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

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2024 Rule of Law Report

The rule of law situation in the European Union

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ABSTRACT

Following a structured dialogue with the European Commission as facilitator, an agreement has been reached to renew the Council for the Judiciary and to initiate, immediately after the renewal, a process in view of adapting the appointment of its judges-members, taking into account European standards. The lack of renewal of the Council for the Judiciary has had a negative impact on the work of the Supreme Court and on the justice system as a whole, and the agreement of 25 June 2024, if fully implemented, is expected to improve the situation. There has been some progress to strengthen the statute of the Prosecutor General. The Ethics Commission for prosecutors has become fully operational. New measures are envisaged as regards the incompatibilities regime for judges and prosecutors. Measures were taken to further improve the legal aid framework and the digitalisation of justice. Additional posts for judges have been established and measures are being taken to address challenges relating to resources faced by the justice system. A new law on the right of defence is under preparation. Further measures aimed at increasing the efficiency of the justice system have been adopted.

The Government is mandated by law to adopt, by September 2024, a comprehensive strategy to prevent and fight corruption, however work is yet to start on it. New rules regarding corruption offences are being enforced. The reform of the Criminal Procedure Code, expected to contribute to address the length of investigations and prosecutions, is still pending. The overall efficiency of the Council of Transparency and Good Governance was improved by a document management system, and the increase of its budgeting and personal resources, though the complexity of cases is increasing. No specific timeline is foreseen to improve rules on conflicts of interest for public employees within all different administrations despite ongoing work since 2021. No steps have been taken to strengthen the rules on conflicts of interest and asset declarations of persons with top executive functions and to reinforce the sanctioning power of the Office for Conflicts of Interest.

The audiovisual regulatory authority has sufficient resources to perform its tasks and its supervisory function was further strengthened. The inclusion of providers of video sharing platforms, providers of audiovisual media service aggregation services and users of special relevance in the new national registry will increase transparency of media ownership, which remains overall an area of concern. There have been no changes to the legal framework for institutional advertising, while calls for increased transparency in the distribution of institutional advertising to avoid its use for partisan or electoral purposes continue. A new acting chair of the public service media has been appointed in the absence of an agreement in the Congress to appoint a new board and chair. There has been no further progress to strengthen access to information, and stakeholders continue to voice concerns. Journalists continue facing increasing challenges in the performance of their professional activities.

An “Organic Law on Amnesty for the Institutional, Political and Social Normalisation of Catalonia”, which was the subject of major controversy and a Venice Commission Opinion, was adopted by Congress on 30 May 2024 and entered into force on 11 June 2024. Different initiatives aimed at strengthening public participation in policymaking and promoting a rule of law culture have been taken. Concerns on some procedural practices relating to the use of emergency procedures for the approval of legislation remain. A new equality body is being set up, while posts in a number of independent authorities continue to be vacant. Measures to accelerate proceedings before the Constitutional Court are being implemented. A reform of the Citizen Security Law is still pending, though considered a priority by the Government. On 17 July 2024, the Government announced a Democracy Action Plan, covering aspects such as transparency, conflicts of interests and media freedom.

RECOMMENDATIONS

Overall, concerning the recommendations in the 2023 Rule of Law Report, Spain has (made):

- Some progress on strengthening the statute of the Prosecutor General, but not regarding the separation of the terms of office of the Prosecutor General from that of the Government, taking into account European standards on independence and autonomy of the prosecution.
- Significant progress on renewing the Council for the Judiciary as a matter of priority and initiating, immediately after the renewal, a process in view of adapting the appointment of its judges-members, taking into account European standards on Councils for the Judiciary.
- No further progress on proceeding to adopt legislation on lobbying, including the establishment of a mandatory public register of lobbyists.
- Some progress on stepping up efforts to address the challenges related to the length of investigations and prosecutions to increase the efficiency in handling high-level corruption cases, including by finalising the reform of the Code of Criminal Procedure.
- No progress on strengthening the rules on conflicts of interest and asset declarations of persons with top executive functions by reinforcing the sanctioning power of the Office for Conflicts of Interest.
- No further progress on strengthening access to information, in particular via revision of the Law on Official Secrets, 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 Spain to:

- Continue to strengthen the statute of the Prosecutor General, in particular regarding the separation of the terms of office of the Prosecutor General from that of the Government, taking into account European standards on independence and autonomy of the prosecution.
- Building on the agreement of 25 June 2024, finalise the renewal of the Council for the Judiciary and take forward the process in view of adapting the appointment procedure of its judges-members, taking into account European standards on Councils for the Judiciary.
- Proceed to adopt legislation on lobbying, including the establishment of a mandatory public register of lobbyists.
- Step up efforts to address the challenges related to the length of investigations and prosecutions to increase the efficiency in handling high-level corruption cases, including by finalising the reform of the Code of Criminal Procedure.
- Strengthen the rules on conflicts of interest and asset declarations of persons with top executive functions, including by reinforcing the independence and sanctioning power of the Office for Conflicts of Interest.
- Advance with strengthening access to information, in particular via revision of the Law on Official Secrets, taking into account European standards on access to official documents.

I. JUSTICE SYSTEM

The Spanish judicial system is composed of courts of general jurisdiction¹ and specialised courts², and is structured in accordance with the territorial organisation of the country. The Supreme Court is the highest judicial body in all areas of law. The General Council for the Judiciary, established by the Spanish Constitution and regulated in the organic law for the judiciary, is the body of judicial self-governance, and ensures the independence of courts and judges³. As such, it does not itself form part of the judiciary. It exercises disciplinary action and is competent to appoint, transfer and promote judges, as well as being responsible for the training and recruitment of judges. The Constitution⁴ and an organic law⁵ regulate the Constitutional Court, which is not formally part of the judiciary. The public prosecution service is integrated in the judiciary with functional autonomy and pursues the mission of promoting justice in defense of the law, the rights of the citizens and the general interest. The Prosecutor General is appointed by the Head of State, upon proposal of the Government, following the consultation of the General Council for the Judiciary⁶. Spain participates in the European Public Prosecutor's Office (EPPO). The Solicitor General of the State is a senior official of the Ministry of the Presidency, Justice and Relations with the Parliament in charge of directing the Legal Service of the National State Administration. The Local Bars are public law organisations of professionals, independent from the public administration and do not depend on the budgets of the public authorities, nor are their assets public. They have competences for the organisation of the profession and professional deontology and approve their own code of ethics.

Independence

The level of perceived judicial independence in Spain continues to be low among both the general public and companies. Overall, 37% of the general population and 32% of companies perceive the level of independence of courts and judges to be 'fairly or very good' in 2024⁷. The perceived judicial independence among the general public has increased in comparison with 2023 (34%), although it remains lower in comparison with 2020 (44%). The perceived judicial independence among companies has decreased in comparison with 2023 (34%), as well as with 2020 (42%). 41% of the companies in Spain are either fairly or very confident that their investments are protected by the law and courts in the Member State. 42% 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 country⁸.

¹ Covering the fields of civil, criminal, administrative and social law. In total, there are 2298 first instance courts of general jurisdiction.

² Commercial courts, EU trademark courts, courts with special duties in the matter of criminal sentencing, juvenile courts, courts dealing with violence against women, and other specialised courts that can be created by resolution of the General Council for the Judiciary. In total, there are 1588 first instance courts of specialised jurisdiction.

³ Art. 117 of the Spanish Constitution enshrines the independence of magistrates and judges.

⁴ Spanish Constitution, art. 159.

⁵ Organic Law 2/1979, of 3 October.

⁶ Spanish Constitution, art. 124(4).

⁷ 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%).

⁸ Figures 55 and 56, 2024 EU Justice Scoreboard.

Following a structured dialogue with the European Commission as facilitator, an agreement has been reached to renew the Council for the Judiciary and to initiate, immediately after the renewal, a process in view of adapting the appointment of its judges-members, taking into account European standards. The 2023 Rule of Law Report recommended to Spain to “proceed with the renewal of the Council for the Judiciary as a matter of priority and initiate, immediately after the renewal, a process in view of adapting the appointment of its judges-members, taking into account European standards”⁹. According to the relevant Organic Law, the Presidents of the Congress and of the Senate must take the necessary measures to ensure that the Council is renewed¹⁰. Due to the absence of renewal until July 2024, and despite procedures which called for a renewal in December 2018, the Council for the Judiciary had continued to exercise its functions *ad interim*, further increasing the concerns already raised in previous Rule of Law Reports¹¹. The Group of States against Corruption (GRECO) had considered the deadlock of the renewal to be a critical concern, also referring to the need to take into account European standards on judicial councils¹². In December 2023 the two main political parties engaged again in negotiations on the renewal of the Council for the Judiciary¹³ proposing that the European Commission facilitates the process. Against this background, the Commission confirmed its readiness to play its role and, in January 2024, set up a structured dialogue based on the recommendations regarding

⁹ 2022 and 2023 Rule of Law Reports, Country Chapter on the rule of law situation in Spain, p. 2 and p. 2 respectively. In the 2023 Rule of Law Report, the Commission concluded that no progress was made on the recommendation.

¹⁰ Organic Law 6/1985 of the Judicial Power, art. 568. The Presidents of the Congress and the Senate must take the necessary measures to ensure that the Council [for the Judiciary] is renewed in due time. In the wider context of the consequences of the prolonged non-renewal of the Council, the European Court of Human Rights, in its judgment of 22 June 2023 (*Lorenzo Bragado and Others v. Spain*, 53193/21 and 5 others), found that there had been a violation of Article 6 of the European Convention of Human Rights in the way the Constitutional Court rejected as “out of time” the amparo appeal lodged by the applicant judges complaining about Parliament’s failure to follow through with the process for renewing the composition of the Council.

¹¹ 2023, 2022, 2021 and 2020 Rule of Law Reports, Country Chapter on the rule of law situation in Spain, pp. 3-6, pp. 3-5, pp. 2-4, and pp. 2-3 respectively.

¹² GRECO, Fourth Evaluation Round – Addendum to the Second Compliance Report, December 2022, para. 16. GRECO refers to the standards of the Council of Europe regarding the election of the judicial shift in judicial councils: when there is a mixed composition of judicial councils, for the selection of judge members, judges should be elected by their peers (following methods guaranteeing the widest representation of the judiciary at all levels) and political authorities, such as Parliament or the executive, should not be involved at any stage of the selection process. See Opinion No. 10 (2007) of the Consultative Council of European Judges (CCJE) on Council for the Judiciary at the service of society, para. 27 and 31, as well as Opinion No. 24 (2021) of the Consultative Council of European Judges (CCJE) on Evolution of the Councils for the Judiciary and their role in independent and impartial judicial systems, p. 4.

