding²³². With reference to the recommendations made by GANHRI's Sub-committee on accreditation (SCA)²³³ and the Council of Europe's recommendation 2021/1 on NHRIs²³⁴, FIRM/IFDH calls for stronger legislative anchoring of its mandate and independence preferably at constitutional level. It also calls for an extension of its mandate to matters within the competence of the communities and regions in Belgium, other than matters under the competence of the Flemish Community and Region now under the mandate of the Flanders Human Rights Institute (FLANHRI), which also assumes the role of equality body at regional level. FIRM/IFDH and FLANHRI had a constructive first exchange among board members and staff in January 2024 and intend to sign a collaboration protocol²³⁵. FIRM/IFDH also calls for it to be provided with a right to access to all relevant premises, including places of deprivation of liberty, and to all relevant individuals as well as more independence in terms of human and financial resources²³⁶. Furthermore, the Human Rights Leagues call on the Belgian authorities to make sure that all human rights monitoring bodies comply with the Paris Principles, especially the Data Protection Authority, Standing Police Monitoring Committee and Police Information Monitoring Body²³⁷.

Independent institutions received additional human and financial resources to help carry out their tasks effectively, although some challenges on their distribution remain. The 2023 Rule of Law Report found that despite improvements, some challenges remained as regards the human and financial resources available to independent institutions²³⁸. In 2023, the Council of State received additional resources as part of the initiative to reform it. However, their equal distribution between the French and Dutch speaking magistrates poses an additional challenge on the French speakers who are faced with a higher workload and backlog due to the partial regionalisation of administrative justice on the Flemish side²³⁹. These challenges are

²²⁸ Including by the Government. Information received in the context of the country visit to Belgium from the Government.

²²⁹ Directive (EU) 2019 of the European Parliament and of the Council of 23 November 2019 on the protection of persons who report breaches of Union law, OJ L 305, 26.11.2019, p. 17, implemented by the Act of 28 November 2022 on the protection of persons reporting violation of Union or national law within a private sector legal entity, Belgian official Bulletin, 15 December 2022 and the Act of 8 December 2022 on reporting channels and the protection of whistleblowers in federal public sector bodies and the integrated police, Belgian official Bulletin, 23 December 2022.

²³⁰ Information received in the context of the country visit to Belgium from FIRM/IFDH.

²³¹ Amendments of 21 April 2024 to the Act of 12 May 2019 establishing a Federal Institute for the Protection and Promotion of Human Rights.

²³² Reform of the 'FIRM-IFDH' Act of 12 May 2019 adopted on 21 April 2024; Information received in the context of the country visit to Belgium from FIRM/IFDH.

²³³ GANHRI Sub-Committee on Accreditation Report – February & March 2023.

²³⁴ Recommendation CM/Rec(2021)1 of the Committee of Ministers to Member States on the development and strengthening of effective, pluralist and independent national human rights institutions, 31 March 2021.

²³⁵ Information received in the context of the country visit to Belgium from FIRM/IFDH.

²³⁶ Information received in the context of the country visit to Belgium from FIRM/IFDH.

²³⁷ Contribution from Liberties for the 2024 Rule of Law Report.

²³⁸ 2023 Rule of Law report, country chapter for Belgium, p. 24.

²³⁹ Information received in the context of the country visit to Belgium from the Council of State.

increased by the fact that time limits to proceed with appeals were shortened²⁴⁰. Moreover, the Government continues to link additional resources for the judiciary to the prioritisation of certain cases, which may lead to an imbalanced backlog in other cases²⁴¹. The Constitutional Court²⁴² was able to clear the existing backlog thanks to the hiring of additional staff members²⁴³. Following the extension of their competences, the Federal Human Rights Institute and the Federal Ombudsman received additional financial and human resources²⁴⁴. The rationalisation exercise that aimed at creating a joint service for institutions that receive an endowment from Parliament, including the Federal Human Rights Institute, the Federal Ombudsman and the High Council for Justice, was abandoned due to a lack of agreement between the parties²⁴⁵. Instead, these institutions are developing voluntary processes such as joint tenders and the alignment of human resource management²⁴⁶.

On 1 January 2024, Belgium had 21 leading judgments of the European Court of Human Rights pending implementation, a decrease of one compared to the previous year²⁴⁷. At that time, Belgium's rate of leading judgments from the past 10 years that remained pending was at 39% (compared to 48% in 2023), and the average time that the judgments had been pending implementation was 3 years and 11 months (compared to 3 years and 3 months in 2023)²⁴⁸. The oldest leading judgment, pending implementation for almost 15 years, concerns the excessive length of civil proceedings at first instance level²⁴⁹. As regards the respect of payment deadlines, on 31 December 2023 there were 5 cases in total awaiting confirmation of

²⁴⁰ Law of 11 July 2023, *M.B.*, 24/07/2023, p. 61105. As the duration of appeals proceedings before the Council of State was considered too long, the Law foresees a reduction of the duration of proceedings for annulment appeals without procedural issues to 18 months and to 15 months for annulment appeals linked to the green transition: Information received in the context of the country visit to Belgium from the Council of State.

²⁴¹ 2023 Rule of Law report, country chapter for Belgium, p. 24. Information received in the context of the country visit to Belgium from the Council of State. However, the duration of the appeals before the Council of State was considered too long. As part of the reform of the Council of State, a reduction in the duration of the proceedings was therefore agreed.

²⁴² For the latest case-law of the Constitutional Court regarding COVID-19, see "Paper presented at the 20th Meeting of the Joint Council on Constitutional Justice, held in Sofia on 24-25 April 2023", Jan Theunis. See also the two latest COVID-19 judgments rendered: judgment 123/2023 (case 7829) and judgment 143/2023 (7830).

²⁴³ Information received in the context of the country visit to Belgium from the Constitutional Court.

²⁴⁴ Information received in the context of the country visit to Belgium from FIRM/IFDH and from the Federal Ombudsmen.

²⁴⁵ Written contribution from the Federal Ombudsmen in the context of the country visit to Belgium.

²⁴⁶ Examples of joint tenders for support services include translation and IT. Concerning human resources, voluntary processes are ongoing to harmonise their staff regulations, with the aim of promoting mobility of staff among them. Information received in the context of the country visit to Belgium from the FIRM/IFDH.

²⁴⁷ The adoption of necessary execution measures for a judgment by the European Court of Human Rights is supervised by the Committee of Ministers of the Council of Europe. It is the Committee's practice to group cases against a State requiring similar execution measures, particularly general measures, and examine them jointly. The first case in the group is designated as the leading case as regards the supervision of the general measures and repetitive cases within the group can be closed when it is assessed that all possible individual measures needed to provide redress to the applicant have been taken.

²⁴⁸ All figures are calculated by the European Implementation Network and are based on the number of cases that are considered pending at the annual cut-off date of 1 January 2024. See the Contribution from the European Implementation Network for the 2024 Rule of Law Report, p. 1.

²⁴⁹ Judgment of the European Court of Human Rights of 4 November 2008, *Bell v. Belgium*, 44826/05, pending implementation since 2009.

payments (compared to 9 in 2022)²⁵⁰. On 1 July 2024 the number of leading judgments pending implementation had decreased to 19²⁵¹.

Non-compliance of the Government with European Court of Human Rights and domestic court judgments, including a final judgment of a court of last instance, raises serious concerns. The 2023 Rule of Law Report raised concerns regarding the non-compliance of the Federal Government with court judgments and orders imposing periodic penalty payments in several areas²⁵². The Council of State, Constitutional Court and Court of Cassation called on the Government to comply with the rule of law and characterised the Government's non-compliance with judicial decisions and orders imposing periodic penalty payments as being unacceptable²⁵³. FIRM/IFDH, the Ombudspersons and CSOs expressed similar concerns²⁵⁴. On 18 July 2023, the European Court of Human Rights found that the State had violated Article 6 of the Convention by its refusal to execute an immediately enforceable court order²⁵⁵. The Court recalled that one of the fundamental aspects of the rule of law is the principle of legal certainty, which requires that where the courts have finally determined an issue, their ruling should be complied with²⁵⁶. A significant number of judgments have been issued by the Brussels Labour Tribunal finding the State responsible for not ensuring adequate reception of asylum seekers²⁵⁷. While the Government continues to take steps to address the reception

²⁵⁰ Council of Europe (2024), Supervision of the execution of judgments decisions of the European Court of Human Rights – 17th Annual Report of the Committee of Ministers – 2023, p. 137.

²⁵¹ Data according to the online database of the Council of Europe (HUDOC).