¹³ According to Art. 122(3) of the Spanish Constitution, the Council for the Judiciary consists of the President of the Supreme Court (chairing) and of 20 individuals – 12 judges or magistrates, and eight lawyers or other jurists of recognised competence with more than 15 years of professional practice. The Parliament is responsible for the appointment of all its members which is subject to a qualified majority of three fifths. While the Constitution requires the eight lawyers and other jurists to be appointed by a three-fifths majority in each chamber of the Parliament (four by the Congress and four by the Senate), it does not specify how the members representing judges are to be appointed. On the other hand, as referred to in the 2023 Rule of Law Report, Country Chapter on the rule of law situation in Spain, p. 4, the Venice Commission has warned about the risk of stalemates and recommended to devise effective and solid anti-deadlock mechanisms. Venice Commission 2010, Report on the role of the opposition in a democratic Parliament, CDL-AD(2010)025 and Venice Commission 2019, Parameters on the relationship between the parliamentary majority and the opposition in a democracy: a checklist, CDL-AD(2019)015.

the Council for the Judiciary made in its 2022 and 2023 Rule of Law Reports¹⁴. Following four meetings¹⁵, the structured dialogue led on 25 June 2024 to an agreement on the renewal of the Council for the Judiciary and on the reform of the Organic Law on the Judiciary¹⁶. As recommended by the European Commission, the agreement concerns the immediate renewal of the 20 members of the Council for the Judiciary and the presentation of a draft organic law that will strengthen the independence of the judiciary. It is expected that Members of the Council will be appointed on 23 and 24 July 2024 and the proposed reform, which was registered on 26 June 2024, will be approved by Parliament by the end of July 2024¹⁷. The agreement provides that the Council for the Judiciary should, within six months and by a qualified majority of three fifths, adopt a proposal to reform the system of appointment of members from judges and magistrates and send it to the Government, the Congress and the Senate. On that basis, the holders of the legislative initiative draw up and submit to the consideration of the Cortes Generales a bill or draft law to reform the system for the election of judicial officers for debate and if appropriate processing and approval. This will involve the direct participation of judges, taking into account European standards and the monitoring of the Rule of Law Report. Some stakeholders¹⁸ had continuously asked for a change of the system of appointment of the members of the Council for the Judiciary, in accordance with European standards¹⁹. Before the agreement of 25 June 2024, a number of initiatives had been put forward to identify possible solutions, including a proposal tabled by a parliamentary group to reform the system of appointment of the Council for the Judiciary²⁰ and a proposal from the President of the Council for the Judiciary²¹ to withdraw the power to appoint court presidents from the Council for the Judiciary, as a possible way to facilitate its renewal. Since an agreement has been reached to renew the Council for the Judiciary and to initiate, immediately after the renewal, a process in view of adapting the system of appointment of its judges-members, taking into account European standards on Councils for the Judiciary, significant progress has been achieved on the recommendation made in the previous years.

¹⁴ Commission statement of 26 January 2024 ‘Commission proposes to hold a structured dialogue on the implementation by Spain of the recommendation of the rule of law report related to the Spanish National Council for the Judiciary’.

¹⁵ The statement by the ENCJ Executive Board and the European Association of Judges on the renewal of Spanish Council for the Judiciary (CGPJ) of 2 April 2024 encouraged all actors involved to work together towards resolving the current situation.

¹⁶ Statement by the European Commission of 25 June 2024 on the agreement reached on the renewal of the Spanish Council for the Judiciary and the reform of the Organic Law on the Judiciary.

¹⁷ The draft bill reforming the Organic Law on the Judiciary also introduces a regime of incompatibilities and specific conditions to be eligible for appointment as a member of the Council for the Judiciary as lawyer or jurist of recognised competence.

¹⁸ Contribution from the Civic Platform for the Judicial Independence for the 2024 Rule of Law Report, p. 16; Contribution from the Judges and Magistrates’ Association ‘Francisco de Vitoria’ for the 2024 Rule of Law Report, p. 12; Contribution from the Professional Association of the Magistracy for the 2024 Rule of Law Report, p. 11; Contribution from the Foundation “Hay Derecho” for the 2024 Rule of Law Report, p. 5.

¹⁹ Recommendation CM/Rec(2010)12 of the Committee of Ministers of the Council of Europe, para. 26 and 27.

²⁰ Proposal of an Organic Law to modify Organic Law 6/1985 tabled on 29 April 2024, proposing that all judges-members of the Council for the Judiciary would be elected by the Congress and also the possibility of lowering the necessary three-fifths majority to absolute majority to appoint them.

²¹ Article ‘Diluir la tensió’ of 2 December 2023 published in the newspaper El País. The proposal of the President of the Council for the Judiciary has been sent to the Congress and the Senate on 23 April 2024.

The lack of renewal of the Council for the Judiciary has had a negative impact on the work of the Supreme Court and on the justice system as a whole, and the agreement of 25 June 2024, if fully implemented, is expected to improve the situation. As outlined in previous Rule of Law Reports²², following the introduction in March 2021 of the *ad interim* regime for the Council for the Judiciary²³, an acting Council could no longer proceed with appointments for top judicial positions, including to the Supreme Court²⁴. Due to the lack of renewal until July 2024, there were at the time of adoption of the 2024 Rule of Law Report, 27 vacancies in the Supreme Court²⁵. Moreover, there were eight vacant posts of presidents of the High Courts of Justice, 30 vacant posts of presidents of Provincial Courts, two vacant posts of president of a Chamber of the National High Court and 26 vacant posts of presidents of Chambers of High Courts of Justice²⁶. Overall, there were 99 judicial posts pending appointment²⁷. The Supreme Court has stressed the negative consequences of this situation²⁸. In order to ensure continuity of its operations under these circumstances, the Supreme Court has requested a reinforcement of 23 lawyers for its Technical Cabinet, which has been approved by the Ministry of Justice until 30 June 2025 and has allowed issuing around 1 000 more decisions per year²⁹. Following the agreement on the renewal of the Council for the Judiciary of 25 June 2024, it will be able to proceed with pending appointments of top judicial positions.

There has been some progress on strengthening the statute of the Prosecutor General. The 2023 Rule of Law Report recommended to Spain to ‘strengthen the statute of the Prosecutor General, in particular regarding the separation of the terms of office of the Prosecutor General from that of the Government, taking into account European standards on independence and autonomy of the prosecution’³⁰. New rules of procedure for the prosecution service were approved in May 2022 and a law was adopted in September 2022 which provided that, six months after its entry into force, the Ministry of Justice would regulate the communications between the Prosecution Service and the Government³¹. However, no further steps have been taken and the requirement to act within six months has not been respected. Stakeholders continue raising concerns that no measures have been taken to address the separation of the term of office of the Prosecutor General from that of the

²² 2023, 2022 and 2021 Rule of Law Reports, Country Chapter on the rule of law situation in Spain, pp. 5-6, pp. 3-5 and pp. 2-4, respectively.

²³ Organic Law No. 4/2021, of 29 March. This reform has been declared to be in accordance with the Spanish Constitution by the Constitutional Court in its ruling 128/2023 of 2 October, ECLI:ES:TC:2023:128.

²⁴ The law prevents the acting Council to appoint the president of the Supreme Court, presidents of Provincial Courts and High Courts of Justice, the president of the National High Court, and presidents of Chambers and Supreme Court judges. A reform introduced by Organic Law No. 8/2022 of 27 July reinstated the Council’s power to appoint two members of the Constitutional Court.

²⁵ Written contribution from the Spanish Council for the Judiciary in the context of the country visit to Spain.

²⁶ Ibidem.

²⁷ Ibidem.

²⁸ Written contribution from the Technical Cabinet of the Supreme Court in the context of the country visit to Spain.

²⁹ Ibidem.

³⁰ 2023 and 2022 Rule of Law Report, Country Chapter on the rule of law situation in Spain, p. 2 and p. 2 respectively. In the 2023 Rule of Law Report, the Commission concluded that no further progress was made on the recommendation.

³¹ 2023 Rule of Law Report, Country Chapter on the rule of law situation in Spain, p. 6. Such a regulation could be a way of addressing concerns previously raised by the European Commission and by GRECO in the Fourth Evaluation Round (2014), Evaluation Report, recommendation ix.

Government³². The question as to whether the separation of these terms of office would require a reform of the Constitution³³ continues to remain under discussion³⁴. GRECO had underscored the need to increase the budgetary, normative, and training autonomy of the Prosecution Service in a report of December 2022³⁵. The agreement on the renewal of the Council for the Judiciary of 25 June 2024 foresees the reform of the Organic Statute of the Public Prosecutor's Office³⁶ to provide for a prohibition that citizens having been in political office in the last years, including ministers, vice-ministers, members of regional governments, mayors, and members of the Congress, the Senate, the European Parliament or regional parliaments can become Prosecutor General, and requests that the Prosecutor General cannot act in cases that affect her or him personally. As some measures have been taken to strengthen the statute of the Prosecutor General, there has been some progress on the implementation of the recommendation made in the previous years.

The Ethics Commission for prosecutors has become fully operational. As mentioned in the 2023 Rule of Law Report³⁷, on 26 September 2022, the Prosecution Service established an Ethics Commission for prosecutors. Its aim is to interpret the ethical code of the Prosecution Service by providing reports and opinions³⁸. The Ethics Commission does not address disciplinary or civil proceedings nor criminal responsibility of prosecutors. Since it was formally set up, it has met on a regular basis and has adopted three agreements on consultations related to the ethical conduct of prosecutors³⁹.

The Council for the Judiciary and other stakeholders continued voicing concern about public statements regarding the judiciary made by politicians. There have been public statements by politicians, including from the Government, criticising the judiciary. The Council for the Judiciary⁴⁰ and the four main associations of judges⁴¹ have repeatedly alerted about such statements, both when these were criticising individual judicial decisions or the judiciary as a whole. Stakeholders have voiced concern that such statements made by

³² Contribution from the Civic Platform for the Judicial Independence for the 2024 Rule of Law Report, p. 20; Contribution from the Foundation “Hay Derecho” for the 2024 Rule of Law Report, p. 1; Contribution from the Judges and Magistrates’ Association ‘Francisco de Vitoria’ for the 2024 Rule of Law Report, p. 17.

³³ Art. 124.4 of the Spanish Constitution provides that the Prosecutor General shall be appointed by the Government, but it does not establish the length of the mandate.

³⁴ Information received in the context of the country visit to Spain from the Technical Cabinet of the Prosecutor General's Office and the Progressive Union of Prosecutors.

³⁵ GRECO, Fourth Evaluation Round – Addendum to the Second Compliance Report, December 2022, para. 29-30.

³⁶ Law 50/1981, of 30 December, which regulates the Organic Statute of the Public Prosecutor's Office. That proposed legislative reform was registered in the Congress on 26 June 2024 and is expected to be approved by Parliament by the end of July 2024.

³⁷ 2023 Rule of Law Report, Country Chapter on the rule of law situation in Spain, p. 7.

³⁸ Input from Spain for the 2024 Rule of Law Report, p. 6.

³⁹ Ibidem.

⁴⁰ On 19 January 2024 and 10 June 2024, the Standing Committee of the Council for the Judiciary adopted institutional declarations condemning specific statements of this kind. On 5 February 2024, the Plenary of the Council for the Judiciary also adopted an institutional declaration condemning this kind of statements.

⁴¹ Information provided by the Professional Association of the Magistracy, Judges and Magistrates’ Association “Francisco de Vitoria”, Judges for Democracy and Independent Judicial Forum in the context of the country visit to Spain.

politicians increasingly undermine public trust in the judiciary⁴². Also, the importance of striking a proper balance between freedom of expression and the need to ensure the protection of judicial independence has been underlined by the Technical Cabinet of the Supreme Court⁴³. As reflected in the 2023 and 2022 Rule of Law Reports⁴⁴, according to European standards, while courts are not immune to criticism and scrutiny, public confidence in the judiciary is central to its effectiveness, in view of its special role in society⁴⁵. Damage to this confidence is particularly relevant in relation to statements by members of the legislative and the executive branches, as all powers of the State must foster and protect the trust of the general public in constitutional institutions including the judiciary⁴⁶.

New measures are envisaged as regards the incompatibilities regime for judges and prosecutors. The agreement of 25 June 2024 on the renewal of the Council for the Judiciary foresees the reform of the Organic Law on the Judiciary requesting that judges that have been in political office cannot perform judicial functions for two years after their re-entry into service. Moreover, and as mentioned above, the agreement on the renewal of the Council for the Judiciary also establishes the reform of the Organic Statute of the Public Prosecutor's Office⁴⁷ to exclude citizens having been in political office in recent years, including ministers, vice-ministers, members of regional governments, mayors, and members of the Congress, the Senate, the European Parliament or regional parliaments from the office of Prosecutor General. Before the Agreement, stakeholders had been voicing their criticism on the incompatibilities regime for judges and prosecutors in Spain⁴⁸. As noted in the 2023 Rule of Law Report⁴⁹, during the negotiations on the renewal of the Council for the Judiciary held in October 2022 between the two main political parties in Parliament, the need to regulate the incompatibilities regime for judges and prosecutors was considered, but no further steps had been taken after the breakdown of the negotiations⁵⁰.