²⁵² This mainly concerns the reception of asylum seekers, as well as prison overcrowding, prolonged psychiatric detention, extradition to third states and weapons exports. 2023 Rule of Law Report, p. 25. Examples include judgment of the European Court of Human Rights of 25 November 2014, *Vasilescu v Belgium* (application no. 64682/12); judgment of the European Court of Human Rights of 2 October 2012, *L.B. v Belgium* (application no. 22831/08). Up to April 2024, 2 086 interim measures were granted by the European Court of Human Rights against the Belgian state. AIDA, 2023 Country Report on Belgium, May 2024. FIRM/ IFDH indicated that the implementation of most leading European judgments have seen little to no progress and several major issues have worsened. Contribution from the European Network of National Human Rights Institutions for the 2024 Rule of Law Report, pp. 39-42.

²⁵³ Joint memorandum of the three highest courts of Belgium of 19 July 2024; written contribution received from the Court of Cassation and the Constitutional Court in the context of the country visit to Belgium; In its contribution to the 2023 Rule of Law Report, the Council of state submitted the statement by 30 professors of constitutional law declaring that “One of the most basic rules of the game in a democracy is that the public authorities submit to the law and to the decisions handed down by the courts in application of the law”.

²⁵⁴ Information received in the context of the country visit to Belgium from FIRM/IFDH and the Ombudspersons. Contribution received from Amnesty International Belgium for the 2024 Rule of Law Report.

²⁵⁵ The court order required providing an asylum seeker with accommodation and material support. Judgment of the European Court of Human Rights of 18 July 2023, *Camara v Belgium* (application no. 49255/22), para. 122.

²⁵⁶ While the Court acknowledged the difficult situation the State was facing (in terms of the high number of asylum applications), it could not consider that the time taken by the authorities in the present case to enforce a court order, aimed at protecting human dignity, had been reasonable. *Camara v Belgium*, para. 117. See also paras. 107, 145. The Government action plan in response to the case was submitted on 18 April 2024. On 14 June 2024, the Committee of Ministers of the Council of Europe had a first examination of the ‘structural problem of non-enforcement of judicial decisions ordering the authorities to provide asylum seekers with material assistance or accommodation’. Council of Europe: Committee of Ministers (2024), Consolidated list of cases for the 1507th meeting (September 2024) (DH) adopted at the 1501st meeting.

²⁵⁷ On 31 October 2023 Belgian authorities had been convicted up to 8 800 times for not ensuring adequate reception conditions. Contribution from the European Network of National Human Rights Institutions for the 2024 Rule of Law Report, p. 39-41; Flemish Refugee Council (2024), Dashboard Reception Crisis, 5 June 2024.

situation²⁵⁸, figures for asylum applications remain high²⁵⁹, and it is still not in compliance with a number of judgments and court orders imposing periodic penalty payments²⁶⁰. On 13 September 2023, the Council of State annulled an instruction issued by the competent State Secretary to limit accommodation to certain categories of asylum seekers²⁶¹. On 23 January 2024, several CSOs obtained permission from the Brussels Court of Appeal to seize up to EUR 2.9 million from the Federal Asylum Agency's accounts due to unpaid penalty payments²⁶².

Some concerns have been raised regarding civic space. The CIVICUS rating for the civil society landscape remains narrowed²⁶³. On 5 December 2023, FIRM/IFDH published the initial results of a study 'Room for Human Rights Defenders'²⁶⁴. More than half of the human rights organisations surveyed indicated that they faced harassment or aggression between 2020 and 2022. The majority of cases involved legal harassment: baselessly taking or threatening to take legal action. Over one in five organisations face defamation campaigns and have already been hit at least once by a targeted cyber-attack²⁶⁵. Flemish CSOs promoting equality report an

²⁵⁸ The Belgian government has taken measures to comply with the obligation to provide immediate reception to every applicant for international protection. Priority continues to be given to families, minors and vulnerable persons. Further efforts were made to speed up the outflow of reception centre residents by investing in the asylum system with a view to shortening the asylum procedure and following up people who have already been in the reception network for more than three years. Additionally, laws were passed in Parliament in February (a reception law) and May (implementing a proactive return policy) of 2024 to ensure that the reception capacity is given to asylum seekers who have a pending asylum application, by ending the possibility to receive reception 30 days after a final rejection of the asylum application. Furthermore, individual case management for applicants that are subject to a (Dublin) transfer or whose application for international protection was rejected was formalised and expanded. Finally, sustainable solutions were sought and found for many individuals who had been staying in a reception facility long term. Input received from Belgium for the 2024 Rule of Law Report.