The competence of the Supreme Court for criminal liability of high-level positions remains a cause of concern. As raised in previous Rule of Law Reports, and despite the commitment to address it, concerns persist⁵¹ relating to the so-called '*aforamientos*' (where

⁴² Contribution from the Foundation "Hay Derecho" for the 2024 Rule of Law Report, pp. 9-10; Written contribution from the Technical Cabinet of the Supreme Court in the context of the country visit to Spain; Written contribution from the Spanish Council for the Judiciary in the context of the country visit to Spain.

⁴³ Information provided by the Technical Cabinet of the Supreme Court in the context of the country visit to Spain.

⁴⁴ 2023 and 2022 Rule of Law Reports, Country Chapter on the rule of law situation in Spain, p. 8 and p. 6 respectively.

⁴⁵ Venice Commission (CDL-AD(2013)038), Opinion on the legislation on defamation of Italy, para. 21-22.

⁴⁶ See also CCJE, Opinion No. 18 (2015), 'The position of the judiciary and its relation with the other powers of state in a modern democracy', para. 54: 'Any analyses and criticisms by one power of state of the other powers should be undertaken in a climate of mutual respect'.

⁴⁷ Law 50/1981, of 30 December, which regulates the Organic Statute of the Public Prosecutor's Office.

⁴⁸ Contribution from the Foundation "Hay Derecho" for the 2024 Rule of Law Report, p. 22; Contribution from the Judges and Magistrates' Association 'Francisco de Vitoria' for the 2024 Rule of Law Report, p. 22. In particular, they underscored the lack of 'cooling-off periods' for judges or prosecutors having been members of the executive or legislative powers, and also the fact that judges continue to acquire seniority in service while they are in political office.

⁴⁹ 2023 Rule of Law Report, Country Chapter on the rule of law situation in Spain, p. 9.

⁵⁰ Contribution from the Foundation "Hay Derecho" for the 2024 Rule of Law Report, p. 20.

⁵¹ GRECO Fourth Evaluation Round – Evaluation Report, para. 65; GRECO Fifth Evaluation Round – Evaluation Report, para. 118-123. See also 2023 and 2021 Rule of Law Reports, Country Chapter on the rule of law situation in Spain, p. 9 and p. 4 respectively.

members of the executive, legislative and judicial branches are not tried before ordinary criminal courts, not only in the case of crimes committed in the course of their official duties but also as individuals⁵²). Criticism of these rules continues to be raised by stakeholders⁵³. Whereas these concerns are being addressed at regional level, with amendments to several statutes of autonomy laying down this type of rules⁵⁴, no steps have been taken at national level.

Quality

Further improvements on the legal aid framework were implemented. As stressed in the 2023 Rule of Law Report⁵⁵, Spain has an accessible justice system that protects people at risk of discrimination and victims of gender-based violence. Measures for child-friendly justice have been implemented. According to data in the 2024 EU Justice Scoreboard, Spain remains one of the countries with the widest coverage of legal aid in the EU⁵⁶. Further financial support has been given to the legal aid framework, specifically through direct subsidies granted to the General Council of Spanish Lawyers and to the General Council of “*Procuradores*”⁵⁷ for the provision of legal aid service during 2023⁵⁸.

New posts for judges have been established and measures are being taken to address challenges regarding the resources of the justice system. As referred to in the 2023 Rule of Law Report⁵⁹, the number of judges per inhabitant continues to be one of the lowest in the EU⁶⁰. On 27 December 2023, the Government approved the establishment of 70 new posts for judges⁶¹. Vacancies continue to be covered by substitute-judges⁶² and stakeholders have

⁵² According to Art. 57 of the Organic Law No. 6/1985, of 1 July, the Supreme Court is responsible for the examination and trying of proceedings brought against the members of Government, the Presidents of the Congress of Deputies and the Senate, deputies and senators, members of the Council for the Judiciary, the President of the Supreme Court and the Council for the Judiciary, President of the Constitutional Court, magistrates of the Constitutional Court and the Supreme Court, the President of the National High Court and of any of its Chambers and the Presidents of the High Courts of Justice, magistrates of the National High Court or of a High Court of Justice, the State Prosecutor General, state prosecutors attached to the Chambers of the Supreme Court, the European Public Prosecutor, the President and Counsellors of the Court of Auditors, the President and Counsellors of the Council of State and the Ombudsperson.

⁵³ Contribution from the Civic Platform for the Judicial Independence for the 2024 Rule of Law Report, p. 16; Contribution from the Judges and Magistrates’ Association ‘Francisco de Vitoria’ for the 2024 Rule of Law Report, p. 14; Contribution from the Foundation “Hay Derecho” for the 2024 Rule of Law Report, pp. 23-25.

⁵⁴ Statutes of Canary Islands, Autonomy of Murcia, Cantabria, Baleares, Aragón. Organic Law 1/2018, of 5 November, amending the Statute of Autonomy of Canary Islands; Organic Law 1/2021, of 15 February, of the Statute of Autonomy of Murcia; Organic Law 2/2021, of 23 March, of the Statute of Autonomy of Cantabria; Organic Law 1/2022, of 8 February, of the Statute of Autonomy of Baleares; Organic Law 15/2022, of 20 April, of the Statute of Autonomy of Aragón.

⁵⁵ 2023 Rule of Law Report, Country Chapter on the rule of law situation in Spain, p. 9.

⁵⁶ Figure 24, 2024 EU Justice Scoreboard. The figure refers to a specific scenario related to a consumer case.

⁵⁷ Spanish “*procuradores*” are legal representatives of parties before the courts.

⁵⁸ Input from Spain for the 2024 Rule of Law Report, p. 9.

⁵⁹ 2023 Rule of Law Report, Country Chapter on the rule of law situation in Spain, p. 10.

⁶⁰ Figure 37, 2024 EU Justice Scoreboard. This category consists of judges working full-time, in accordance with the CEPEJ methodology. It does not include the court clerks (*Rechtspfleger/letrados*) that exist in some Member States such as Spain. The Spanish authorities note that Spain counts with 4470 Letrados de la Administración de Justicia (*Rechtspfleger*) that perform lots of almost-judicial tasks, and that there are also 45 332 civil servants supporting judges.

⁶¹ Input from Spain for the 2024 Rule of Law Report, pp. 10-11.

again highlighted that in the coming years a significant number of judges is expected to retire⁶³. Selection procedures have been launched in October 2023 to recruit 120 and 80 new judges and prosecutors respectively⁶⁴. Within this context, low remuneration has been raised by associations of judges as a disincentive for promoting the judicial career⁶⁵. On 1 June 2023, the Council for the Judiciary presented a Strategic Plan on human resources for the judiciary for the period 2023-2032. According to the Plan, around 315 new posts per year would be needed over the next ten years to ensure the proper functioning of the justice system. Associations of judges⁶⁶ continue flagging that while women represent the majority of the judiciary⁶⁷, they are underrepresented in the top judicial positions⁶⁸.

Work on the improvement of the digitalisation of justice, including e-litigation, has continued. As stressed in the 2023 Rule of Law Report⁶⁹, the digitalisation of justice in Spain is at an advanced stage, and the use of ICT tools in the justice system is well-established⁷⁰. In September 2023, the Prosecution Service launched its new electronic website to facilitate the handling of procedures, leading to a significant increase of citizens' requests of certificates through it. Further initiatives to improve the digitalisation of proceedings are being implemented⁷¹. The interoperability between different procedural management systems used by Autonomous Communities has also advanced in 2023⁷². Furthermore, Royal Decree-law 6/2023⁷³ sets a legal framework for the digitalisation of justice, including an interoperable catalogue of digital services to be provided to citizens and legal professionals⁷⁴. In particular,

⁶² Contribution from the Judges and Magistrates' Association 'Francisco de Vitoria' for the 2024 Rule of Law Report, p. 19.

⁶³ Information provided by the Professional Association of the Magistracy and the Association of Women Judges of Spain in the context of the country visit to Spain; Contribution from the Judges and Magistrates' Association 'Francisco de Vitoria' for the 2024 Rule of Law Report, p. 19.

⁶⁴ Input from Spain for the 2024 Rule of Law Report, p. 10.

⁶⁵ Information provided by the Association of Women Judges of Spain, the Professional Association of the Magistracy and Judges and Magistrates' Association "Francisco de Vitoria" in the context of the country visit to Spain. However, as noted by Spanish authorities, there has been an increase in the remunerations of judges, prosecutors and *Letrados de la Administración de Justicia* agreed in 2023 (Input from Spain for the 2024 Rule of Law Report, p 6).

⁶⁶ Contribution from the Judges and Magistrates' Association 'Francisco de Vitoria' for the 2024 Rule of Law Report, p. 13; Information provided by the Association of Women Judges of Spain in the context of the country visit to Spain.

⁶⁷ 52% of the total number of judges are women. Information from the website of the Association of Women Judges of Spain.

⁶⁸ Figure 38, 2024 EU Justice Scoreboard. The proportion of female professional Supreme Court judges is 19%. On 23 May 2023, the Government tabled a draft law providing that constitutional bodies such as the Council for the Judiciary and the Constitutional Court should have at least 40% of women among their members, but no further progress has been made so far.

⁶⁹ 2023 Rule of Law Report, Country Chapter on the rule of law situation in Spain, p. 10.

⁷⁰ Figures 42-50, 2024 EU Justice Scoreboard. See also Contribution from OECD for the 2024 Rule of Law Report, p. 7.

⁷¹ Input from Spain for the 2024 Rule of Law Report, pp. 12-14.

⁷² Input from Spain for the 2024 Rule of Law Report, pp. 15-16.

⁷³ Royal Decree-law 6/2023, of 19 December, approving urgent measures for the implementation of the recovery and resilience plan in the area of justice, civil service, local government and sponsorship; validated on 10 January 2024 and now being dealt with as a draft law via urgency procedure.

⁷⁴ Input from Spain for the 2024 Rule of Law Report, pp. 15-16.

it fosters the use of electronic case records, electronic processing of legal procedures and the use of digital solutions to conduct and follow court proceedings⁷⁵.

A new law on the right of defence is under preparation. With the new legislature, the parliamentary work on the draft law on the right of defence has resumed⁷⁶. The new law, which was approved by the Plenary of the Congress on 11 July 2024 to continue the legislative process in the Senate, is expected to compile in one legal act the different aspects of the right of defence, which are currently spread over a number of pieces of specialised legislation. It will focus, among others, on the use of IT tools, the possibility of resorting to alternative dispute resolution mechanisms and the need to protect vulnerable individuals⁷⁷.

Efficiency

The positive trend of the indicators of efficiency of justice slightly declined and the length of proceedings in the Supreme Court remains a challenge. The disposition time in civil, commercial, and administrative cases in first instance has slightly increased from 265 days in 2021 to 282 in 2022⁷⁸. The clearance rate for litigious civil and commercial cases⁷⁹ decreased and was slightly below 100%, meaning that less cases are resolved than come in. The disposition time for civil and commercial cases in the Supreme Court has improved (from 826 days in 2021 to 691 days in 2022)⁸⁰ but remains very high and has been raised as a concern by stakeholders⁸¹.

New measures aimed at enhancing the efficiency of the justice system have been adopted. Royal Decree-law 6/2023 introduces measures aimed to improve procedural efficiency in all four jurisdictions while preserving procedural guarantees for citizens, including new adjustments for older persons as well as for persons with disabilities⁸². The purpose of the new legal framework is also to shorten the length of proceedings through various means, including groupings of actions and the increase of the use of digital tools⁸³. The entry into force of this royal decree-law improving the efficiency of judicial procedures is part of a specific milestone contained in the Recovery and Resilience Plan. Royal Decree-Law 5/2023⁸⁴ also introduces amendments to increase the speed of judicial procedures in the administrative jurisdiction and amends the appeal processes in all four jurisdictions to avoid undue delays. Further measures to improve the organisational and procedural efficiency of

⁷⁵ Ibidem.