²⁵⁹ In 2023, Belgium received 35 160 applications for asylum. Eurostat, Asylum applicants by type - annual aggregated data, extracted on 18 July 2024.

²⁶⁰ On 2 February 2024 the total amount of outstanding periodic penalty payments was EUR 20 million; information received from the Government the context of the country visit to Belgium.

²⁶¹ The Council of State found that the decision to exclude single male asylum seekers from reception facilities was in violation of the Belgian reception law and the corresponding EU directive. Council of State Judgment n° 257.300 of 13 September 2023. This was an emergency measure to guarantee sufficient reception places for families with minors and consequently excluding other categories of asylum seekers. *Le Soir*, 13 September 2023, Reception crisis: despite the affront of the Council of State, de Moor keeps the course; During an interview with Public Flemish TV on 13 September 2023, the State Secretary stated that she respected the judgment but saw no other solution than maintaining the policy. She stated that the situation did not leave her a choice but to continue the prioritisation of families with children to guarantee that they would not end up without any form of shelter. During a Parliamentary debate on 19 December 2023, the State Secretary explained: "I agree with the Council of State that everyone has a right to reception. Only the decision of the Council of State does not create extra places". Belgian Federal Parliament, Report of the Plenary Debate of 19 December 2023.

²⁶² Judgment of the Court of Appeal of Brussels of 23 January 2024 (not published). The Court of Cassation confirmed the judgment in appeal; Judgment S.23.0046.F/1 of 12 February 2024.

²⁶³ Rating given by CIVICUS; ratings are on a five-category scale defined as: open, narrowed, obstructed, repressed and closed. One of the issues pointed out by CSOs is the increasing difficulty to access banking services; Joint Civil Society Contribution on Civic Space for the 2024 Rule of Law Report, p.6.

²⁶⁴ First-ever survey of pressure on human rights organisations in Belgium: half respondents experience intimidation and aggression, FIRM/IFDH, 5 December 2023.

²⁶⁵ Civil Liberties Union for Europe (2024), Liberties Rule of Law Report 2024 – Belgium (Ligue des droits humains), p. 24/25.

increase of pressure tied to access to funding²⁶⁶. The 2023 Rule of Law Report noted that a Flemish Government decree on socio-cultural work was criticised for having included provisions making clear that organisations that 'segregate' based on ethnic cultural identity would not be subsidised²⁶⁷. On 16 October 2023, a request for annulment of the relevant part of the Decree was submitted to the Belgian Constitutional Court²⁶⁸. Stakeholders continue to raise concerns²⁶⁹ regarding administrative and judicial demonstration bans²⁷⁰, contesting their legality, necessity and proportionality²⁷¹. Following a large mobilisation of civil society, the Government withdrew the draft articles on a judicial demonstration ban in January 2024. Some concerns have also been raised regarding a new criminal offence of 'malicious attack on government authority' enacted on 29 February 2024 (article 247 new Criminal Code), given the perceived tensions with the freedom of expression and assembly²⁷². The Government rejects such criticism, underlining that the offence has been analysed in the light of the European Convention on Human Rights and its scope has been accordingly limited²⁷³. Moreover, FIRM/IFDH²⁷⁴ and CSO stakeholders²⁷⁵ call for a reform of a civil law procedure, on the basis of which Presidents of first instance tribunals may issue an urgent court order without hearing the opposing party²⁷⁶. Such orders have been issued notably in connection with strikes and collective actions, as well as in relation to the eviction from housing of undocumented migrants occupying public buildings²⁷⁷. The Government does not intend to

²⁶⁶ Flemish Human Rights League (2023), "Socio-cultural organisations see political interference increasing: muscular election language or is there more to it?"; Information received by the Human Rights Leagues in the context of the country visit.

²⁶⁷ Decree on the subsidisation of adult social and cultural work, 10 March 2023. The Flemish Government has already sent inspectors to several organisations, including the newspaper De WereldMorgen with a view to possibly withdraw subsidies; Knack (2023); 'Journalists' union: Jambon's decision to audit dewereldmorgen.be 'dangerous precedent'.

²⁶⁸ Belgian Constitutional Court, case nr. 8087 (NL), Action for annulment of Article 14, first paragraph, 3°, of the Flemish Community decree of 10 March 2023 "on the subsidising of socio-cultural adult work ", established by the non-profit organisation De Federatie Sociaal-Cultureel Werk en Amateurkunsten; Belgian Official Gazette 14 November 2023.