⁷⁶ Information provided by the Spanish authorities in the context of the country visit to Spain. A proposal on an organic law on the right of defence was tabled in the Parliament on 25 January 2024.

⁷⁷ Ibidem. The entry into force of the law on the right of defence, as well as Royal-Decree law 6/2023, are milestones covered within the Spanish Recovery and Resilience Plan (milestones 435 and 152, respectively). Revised Annex to the Council Implementing Decision amending Implementing Decision (EU) (ST 10150 2021; ST 10150 2021 ADD 1 REV 1) of 13 July 2021 on the approval of the assessment of the recovery and resilience plan for Spain (22.4.2024), Component 11, pp. 114-141.

⁷⁸ Figure 5, 2024 EU Justice Scoreboard.

⁷⁹ Figure 11, 2024 EU Justice Scoreboard.

⁸⁰ Figure 7, 2024 EU Justice Scoreboard.

⁸¹ Information provided by the Technical Cabinet of the Supreme Court in the context of the country visit to Spain; Contribution from the Judges and Magistrates' Association 'Francisco de Vitoria' for the 2024 Rule of Law Report, p. 20; Contribution from the Professional Association of the Magistracy for the 2024 Rule of Law Report, p. 11.

⁸² Input from Spain for the 2024 Rule of Law Report, pp. 18-19.

⁸³ Ibidem.

⁸⁴ Royal Decree-Law 5/2023, of 28 June.

the justice system, namely a draft law on efficiency of the justice service currently under preparation, are expected to be adopted under another specific milestone⁸⁵. This draft law was tabled in Parliament on 14 March 2024, and it is expected to amend the judicial map, establish alternative means of dispute resolution and further increase the speed of judicial procedures in the criminal, civil and administrative jurisdictions.

II. ANTI-CORRUPTION FRAMEWORK

In Spain, the Magistrates and Courts, the Prosecutor's Office, and in particular the Anti-Corruption Prosecutor's Office⁸⁶ is responsible for the investigation, detection and prosecution of corruption with the assistance of law enforcement agencies. Attached Units – from the National Police⁸⁷ and the Civil Guard⁸⁸ – and Support Units of the State Tax Administration Agency and the General Intervention Board of the State Administration, all of whom contribute with analytical work⁸⁹. Additionally, the State Security Forces and Corps – FCSE (National Police and Civil Guard) have Judicial Police Units, both at central and territorial level, highly specialised in economic crime and corruption. The National Anti-Fraud Coordination Service⁹⁰ oversees anti-fraud measures and conducts investigations at national level while several Autonomous Regions have their own offices to fight fraud in their territories⁹¹. The Office of Conflicts of Interest oversees asset declarations for Government officials and political appointees⁹², and a variety of functions related to integrity⁹³. A dedicated Office for Conflicts of Interest of the Spanish Parliament is in place⁹⁴.

⁸⁵ Revised Annex to the Council Implementing Decision amending Implementing Decision (EU) (ST 10150 2021; ST 10150 2021 ADD 1 REV 1) of 13 July 2021 on the approval of the assessment of the recovery and resilience plan for Spain (22.4.2024), Component 11, pp. 114-141.

⁸⁶ Law 10/1995, of 24 April, amending Law 50/1981, of 30 December, which regulates the Organic Statute of the Public Prosecutor's Office and creates the Special Prosecutor's Office for the Repression of Economic Crimes Related to Corruption. Official State Bulletin, 25 April 1995, n. 98, pp. 2102-2103.

⁸⁷ Royal Decree 769/1987, of June 19, on regulation of the Judicial Police.

⁸⁸ Royal Decree 769/1987, of June 19, on regulation of the Judicial Police.

⁸⁹ Anti-Corruption Prosecutor's Office (2020), Annual Report 2019, p. 698 and Input from Spain for the 2023 Rule of Law Report pp. 18-19. A new legal instrument aimed at formalizing the relation between IGAE and the Dirección General de Policía is ready to be adopted. The agreement – which is expected to be finalised in the upcoming months – is similar to the existing agreement signed with the Guardia Civil in 2020 to reinforce the exchange of information, enhance cooperation and collaboration in organising trainings.

⁹⁰ Governed by the Additional Provision 25 of General Subsidies Law 38/2003, of 17 November.

⁹¹ Catalonia Anti-Fraud Office, which is regulated by Law 14/2008, of 5 November 2015 of the Autonomous Region of Catalonia; Valencia Agency for the Prevention and Fight against Fraud and Corruption, which is regulated by Law 11/2016 of 28 November 2015 of the Autonomous Region of Valencia; Municipal Anti-Fraud and Corruption Office of the Madrid City Council, which is governed by its Organic Regulation approved by agreement of the Madrid City Council of 23 December 2016; Office for Transparency and Good Practice of the City of Barcelona (Directorate of the Analysis Service), and the Office of Good Practices and Anti-Corruption of the Autonomous Community of Navarre, established by Regional Law 7/2018, of 17 May, on the creation of the Office of Good Practices and Anti-Corruption Office of the Autonomous Community of Navarre (the office is operational since 2022). The Office for Prevention and Fight against Corruption of the Balearic Islands, regulated by Law 16/2016 of 9 December 2016 on the Balearic Islands, was eliminated by the Balearic Islands' Parliament by Law 2/2024 of 11 April of the Balearic Islands.

⁹² These are political appointments made by Government decree and include Secretaries of State, senior officials in ministries, ambassadors and chief executives of public companies, among others.

⁹³ The OCI oversees conflict of interest rules, monitors the declarations of activities and incompatibilities, the abstention regime, training and awareness-raising activities.

⁹⁴ See below, the Office for Conflicts of Interest of the Spanish Parliament is a separate body which is tasked with solving doubts of interpretation regarding the Code of Conduct.

Rules on transparency, access to public information and good governance are monitored by the Council of Transparency and Good Governance whereas a number of Autonomous Regions and some municipalities have their own Council to perform a similar role⁹⁵. The Court of Auditors is in charge of the audit of the financial-economic activity and regular accounting of political parties, as well as of the contributions received by foundations and associations linked to the political parties represented in the Spanish Parliament⁹⁶.

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, Spain scores 60/100 and ranks 14th in the European Union and 36th globally⁹⁷. This perception has been relatively stable over the past five years⁹⁸. The 2024 Special Eurobarometer on Corruption shows that 90% of respondents consider corruption widespread in their country (EU average 68%) and 45% of respondents feel personally affected by corruption in their daily lives (EU average 27%)⁹⁹. As regards businesses, 91% of companies consider that corruption is widespread (EU average 65%) and 51% consider that that corruption is a problem when doing business (EU average 36%)¹⁰⁰. Furthermore, 27% of respondents find that there are enough successful prosecutions to deter people from corrupt practices (EU average 32%)¹⁰¹, while 15% of companies believe that people and businesses caught for bribing a senior official are appropriately punished (EU average 31%)¹⁰².

The Government is mandated by law to adopt a comprehensive strategy to prevent and fight corruption, however work has not yet been initiated on it. Spain does not have a dedicated anticorruption strategy in place, as noted by GRECO¹⁰³ and in previous Rule of Law Reports¹⁰⁴, nor a specialised anticorruption agency¹⁰⁵. In 2023, the Government was

⁹⁵ Transparency Agency of the Barcelona Metropolitan Area's government, created on 14 December 2015, Anti-Fraud and Anti-Corruption Office of Andalucía, created by Law 2/2021, of 18 June.

⁹⁶ Law 2/1982, of 2 May 1982. To be noted that while the Court of Auditors is not an anti-corruption body per se, its work is still relevant in the topics covered under the Anti-Corruption Framework section of the report.

⁹⁷ Transparency International, Corruption Perceptions Index 2023 (2024), 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).

⁹⁸ In 2019 the score was 62, while in 2023, the score is 60. The score significantly increased/decreased when it changes more than five points; improved/deteriorated (changes between 4-5 points); has been relatively stable (changes from 1-3 points) in the last five years.

⁹⁹ 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).

¹⁰⁰ Flash Eurobarometer 543 on Businesses' attitudes towards corruption in the EU (2024). The Eurobarometer data on business attitudes towards corruption as is updated every year. The previous data set is the Flash Eurobarometer 524 (2023).

¹⁰¹ Special Eurobarometer 548 on Citizens' attitudes towards corruption in the EU (2024).

¹⁰² Flash Eurobarometer 543 on Businesses' attitudes towards corruption in the EU (2024).

¹⁰³ GRECO Fifth Evaluation Round - Compliance Report, para. 20. GRECO welcomed the intention of the authorities to develop a coordinated anti-corruption plan, which should constitute a priority action.

¹⁰⁴ 2023 Rule of Law Report, Country Chapter on the rule of law situation in Spain, p. 14; 2022 Rule of Law Report, Country Chapter on the rule of law situation in Spain, pp. 10-11.

¹⁰⁵ 2023 Rule of Law Report, Country Chapter on the rule of law situation in Spain, p. 14. 2022 Rule of Law Report, Country Chapter on the rule of law situation in Spain, p. 11. 2021 Rule of Law Report, Country Chapter on the rule of law situation in Spain, p. 9. 2020 Rule of Law Report, Country Chapter on the rule of law situation in Spain, p. 7. As reported last year (2023 Rule of Law Report, Country Chapter on the rule of law situation in Spain, p. 14), anti-corruption priorities are spread in multiple plans and strategies, such as

mandated by law to adopt an anti-corruption strategy by September 2024. However, despite having stated its intention to adopt a dedicated strategy, the Government did not yet initiate any work on it¹⁰⁶. Civil society organisations confirmed that no consultation has taken place to date¹⁰⁷. The National Anti-Fraud Coordination Service has been working on a draft proposal of a National Antifraud Strategy since 2022¹⁰⁸, which will include a 2024-2026 Action Plan. One objective under the Plan would be dedicated to implementing public integrity and anti-corruption policies¹⁰⁹. The Strategy is currently in its final drafting stage, however there is no timeline for its finalisation¹¹⁰.

New rules regarding corruption offences are being enforced. As previously reported, Organic Law 14/2022 of 22 December 2022 reformed the regulation of the offence of misappropriation and introduced the crime of illicit enrichment¹¹¹. This reform continues to meet criticism from stakeholders, who are particularly concerned about the reduction of associated penalties and the overall catalogue of offences deemed relevant in the context of

the National Security Strategy 2021, which identifies corruption as a tangible threat to national security, and the Strategy against Organised Crime 2019-2023, which expressly includes corruption-related crimes.

¹⁰⁶ Information received from the Ministries in the context of the country visit to Spain. See also 2023 Rule of Law Report, Country Chapter on the rule of law situation in Spain, p. 1; Contribution from the Foundation ‘Hay Derecho’ for the 2024 Rule of Law Report, p. 25. Law 2/2023 establishes that the Government “within a maximum period of 18 months from the entry into force of this law shall approve a strategy against corruption that shall at least include an assessment of the fulfilment of the objectives established in this law as well as the measures deemed necessary to alleviate the deficiencies that have been found in that period of time”. The Strategy, which must be approved by 13 September 2024, would have a wider scope, not limited only to whistleblowers protection. Written contribution from the Government following the country visit to Spain in 2024.

¹⁰⁷ Contribution from the Foundation ‘Hay Derecho’ for the 2024 Rule of Law Report, p. 25. Information received from Transparency International in the context of the country visit to Spain.

¹⁰⁸ 2023 Rule of Law Report, Country Chapter on the rule of law situation in Spain, p. 14; 2022 Rule of Law Report, Country Chapter on the rule of law situation in Spain, p. 11. Both the National Police and Civil Guard are contributing. The Advisory Council for Prevention and Combating Fraud to the EU’s financial interests set up a committee, involving professionals representing bodies with competence in the fight against fraud, and covering the four phases of the so-called anti-fraud cycle: fraud prevention, detection, investigation, and recovery/sanctioning. The initiative is carried out under the guidance of the OECD. Input from Spain for the 2024 Rule of Law Report, p. 22.

¹⁰⁹ Input from Spain for the 2024 Rule of Law Report, p. 22. The actions would aim to target public sector employees, by establishing institutional integrity systems and raising awareness among staff; analysing and clarifying existing anti-corruption guidelines and procedures; improving mechanisms for preventing and detecting fraud, corruption and any administrative or criminal offences; enhancing systems to prevent and respond to conflicts of interest; promoting an ethic culture for society and involving it in the integrity system; and providing tailored trainings for each unit or entity.

¹¹⁰ Information received from the Ministries in the context of the country visit to Spain. Written contribution from the Ministries in the context of the country visit to Spain. Input from Spain for the 2024 Rule of Law Report, p. 22. The Strategy aims to establish a National Anti-Fraud System by proposing legislative and administrative reforms, clarifying roles and responsibilities of actors, and improving coordination and transparency both at national and regional level. As indicated by the Ministries, the Strategy will cover a period of three years.

¹¹¹ 2023 Rule of Law Report, Country Chapter on the rule of law situation in Spain, p. 13.

corruption crimes¹¹². A report on the implementation of the OECD recommendations as regards the enforcement of foreign bribery legislation is under preparation¹¹³.

There has been some progress to address the length of investigations and prosecution of high-level corruption, while the reform of the Criminal Procedure Code is still pending.

The 2023 Rule of Law Report recommended to Spain to “step up efforts to address the challenges related to the length of investigations and prosecutions to increase the efficiency in handling high-level corruption cases, including by finalising the reform of the Code of Criminal Procedure”¹¹⁴. The number of procedures opened on corruption charges amounted to 32 in 2023 (38 in 2022). Of all adjudicated cases of corruption crimes in the course of 2023, a total of 38 cases were convictions or partial convictions, while 18 were acquittals (in 2022, 45 cases were convictions or partial convictions, 15 acquittals)¹¹⁵. The Government acknowledges that corruption cases take more time due to their highly complex nature, while working on strengthening human resources in the judicial system¹¹⁶. However, the current low number of judges and prosecutors, as well as an overall absence of specialised judges and tribunals working on anticorruption matters, hampers the investigation and prosecution of corruption cases¹¹⁷. Prosecutors’ associations stress the need to further increase staff dedicated to handle and prosecute increasingly complex corruption cases¹¹⁸. Civil society organisations noted that the reform of the Code of Criminal Procedure could help to improve the situation, although it would need to be balanced with ensuring adequate statute of limitations to investigate complex cases¹¹⁹. Without the compulsory opinion from the Council

¹¹² Contribution from the Foundation ‘Hay Derecho’ for the 2024 Rule of Law Report, p. 22; Contribution from Asociación Impulso Ciudadano for the 2024 Rule of Law Report, p. 16. Contribution from Asociación de Fiscales for the 2024 Rule of Law Report, p. 19. See also, Foundation ‘Hay Derecho’ (2023), The reform of the crime of embezzlement of public funds and the new crime of illicit enrichment.

¹¹³ The report is expected for March 2025. The 2022 OECD Report welcomed the increase in the number of foreign bribery investigations, the consolidation of the foreign bribery offence and clarification of corporate criminal liability. The OECD Report noted a lack of clarity as regards adequate funding of enforcement bodies, recommending taking necessary steps to more proactively detect and enforce anti-bribery legislation. See also 2023 Rule of Law Report, Country Chapter on the rule of law situation in Spain, p. 14.

¹¹⁴ 2023 Rule of Law Report, Country Chapter on the rule of law situation in Spain, p. 2. In the 2023 Rule of Law Report, the Commission concluded that no progress was made on the recommendation.

¹¹⁵ Information obtained from the database of the Council for the Judiciary. See also 2023 Rule of Law Report, Country Chapter on the rule of law situation in Spain, p. 15.

¹¹⁶ Input from Spain for the 2024 Rule of Law Report, p. 20. See also 2023, 2022 and 2021 Rule of Law Reports, Country Chapter on the rule of law situation in Spain, p. 15, p. 12 and p. 10 respectively. Since 2020, 393 posts were made available for prosecutor lawyers, with 348 new positions into the tax career. In addition, 219 third category posts of prosecutor lawyers were converted into second category prosecutors’ posts in the public prosecutor’s office. In 2023, the Ministry of the Presidency, Justice and Relations made available 793 scholarships (for an annual amount of 6 600 euro, compared to a total of 245 in 2022).

¹¹⁷ Information received from the Prosecutors Council in the context of the country visit to Spain. Contribution from the Foundation ‘Hay Derecho’ for the 2024 Rule of Law Report, p. 30. Contribution from Association of Judges and Magistrates Francisco de Victoria for the 2024 Rule of Law Report, p. 24.

¹¹⁸ Information received from the Prosecutors Associations in the context of the country visit to Spain. As noted last year, staff of the Special Prosecutor’s Office against Corruption and Organised Crime is composed of 29 prosecutors (including one Chief Prosecutor); it also has 22 associated prosecutors. Written contribution from the Technical Cabinet of the Prosecutor General’s Office in the context of the country visit to Spain. 2023 Rule of Law Report, Country Chapter on the rule of law situation in Spain, p. 15.

¹¹⁹ Information received from the Foundation ‘Hay Derecho’ and Transparency International in the context of the country visit to Spain. Civil society express concern that the current proposal for a reform would risk provoking a level of impunity in highly complex cases, as requiring more time for investigations. See also press release of the Asociación de Fiscales (February 2024), stating that “any regulation that implies a greater limitation of such periods [for investigations] will only lead to greater spaces of impunity in the fight

for the Judiciary, which is still pending since 2021, the reform cannot be adopted¹²⁰. Currently, there is no concrete timeline, though the Government considers the finalisation of the reform a legislative priority¹²¹. Overall, some progress has been made on the recommendation made in the 2023 Rule of Law Report.

A parliamentary investigative committee on alleged corruption cases related to COVID-19 medical supplies was set up. According to the prosecution, a series of instances related to procuring medical supplies during the COVID-19 pandemic were brought to its attention¹²². Since February 2024, media reported on an alleged corruption case involving the purchase of masks during the COVID-19 pandemic¹²³. Following the investigation ongoing in Court¹²⁴, on 12 March 2024, the Senate approved the establishment of an inquiry commission to investigate potential irregularities in the purchase of medical and health equipment by public administrations across the country during the pandemic¹²⁵. Additionally, on 2 April 2024, the Congress established a commission to investigate facts, responsibilities and lessons of the process to procure sanitary material by public administrations during the COVID-19 pandemic.

Cooperation among authorities to prevent and combat corruption is being strengthened. On 19 July 2023, the Prosecutor General's Office and the directors of the anti-fraud agencies and offices of some Autonomous Communities signed a collaboration agreement to strengthen the fight against corruption¹²⁶. Cooperation between the European Public Prosecutor's Office (EPPO), National Police and Civil Guard continues to be good¹²⁷. In May 2023, the IGAE (the internal monitoring body of the public sector) set up a support unit to the EPPO. The unit reports directly to the EPPO and is composed of public officials

against serious and complex crimes, such as those of an economic nature committed through organisations of all kinds, against public health, corruption or terrorism, among many others”.

¹²⁰ 2023, 2022, 2021 and 2020 Rule of Law Reports, Country Chapter on the rule of law situation in Spain, pp. 15-16, p. 7, p. 6 and p. 4 respectively. The Studies and Reports Service of the Technical Office of the General Council for the Judiciary drafted a technical report on the preliminary draft law. In May 2023, the report was sent to the presidency of the Council. Written contribution from the General Council for the Judiciary in the context of the country visit to Spain.

¹²¹ Information received from the Ministries of Justice and Home Affairs in the context of the country visit to Spain. Written contribution from Ministries of Justice and Home Affairs in the context of the country visit to Spain.

¹²² Information received from the Prosecutors Council in the context of the country visit to Spain.

¹²³ Euractiv (29 February 2024), Brussels looks into potential misuse of EU funds in Spanish Koldo corruption case. El País (4 March 2024), La Fiscalía Europea investigará los contratos del ‘caso Koldo’ en Canarias y Baleares.

¹²⁴ EPPO (2024), Spain: EPPO opens investigation into supply of face masks in Canary and Balearic Islands.

¹²⁵ Spanish Senate (2024), The plenary approves the creation of a Commission of Inquiry into public contracts carried out during the pandemic.

¹²⁶ The agreement involves the office of Andalusia, Catalonia, Valencian Community and Balearic Islands. Written contribution from the Technical Cabinet of the Prosecutor General's Office in the context of the country visit to Spain.

¹²⁷ Information received from the National Police and Civil Guard in the context of the country visit to Spain. Both the National Police and the Civil Guard can count on a senior national expert seconded to the EPPO. According to the EPPO's 2023 Annual Report (2024), three EPPO cases concerned corruption, which accounts for 3% of the total number of EPPO cases in Spain.

and experts¹²⁸. Cooperation is smooth between the Court of Auditors and other bodies involved in the prevention of and fight against corruption¹²⁹.

A new document management system has improved the overall efficiency of the Council of Transparency and Good Governance, though the complexity of cases is increasing. Although the new management system has overall improved the handling of cases, the Council would require additional resources to address the increased level of complexity of cases¹³⁰. The Council has the power to issue binding resolutions, but it does not have the competence nor specific tools to ensure their implementation¹³¹. Currently there are no plans to consider any sanctioning powers, though the Council considers this a necessary step to effectively perform its tasks. The Council is implementing its 2022-2025 Strategic Plan, which includes a 2024 Action Plan focused on reinforcing its institutional framework, approving its new Statute, and modernising its procedures, including on digitalisation¹³². In fact, the new Statute was approved by agreement of the Council of Ministers on 2 July 2024, and it aims to better reflect its developed tasks, as well as its renovated structure¹³³.

The implementation of the Fourth Open Government Plan is advancing, although no further steps have been taken to improve rules on conflicts of interest for public employees within all different administrations despite ongoing work since 2021. The Fourth Open Government Plan included a dedicated action to the modification of the Law on Incompatibilities of Personnel in the Service of Public Administrations, foreseen for adoption in the first semester of 2022¹³⁴. The draft law aimed to extend the regime of incompatibilities and prevention of conflicts of interest to advisers, and define the system for the prevention of conflicts of interest and incompatibilities of public employees within all different administrations¹³⁵. According to the Government, these matters are now expected to be addressed with a law on Open Administration, which is included under the 2024 Annual

¹²⁸ Input from Spain for the 2024 Rule of Law Report, p. 22.

¹²⁹ Information received from the Court of Auditors in the context of the country visit to Spain.

¹³⁰ Information received from the Transparency Council in the context of the country visit to Spain. The new document management system improves transparency and access to information and reduces formalities. However, the Council has detected an increasing level of complexity of the requests, being submitted not only by the public, but also by lawyers, journalists, and academics, which require a higher level of professionalism and specialisation in studying the cases. The Council can currently count on 30 employees. 2023 Rule of Law Reports, Country Chapter on the rule of law situation in Spain, pp. 16-17. 2022 Rule of Law Report, Country Chapter on the rule of law situation in Spain, p. 12.

¹³¹ 2023 Rule of Law Reports, Country Chapter on the rule of law situation in Spain, pp. 16-17. See also GRECO Fifth Evaluation Round - Compliance Report: GRECO recommended to ensure “proper independence, authority and resources” to effectively perform the monitoring functions of the Council (recommendation v, p. 8).