²⁶⁹ The 2023 Rule of Law Report mentioned several concerns raised by stakeholders regarding limitations to the right to demonstrate. Rule of Law Report, Country Chapter on the rule of law situation in Belgium, p. 26.

²⁷⁰ FIRM/IFDH, Advice of 26 April 2023 on the circular relating to the individual and preventive prohibition of demonstrations; FIRM/IFDH Advice of 20 February 2023 on the judicial ban on demonstrations.

²⁷¹ Information received in the context of the country visit to Belgium from FIRM/IFDH; Information received in the context of the country visit to Belgium from the Human Rights Leagues and Amnesty International.

²⁷² FIRM/IFDH, Advice of 5 October 2023 regarding the Bill to introduce Book 2 of the Criminal Code. Over 500 academics, trade union members, lawyers and citizens signed a petition calling for a withdrawal of the proposal in calling it "antidemocratic, dangerous and unnecessary". Le Soir, 15 February 2024, Lawyers, academics, trade unionists and citizens: they say "no" to the "malicious attack on the authority of the State". Though the text was amended by Parliament, making it less likely to be applied to social protests and civil disobedience, FIRM/IFDH remains concerned in notably pointing to the little added value to the existing legal framework.

²⁷³ Information received in the context of the country visit from the Belgian government.

²⁷⁴ ENNHRI, State of the rule of law in the European Union - Reports from National Human Rights Institutions – 2024, p.93

²⁷⁵ Civil Liberties Union for Europe (2024), Liberties Rule of Law Report 2024 – Belgium (Ligue des droits humains), p. 7/8.

²⁷⁶ See Articles 1025 to 1034 of the Judicial Code. FIRM/IFDH denounced the renewed use of unilateral applications procedures in an opinion issued on 23 May 2023, pointing to negative consequences for the enjoyment of the right to strike and collective action, the right of access to a court, the right of defence and the right to a fair trial.

²⁷⁷ Contribution from FIRM/IFDH for the 2024 Rule of Law Report, p.17.

amend the current legislation, submitting that the use of this procedure is reserved for cases of absolute necessity. It also points to the possibility to lodge an appeal²⁷⁸.

²⁷⁸ The Government does not intend to amend the current legislation because the use of urgent proceedings on the basis of a unilateral application is reserved for cases of absolute necessity. It also points to the possibility to lodge an appeal. Information received in the context of the country visit from the Belgian government.

Annex I: List of sources in alphabetical order*

* The list of contributions received in the context of the consultation for the 2024 Rule of Law report can be found at https://commission.europa.eu/publications/2024-rule-law-report-targeted-stakeholder-consultation_en.

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Annex II: Country visit to Belgium

The Commission services held virtual meetings in February 2024 with:

- Amnesty International Belgium
- Bureau of Integrity
- Central Office for the Repression of Corruption
- College of Courts and Tribunals
- Committee P
- Community Authorities for Media
- Constitutional Court
- Council of State
- Court of Cassation
- Federal Deontological Commission
- Federal Human Rights Institute
- Federal Ombudsmen
- Federal Police
- Federation of Belgian Enterprises (VBO-FEB)
- Flemish Association of Journalists (VVJ)
- Flemish Bar Association
- Flemish Media Regulator
- French- and German-speaking Order of the Belgian Bar
- High Council for Justice
- High Council for the Audiovisual
- Journalistic Ethics Council
- Liga voor Mensenrechten
- Ligue des Droits Humains
- Ministry of the Interior
- Ministry of Justice
- Prosecution Service
- Public Service Media
- Transparency International Belgium

* The Commission also met the following organisations in a number of horizontal meetings:

- Amnesty International EU
- Centre for Democracy and Technology Europe
- Centre for European Volunteering
- Civil Liberties Union for Europe
- Civil Rights Defenders
- Civil Society Europe
- Culture Action Europe
- Democracy Reporting International
- European Centre for Non-Profit Law

- European Civic Forum
- European Federation of Journalists
- European Partnership for Democracy
- European Youth Forum
- Free Press Unlimited
- International Federation for Human Rights
- International Planned Parenthood Federation
- International Press Institute
- Irish Council for Civil Liberties
- JEF Europe
- Open Society Foundations