¹³² Information received from the Transparency Council in the context of the country visit to Spain. The Council expects to start drafting the new Strategic Plan in 2025, to start implementing it as of January 2026.

¹³³ Information received from the Transparency Council in the context of the country visit to Spain.

¹³⁴ The Fourth Open Government Plan 2020-2024 was approved on 29 October 2020, and it includes ten commitments to strengthen transparency and accountability, improve participation, establish public integrity systems, and train and raise awareness among citizens and public employees in the field of Open Government, with the aim of contributing to a fairer, more peaceful, and inclusive society. Under the Plan, the Directorate-General for Public Governance carried out a diagnosis of the existing public integrity systems within the General State Administration.

¹³⁵ The draft Law intended to amend Law 53/1984, of 26 December 1984. High-level officials and members of Government are covered under Law 3/2015 of 30 March 2015. See also 2023 Rule of Law Reports, Country Chapter on the rule of law situation in Spain, p. 17.

Regulatory Plan¹³⁶. As of March 2024, the Fourth Open Government Plan covers 111 initiatives, of which 60 are finalised, 49 partially implemented, and two not started¹³⁷. The implementation of the Fourth Plan will be concluded by October 2024¹³⁸. The Government is now working on the Fifth Open Government Plan – which underwent citizens' consultation in March 2024¹³⁹. The expectation is that the Fifth Plan will focus on strengthening integrity mechanisms of public institutions, including by developing an anti-corruption strategy or roadmap for the public sector¹⁴⁰.

The Integrity System of the General Administration is fully operational, while specific measures to address incompatibilities in the National Police and Civil Guard are still to be finalised. The Integrity System of the General Administration contains two chapters dedicated to codes of conduct: the Code on Good Administration for civil servants and the Code on Good Government for senior officials¹⁴¹. In January 2023, the specialised Conflict of Interest Advice Unit (UACI) was set up to contribute to detect potential conflict of interests in the procedures implementing the Recovery and Resilience Plan (RRP)¹⁴². The Civil Guard can count on a new Code of Conduct for Civil Guard Staff¹⁴³. Additionally, it plans to develop an Action Plan on Professional Ethics that would contain a Protocol of Good Practice to improve internal monitoring against corruption. As reported last year, the draft Royal Decree updating the system of incompatibilities in the National Police is still

¹³⁶ See 5.3, under section V of the Fourth Open Government Plan. The action has not progressed further the "Prior consultation phase and drafting of the draft law and impact analysis report" since 30 March 2021. An open public consultation process was carried out between April 28 and May 28, 2021, and a draft of the "Draft Law on the Prevention of Conflicts of Interest of Personnel at the Service of the Public Sector" was prepared. See also 2023 Rule of Law Reports, Country Chapter on the rule of law situation in Spain, p. 17; 2022 Rule of Law Reports, Country Chapter on the rule of law situation in Spain, p. 13; 2023 Rule of Law Reports, Country Chapter on the rule of law situation in Spain, p. 17; 2021 Rule of Law Reports, Country Chapter on the rule of law situation in Spain, p. 11.

¹³⁷ Transparency Portal, Follow-up to the IV Open Government Plan. More in details: among the 537 activities, 345 are finalised, 132 partially implemented, 44 not started, and 16 have been cancelled. It must be noted that the political situation (regional and local elections in May 2023, and national elections in September 2023) have led to delays and difficulties in implementing initiatives, notably the Transparency Law.

¹³⁸ Spanish Government (2024), Transparency Portal, Prior Citizen Consultation for the preparation of the V Open Government Plan 2025-2029.

¹³⁹ The citizens' consultation was open for inputs from 1 to 31 March 2024.

¹⁴⁰ The announced Democracy Action Plan commits to adopt a National Open Government Strategy and a new Law on Open Administration.

¹⁴¹ Both Codes are complemented by a section on conflicts of interest, including a specific provision on gifts. The Annex to the Integrity System includes a questionnaire which aims to support the detection of potential conflict of interests. The Integrity System was approved on 7 March 2023 by the Coordinating Commission of the General Inspectorates of Services of the ministerial departments and has no regulatory nature. It aims to provide guidance to the bodies of the General State Administration and promote a culture of integrity. 2023 Rule of Law Report, Country Chapter on the rule of law situation in Spain, pp. 18 and 26-27.

¹⁴² Input from Spain for the 2024 Rule of Law Report, p. 29. The Unit is part of the Integrity System and is tasked with issuing reports, sharing good practices, and drafting guidelines to avoid and prevent conflict of interests. According to Law 31/2022 on the General State Budget for 2023, before granting or awarding contracts, it is mandatory to carry out an analysis of risk of conflict of interests regarding procedures implementing the Recovery and Resilience Plan. The aim is to identify any direct or indirect family or company link, involving personal or economic interests likely to lead to a conflict of interest between public employees and participants. Reports containing the opinion on the existence of a risk of conflict of interest can only be issued when requested by an anti-fraud committee, under the procedure detailed in the Order HFP/55/2023, of 25 January of the Ministry of Finance and Civil Service.

¹⁴³ Royal Decree 176/2022 of 4 March 2022 on the Code of Conduct of the Civil Guard.

pending¹⁴⁴. Likewise, the draft Royal Decree on the incompatibilities of Guardia Civil staff, which aims to provide specific legislation on incompatibilities, and was planned for adoption in 2023, is still pending¹⁴⁵. Both drafts aim to address pending GRECO recommendations¹⁴⁶.

There has been no progress on strengthening the rules governing conflicts of interest and asset declarations of persons with top executive functions. The 2023 Rule of Law report recommended to Spain to ‘strengthen the rules on conflicts of interest and asset declarations of persons with top executive functions by reinforcing the sanctioning power of the Office for Conflicts of Interest’¹⁴⁷. The Office for Conflicts of Interest (OCI) is responsible for supervising conflicts of interest rules and the system for asset declaration of senior officials of the General State Administration¹⁴⁸. Both the 2022 and 2023 Rule of Law Report noted the need to reinforce the independence and autonomy of the OCI by strengthening its sanctioning powers¹⁴⁹. However, the legal framework remains unchanged, as the Ministry of Justice considers it adequate for the Office to perform its duties¹⁵⁰. The duties of the OCI include requesting, analysing, monitoring and archiving declarations provided by senior officials after their appointment and after their termination of service. Publication of asset declarations by top executive officials is done annually through an online dedicated portal and published in the Official Journal¹⁵¹. Every six months, the OCI informs the Government on the status of reports on the asset positions of senior officials¹⁵². No proceeding was initiated in 2023, while in 2022 the OCI initiated 14 penalty proceedings¹⁵³.

¹⁴⁴ The system would aim to prevent risks of conflicts of interest. In 2013, the Police issued its own Code of Conduct.

¹⁴⁵ 2023 Rule of Law Report, Country Chapter on the rule of law situation in Spain, p. 19; 2022 Rule of Law Report, Country Chapter on the rule of law situation in Spain, p. 13. A Code of Conduct of the Civil Guard was adopted in March 2022 (Royal Decree 176/2022 of 4 March 2022). The review relates to the provisions of Law 29/2014 of 28 November 1992 on the Conditions of Employment of Civil Guard Staff and Article 22 of Organic Law 11/2007 of 22 October 2003 regulating the rights and duties of members of the Civil Guard.

¹⁴⁶ GRECO Fifth Evaluation Round - Compliance Report, recommendation xvii, p. 16.

¹⁴⁷ 2023 Rule of Law Report, Country Chapter on the rule of law situation in Spain, p. 2.

¹⁴⁸ The Office is attached to the State Secretariat for the Civil Service.

¹⁴⁹ 2023 Rule of Law Report, Country Chapter on the rule of law situation in Spain, p. 17; 2022 Rule of Law Report, Country Chapter on the rule of law situation in Spain, p. 13. The challenge was also raised by GRECO in its Fifth Evaluation Round - Compliance Report, para. 60.

¹⁵⁰ Input from Spain for the 2024 Rule of Law Report, p. 21. OCI’s sanctioning powers are detailed under Law 3/2015, of 30 March (art. 27.2) and Law 19/2013, of 9 December (art. 31.1), which attributes the power to investigate relevant criminal proceedings.

¹⁵¹ 2022 Rule of Law Report, Country Chapter on the rule of law situation in Spain, p. 13.

¹⁵² Input from Spain for the 2024 Rule of Law Report, p. 21. More specifically, OCI is tasked with requesting, analysing, controlling and archiving several certificates, i.e. CVs, declarations of suitability and certificates of absence of criminal record; declarations of activities and property rights (in 2023: 123 declarations of activities and 123 declarations of assets and property rights); annual personal income tax returns (584 declarations in 2023); requesting information to the Social Security General Treasury and to the Trade Register (respectively 1.105 and 242 requests in 2023); analysing, controlling and archiving communications concerning potential conflict of interest (68 abstention requests in 2023). The 6-months report only provides aggregate information on the number of investigations in progress and the number of sanctions, additional details are only disclosed to Parliament. Sanctions for serious or very serious misconduct are published in the Official State Gazette.

¹⁵³ Office for Conflicts of Interest (2024). Report on the degree of compliance with Law 3/2015, of 30 March, regulating the exercise of senior positions in the General State Administration; Office for Conflicts of Interest (2023). Report on the degree of compliance with Law 3/2015, of 30 March, regulating the exercise of senior positions in the General State Administration.

As reported last year, following the request of the Court of Auditors¹⁵⁴, the OCI developed a manual of procedures to better approach potential breaches¹⁵⁵. Therefore, given that changes to the legal framework to strengthen the sanctioning power of the OCI remain outstanding there is no progress on the recommendation made in the 2023 Report.

According to the Parliament Office for Conflict of Interest (Parliament OCI), disclosure requirements for parliamentarians are mostly met. In its 2021 and 2022 annual reports, the Parliament OCI issued five recommendations concerning the obligation to submit a declaration of financial interests, with a sixth one referring to the obligation for parliamentarians to publish their agenda, including “meetings held with the representatives of any entity having the status of lobbyists”¹⁵⁶. In its 2023 annual report, the recommendations on the declaration of financial interests were mostly met and the Parliament OCI considered them satisfactory¹⁵⁷. However, the Parliament OCI recalled the need for parliamentarians to comply with their obligation to publish any meeting with representatives of interest groups in their agendas¹⁵⁸.

There has been no further progress on a draft law on lobbying, as the submission to Parliament remains outstanding. The 2023 Rule of Law Report recommended to Spain to “proceed to adopt legislation on lobbying, including the establishment of a mandatory public register of lobbyists”¹⁵⁹. As assessed last year, the draft law on Transparency and Integrity aims to define group of interest and influence activity, include provisions on revolving doors¹⁶⁰, and establish a legislative footprint¹⁶¹. It also provides for the establishment of a

¹⁵⁴ Court of Auditors (2021), ‘The Court of Auditors approves the audit report on compliance with the regulations on compensation received for dismissal of senior positions and the remuneration regime of senior managers of certain entities of the state public sector, financial year 2019’. 2023 Rule of Law Report, Country Chapter on the rule of law situation in Spain, p. 17.

¹⁵⁵ Input from Spain for the 2024 Rule of Law Report, p. 21.

¹⁵⁶ Provisions of Article 4(3) of the Code of Ethics. The Office for Conflicts of Interest of the Spanish Parliament is a separate body which is tasked with approximately the same functions as the OCI (above) in relation to members of Parliaments.

¹⁵⁷ Parliament OCI (2024), 2023 Annual report (p. 14). The Parliament OCI however insist on the need to recall the importance of updating the declarations when, during the parliamentary term, the parliamentary member makes new contributions to foundations and other associations (BOCG of 13 February 2024).

¹⁵⁸ Provisions of Article 6.2 of the Code of Ethics. This was already recalled in the 2022 Annual Report of the Office for Conflicts of Interest of the Spanish Parliament. Still few parliamentarians do not include in their agenda meetings other than plenaries, committees, subcommittees, rapporteurs. When comparing the applicable disclosure requirements for parliamentarians and those for top executive officials, the former still have an obligation to provide a higher level of detail in their disclosure forms. The point was already noted by GRECO (Fifth Evaluation Round - Compliance Report, p. 10, para. 51-54). 2023 Rule of Law Report, Country Chapter on the rule of law situation in Spain, p. 18. See also the material scope of asset declarations as highlighted in the 2024 EU Justice Scoreboard, Figure 59 - National frameworks regarding asset declarations. The announced Democracy Action Plan recommends to reinforce sanctions against deputies and senators who do not file their declaration of financial interests and activities or submit false or incomplete information.

¹⁵⁹ 2023 Rule of Law Report, Country Chapter on the rule of law situation in Spain, p. 2. In the 2023 Rule of Law Report, the Commission concluded that significant progress was made on the recommendation.

¹⁶⁰ Written contribution from the Office for Conflicts of Interest in the context of the country visit to Spain. The draft law aims to amend Law 3/2015 of 30 March regulating the exercise of senior position in the General Administration, stating that during the two-year period following the date of termination of office, the person may not engage in influence activity for entities included in the Register, in relation to matters relating to the competences of the department, body or entity in which the person has provided services as senior official.

¹⁶¹ The draft law aims to enhance transparency and publicity for meetings held by interest groups with public officials during the legislative process. The legislative footprint report would need to be mentioned in any

register of lobbyists, managed by the Office for Conflicts of Interest, to which lobbyists are required to register if they wish to engage in influence activities: the OCI is currently working on an IT tool to operationalise the register¹⁶². The register would be implemented at national level, implying a need for coordination with the already existing regional-level registers. The draft law had undergone public consultation in December 2022, and it was pending its second reading at the Council of Ministers level, before the Parliament was dissolved in May 2023¹⁶³. Civil society organisations had welcomed the draft law published because it is in line with GRECO recommendations¹⁶⁴. However, the text has not advanced in the legislative process. It is now included in the 2024 Annual Regulatory Plan, however no specific timeline is indicated for adoption¹⁶⁵. This reform is included in the Recovery and Resilience Plan and aims to advance the overall anti-corruption framework¹⁶⁶. Overall, in view of the still pending submission of the draft law to Parliament, no further progress has been made on the recommendation made in the 2023 Rule of Law Report.

National legislation transposing the Whistleblower Directive¹⁶⁷ is in place, but the external competent authority has not been appointed yet. On 20 February 2023, Spain adopted the law transposing the Whistleblower Directive¹⁶⁸. The law creates a new Independent Authority designated as competent to receive external whistleblower reports and corruption complaints. To date, however, the Authority has not yet been appointed¹⁶⁹. Civil society organisations and other stakeholders have raised concerns about this¹⁷⁰. In addition,

legislative impact assessment report and shall include the identity of the public staff who have had contacts with interest groups, the contributions or comments made, as well as the date and purpose of the contact.

¹⁶² 2023 Rule of Law Report, Country Chapter on the rule of law situation in Spain, p. 19.

¹⁶³ 2023 Rule of Law Report, Country Chapter on the rule of law situation in Spain, p. 19.

¹⁶⁴ 2023 Rule of Law Report, Country Chapter on the rule of law situation in Spain, p. 19. Information received from Transparency International in the context of the country visit in Spain; Contribution from the Foundation 'Hay Derecho' for the 2023 Rule of Law Report, p. 18; GRECO (2022), Fourth Evaluation Round - Addendum to the Second Compliance Report, recommendation ii, paras 9-12.

¹⁶⁵ Written contribution from the Office for Conflicts of Interest in the context of the country visit to Spain. The draft is currently at technical level.

¹⁶⁶ Revised Annex to the Council Implementing Decision amending Implementing Decision (EU) (ST 10150 2021; ST 10150 2021 ADD 1 REV 1) of 13 July 2021 on the approval of the assessment of the recovery and resilience plan for Spain (22.4.2024). Component 11, pp. 114-141. Milestone 432 requires the entry into force of the Law on Transparency and Integrity in the Activities of Interest Groups. The law shall establish a public and mandatory register of interest groups to be monitored by an independent body with capacity and means (human, financial and technical resources) and supervisory and sanctioning powers.

¹⁶⁷ Directive (EU) 2019/1937 on the protection of persons who report breaches of Union law.

¹⁶⁸ The national law covers not only breaches of European Union Law, but also breaches of serious national criminal and administrative law, thereby going beyond the material scope of the EU Whistleblower Directive.

¹⁶⁹ As of July 2024, according to the Government, the Royal Decree that approves the Statute of the authority is expected to be adopted within a few weeks. Opinion of the Council of State, 20 June 2024, n. 1074/2024/747/2024. Written contribution from the Government in the context of the country visit to Spain.

¹⁷⁰ Information received from the Foundation 'Hay Derecho' and Transparency International in the context of the country visit to Spain. See also, Economist&Jurist (2023), Lack of Independent Authority Reduces Corruption Whistleblower Protection in Spain. The director of the Valencian Anti-Fraud Agency expressed concerns on the uncertainty as regards the creation of the Independent Authority, and its status, in particular, as regards its appointment by the Council of Ministers. See also contribution from the Foundation 'Hay Derecho' for the 2024 Rule of Law Report, p. 28. The Anti-Fraud Office of Catalonia highlighted the need to coordinate the national legal framework with the regional ones, as well as the need for additional resources to sustain the newly established tasks (Contribution from the Anti-Fraud Office of Catalonia for the 2023 Rule of Law Report, p. 14).

civil society organisations and prosecution services have expressed concern about recent regional legislative initiatives¹⁷¹ that would close regional agencies working in the prevention of and fight against corruption or limit their resources¹⁷².

Public procurement, infrastructure and party financing are reported as sectors at high-risk for corruption. The Flash Eurobarometer on Businesses' attitudes towards corruption in the EU shows that 21% of companies in Spain (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. On 22 December 2023, the Independent Office for Regulation and Supervision of Procurement approved the 2023 Annual Report on Supervision of Public Procurement in Spain¹⁷⁴. With the aim of increasing transparency in public procurement and avoid corruption risks, since January 2024 information on the degree of participation of small and medium-sized companies in public procurement processes has been published every six months on the transparency portal¹⁷⁵. Financing of political parties still represents one of the main high-risk sectors for corruption¹⁷⁶, alongside public procurement and major infrastructures¹⁷⁷. Besides, the Spanish Security Forces are increasingly working on the fight against corruption in sport at international level, through investigations, cooperation with other Institutions and bodies, and providing specific trainings¹⁷⁸.

¹⁷¹ The Parliament of the Balearic Islands has approved Law 2/2024, of 11 April, which close its Office for the Prevention and Fight against Corruption. The office had been designated as the external channel for the whistleblower reports in areas falling within its mandate, to provide protection and support to whistleblowers as well as to impose sanctions for violations of whistleblowing rules.

¹⁷² The Prosecution highlights the submission of legislative or policy actions aimed to eliminate or limit the resources or competences of the regional anti-fraud agencies. The Network of European Integrity and Whistleblowing Authorities has expressed concerns on the closure of the Office for the Prevention and Fight against Corruption of the Balearic Islands. Moreover, the Foundation 'Hay Derecho' notes that the 2024 budget of the Anti-Fraud Agency of the Valencian Community Agency has been reduced by 3.61%. Written contribution from Prosecution Service in the context of the country visit to Spain. Contribution from the Foundation 'Hay Derecho' for the 2024 Rule of Law Report, pp. 24-25.

¹⁷³ Flash Eurobarometer 543 on Businesses' attitudes towards corruption in the EU (2024). This is 6 percentage points below the EU average.

¹⁷⁴ The annual report includes conclusions covering supervision activities carried out by the competent authorities, a list of the main non-compliances detected by the external and internal control bodies around public procurement, information on the prevention, detection, and proper reporting of cases of fraud, corruption, conflict of interest, as well as the issues of collusion detected.

¹⁷⁵ Law 14/2022 amending Law 19/2013.

¹⁷⁶ There has been no activity regarding a reform of legislation governing the financing of political parties, despite the call of the Court of Auditors in 2022. On 24 April 2024, the Constitutional Court declared unconstitutional the minimum amounts of the sanctions provided for in the Organic Law on the Financing of Political Parties (note 43/2024, Organic Law 8/2007), for cases where political parties exceed by 1% to 3% the limit of their electoral expenses. According to the Court, the minimum limit of EUR 5 000 is disproportionate, as contrary to citizens' fundamental right to participate in public affairs. At this stage, the Government does not envisage further steps in this regard, as it noted the need for a wider discussion in Parliament. The main risk sectors remain private donations, crowdfunding and microloans, as well as financing of intermediaries (see Court of Auditors (2021), Opinion 1445).

¹⁷⁷ According to Transparency International Spain, public procurement in Spain is particularly vulnerable to corruption, largely due to the high volume of public resources involved, to the complexity of the public procurement system, and to the specific territorial distribution and the different levels of control. See "*TI Spain proposes 11 basic recommendations to prevent fraud and corruption in Spanish public procurement*" (2023). See also contribution from the Foundation 'Hay Derecho' for the 2024 Rule of Law Report, pp. 28-29.

¹⁷⁸ In March 2024, Europol supported the Spanish National Police in an investigation related to corruption in sport that led to the arrest of 53 members of a criminal organisation in Spain. Europol, Press Release (2024),

III. MEDIA PLURALISM AND MEDIA FREEDOM

The Constitution enshrines the rights to freedom of expression and media freedom¹⁷⁹. The General Law on Audiovisual Communication¹⁸⁰ regulates the provision of audiovisual media services while the Law on State Owned Radio and Television, complemented by the Law on the Financing of the Spanish Radio and Television Corporation¹⁸¹, ensures the independence, neutrality and objectivity of the national public service media. The Ministry for the Digital Transformation and the Public Service is the competent audiovisual authority at the state level: it is responsible for secondary legislation and has several other competences, including authorisations at national level and the management of the national registry of audiovisual media service providers. An independent multi-regulatory body, the National Commission for Markets and Competition (CNMC)¹⁸², assumes the role of audiovisual regulator: it controls and supervises compliance with the obligations provided for in the law at national level, while regional audiovisual authorities are responsible for audiovisual communication service providers at the regional level¹⁸³. Access to information is regulated by the Law on Transparency, Access to Public Information and Good Governance¹⁸⁴ and by the Law¹⁸⁵ on Official Secrets¹⁸⁶.

The audiovisual regulatory authority has sufficient resources to perform its tasks and its supervisory function was further strengthened. The 2023 Rule of Law Report concluded that Spain had fully implemented the 2022 recommendation on ensuring adequate resources for the national audiovisual media regulatory authority to strengthen its operations. This situation remains stable. The Media Pluralism Monitor 2023 registers low risk in terms of the independence and effectiveness of the media authority, unchanged compared to the previous year¹⁸⁷. The National Commission for Markets and Competition's (CNMC) supervisory function was further strengthened through the adoption of a series of secondary legislation in 2023¹⁸⁸ and 2024¹⁸⁹. Additional secondary legislation is expected on media

53 members of a criminal organisation arrested for sports corruption in Spain. The operation took place from 29 January to 1 February and was also supported by Interpol and the Spanish Tax Agency (*Agencia Tributaria*).

¹⁷⁹ Constitution of Spain, art. 20.

¹⁸⁰ General Law on Audiovisual communication 13/2022 of 7 July 2022.

¹⁸¹ Law on state-owned radio and television 17/2006 of 5 June 2006; Law 8/2009, of 28 August, on the financing of the Spanish Radio and Television Corporation.

¹⁸² Set up by the Law on the creation of the National Commission for Markets and Competition 3/2013, of 4 June 2013.

¹⁸³ General Law on Audiovisual communication 13/2022, art 153.

¹⁸⁴ Law on transparency, access to public information and good governance 19/2013 of 9 December 2013. The 2024 Spanish Annual Regulatory Plan includes the approval of a new Law for an Open Administration as part of an announced Democracy Action Plan.

¹⁸⁵ Law on official secrets 9/1968 of 5 April 1968.

¹⁸⁶ Spain ranks 30th in the 2024 Reporters without Borders World Press Freedom Index compared to 36th in the previous year.

¹⁸⁷ 2024 Media Pluralism Monitor, country report for Spain, p. 12.

¹⁸⁸ Royal Decree regulating the State Register of Audiovisual Media Service Providers, Video Sharing Service Providers through Platform and Audiovisual Media Service Aggregation Service Providers and the procedure for prior notification of the start of activity 1138/2023, of December 19, 2023.

¹⁸⁹ Royal Decree 444/2024 that regulates the requirements to be considered a user of special relevance for the purposes of the provisions of Law 13/2022 on Audiovisual Communication. User of special relevance is the term in the AV Law for "influencers".

literacy and protection of minors, with the CNMC to be designated as responsible to validate audiovisual media service providers' age verification systems. Regarding the cooperation between the CNMC and the regional audiovisual authorities, the group of Audiovisual Regulatory Authorities, intended to foster the exchange of expertise and best practices on the application of the legislation¹⁹⁰, met for the first time in June 2023. After adoption of its rules of procedure, which are currently being prepared, the group will focus on three topics: European works, media literacy, and online services¹⁹¹. In January 2024 the CNMC was designated as the Digital Services Coordinator responsible for monitoring and enforcing relevant obligations under the Digital Services Act (DSA).

The inclusion of providers of video sharing platforms, providers of audiovisual media service aggregation services and users of special relevance in the new national registry of audiovisual service providers will increase transparency of media ownership, which remains overall an area of concern. The Royal Decree regulating the national registry was adopted on 19 December 2023¹⁹². The Ministry for the Digital Transformation and the Public Service is responsible for this registry, which was launched in May 2024. Furthermore, in April 2024, Royal Decree 444/2024 that regulates the requirements to be considered a user of special relevance was approved. The Ministry plans to put in place an agreement with the competent audiovisual authorities of the Autonomous Communities for the electronic interconnection between the State Registry and the regional registers to facilitate their interoperability. As a result, ownership data will be publicly accessible for a larger list of providers (audiovisual media services, video sharing online platforms and providers of services of special relevance). Yet there has been no legal initiative to apply equivalent transparency requirements to other media, such as news outlets, leading to an overall limited ownership transparency. Therefore, transparency of media ownership and financial transparency, as well as in news media concentration continues to be an area of concern. According to the Media Pluralism Monitor, transparency of media ownership scores 85%, thus remaining at high risk level¹⁹³. The risk score for plurality of media providers is also at high risk (88%)¹⁹⁴. The audiovisual law includes provisions on pluralism for the television services market and the radiophonic services market¹⁹⁵.

There have been no changes to the legal framework for institutional advertising, while calls for increased transparency in the distribution of institutional advertising to avoid its use for partisan or electoral purposes continue. Spain is currently assessing possible changes to the current law on institutional advertising to enhance transparency of state advertising¹⁹⁶. When it comes to transparency of institutional advertising campaigns at national level, the situation remains unchanged and annual reports on institutional advertising

¹⁹⁰ Second additional provision, General Law on Audiovisual Communication 13/2022, of 7 July 2022.

¹⁹¹ Information received in the context of the country visit to Spain from CNMC.

¹⁹² Royal Decree 1138/2023, of December 19, 2023, which regulates the State Register of Audiovisual Media Service Providers, Video Exchange Service Providers through Platform and Audiovisual Media Service Aggregation Service Providers and the procedure for prior notification of the start of activity.

¹⁹³ 2024 Media Pluralism Monitor, country report for Spain, page 16. The 2023 Monitor also indicated a high-risk level at 79%.

¹⁹⁴ 2024 Media Pluralism Monitor, draft country report for Spain, page 16. The 2023 Monitor also indicated a high-risk level at 88%.

¹⁹⁵ 2023 Rule of Law Report, Country Chapter on the rule of law situation in Spain, p. 23.

¹⁹⁶ Law on Advertising and Institutional Communication 29/2005, of 29 December 2005. Information received in the context of the country visit to Spain from the Government. The announced Democracy Action Plan will include a reform of the law on institutional advertising in order to increase transparency.

do not provide information on which media received advertising money from the national administration¹⁹⁷. As regards the use of state advertising by public administration at regional and local level, there are some positive examples of higher degrees of transparency¹⁹⁸, yet information is incomplete¹⁹⁹, as not all public entities are included in these reports. Some stakeholders criticised the increasing use of institutional advertising for partisan or electoral purposes²⁰⁰, and called for more transparency on the allocation of public funds, highlighting the need for fair criteria in such allocation²⁰¹.

A new acting chair of the public service media has been appointed, in the absence of an agreement in the Congress to appoint a new board and chair. In September 2022, the chair of the board resigned, and the board appointed one of its members as “acting chair” with limited executive powers²⁰². In October 2022, the Government changed the statute of RTVE giving the chair executive powers to ensure the functioning of RTVE. The board dismissed its acting chair on 26 March 2024 and appointed a new acting chair for a six-month period; the mandate of five members of the Board expired at the end of March 2024. The renewal of the management board, which requires a 3/5 majority agreement in the Congress, is outstanding. According to the Government, this interim situation does not affect the normal functioning of RTVE²⁰³. The Media Pluralism Monitor (MPM) indicator on independence of public service media indicates high risk (67%) in 2024²⁰⁴ same as a year before²⁰⁵. According to a Flash Eurobarometer, 48% of respondents in Spain stated that they trust public TV and radio stations, which corresponds to the EU average²⁰⁶. When it comes to editorial independence of regional and local public service media, some stakeholders continue to express concern about their use for partisan purposes²⁰⁷. The MPM 2024 also refers to lack of political independence of public media at regional levels²⁰⁸.

There has been no further progress to strengthen access to information, and stakeholders continue to voice concerns. The 2023 Rule of Law Report recommended to

¹⁹⁷ In May 2023, the national Government approved a two-year framework agreement of up to 440 million euros for institutional advertising.

¹⁹⁸ For example, the “Report of the Advisory Committee on Institutional Advertising 2022” in Catalonia or the “Media Plan” in Madrid detail the amounts spent per media type and name.

¹⁹⁹ Spanish Transparency Magazine (2021), Map of institutional advertising in autonomous Spain: legal framework and systems for accountability.

²⁰⁰ Art. 4 of Law on Advertising and Institutional Communication 29/2005 prohibits the use of institutional campaigns intended to highlight achievements in management or in achieving objectives by the national public administration.

²⁰¹ Information received in the context of the country visit to Spain from journalists’ associations (FAPE, APM); Contribution from the Foundation ‘Hay Derecho’ for the 2024 Rule of Law Report, p. 29. According to the 2024 Media Pluralism Monitor, draft country report for Spain, p. 21, “institutional advertising is often used by political parties, especially those in power, as a tool to sway media outlets and (...) digital native media in particular, are highlighted as especially vulnerable to influence due to their economic instability, with frequent criticisms over the biased allocation of public funds and institutional advertising based on ideological leanings”.

²⁰² RTVE, Press release of 27 September 2022.

²⁰³ Information received in the context of the country visit to Spain from the Spanish authorities.

²⁰⁴ 2024 Media Pluralism Monitor, country report for Spain, p. 21.

²⁰⁵ 2023 Media Pluralism Monitor, country report for Spain, p. 17.

²⁰⁶ European Parliament, Flash Eurobarometer, Media & News Survey 2023, p. 44.

²⁰⁷ Information received in the context of the country visit to Spain from journalists’ associations (FAPE, APM); Contribution from the Foundation ‘Hay Derecho’ for the 2024 Rule of Law Report, p. 33.

²⁰⁸ 2024 Media Pluralism Monitor, draft country report for Spain, p. 28.

Spain to “advance with strengthening access to information, in particular via revision of the Law on Official Secrets, taking into account European standards on access to official documents”²⁰⁹. The legislative process to adopt the draft law on classified information that would replace the current law on official secrets of 1968²¹⁰ was halted in May 2023, when the Parliament was dissolved. On 23 October 2023, Spain ratified the Council of Europe’s Convention on Access to Public Documents²¹¹, which recognises a general right of access to official documents held by public authorities. The Government intends to re-launch the adoption of the draft law on official secrets, based on the 2023 draft²¹². Journalists’ representatives voiced scepticism about the chances of progress towards adoption of a new law²¹³ and criticised the proposed deadlines for classification of information²¹⁴. In its 2022 annual report, the Council for Transparency and Good Government informed that during 2021, 41.4% of the appeals before the Council were motivated by the fact that the administration on a state level and 73.75% on a regional level did not respond to requests for information²¹⁵. This leads the MPM to conclude that the situation regarding access to information in Spain has not significantly improved²¹⁶. This is also reflected in criticism voiced by journalists’ representatives who complain about an increasing trend by public institutions and political parties of having press conferences where press statements are given without the possibility to ask questions or where certain media were excluded²¹⁷. Overall, no progress has been made on the recommendation made in the 2023 Rule of Law Report.

Journalists continue to face increasing challenges in the performance of their professional activities. Since the publication of the 2023 Rule of Law Report, seven new alerts have been activated for Spain in the Council of Europe’s Platform to Promote the Protection of Journalism and Safety of Journalists²¹⁸, relating to attacks on physical safety and integrity of journalists²¹⁹, harassment and intimidation of journalists²²⁰, detention and imprisonment of journalists²²¹ and other acts having chilling effects on media freedom²²². The State replied to five of these alerts, indicating that in the cases of detention of journalists, these were due to acts allegedly not related with the exercise of the professional activities and

²⁰⁹ 2022 and 2023 Rule of Law Reports, Country Chapter on the rule of law situation in Spain, p. 2 and p. 2, respectively. In the 2023 Rule of Law Report, the Commission concluded that some progress was made on the recommendation.

²¹⁰ Law on Official Secrets 9/1968 of 5 April 1968.

²¹¹ Council of Europe Convention on Access to Official Documents, Tromsø, 18.VI.2009.

²¹² Information received in the context of the country visit to Spain from the Spanish authorities.

²¹³ Information received in the context of the country visit to Spain from journalists’ associations (FAPE, APM).

²¹⁴ In February 2024, the Congress expressed support to discuss a draft law with the same purpose presented by a political group. Journal of sessions of the Congress of Deputies, 27 February 2024, p. 73.

²¹⁵ 2024 Media Pluralism Monitor, draft country report for Spain, p. 13. In 2023, these rates would be 34.8% at state level and 71.3% at regional level, based on data from the Council for Transparency and Good Government web site.

²¹⁶ Ibidem.

²¹⁷ Information received in the context of the country visit to Spain from journalists’ associations (FAPE, APM).

²¹⁸ Council of Europe, Platform to promote the protection of journalism and safety of journalists, Spain.

²¹⁹ ‘La Voz de Galicia Journalist Alfredo López Penide Stabbed, Newsroom Ransacked Over Report’. No State reply.

²²⁰ Exiled Cuban Journalist Abraham Jiménez Enoa Threatened in Barcelona. No State reply; Journalists and Camera Operators Harassed While Covering Protests Across Spain. State replied; Madrid Community Official Threatens and Doxxes Journalists Over News Reports. State replied.

²²¹ Two El Mundo and El Español Journalists Detained over Protest Coverage. State replied; Photojournalist Rodrigo Mínguez Violently Detained by Escort Officers. State replied.

²²² Journalist Rosa Roda Denied Accreditation by the Murcia Region. State replied.

are currently being investigated by Courts. The platform registers 24 active alerts. The Mapping Media Freedom project registered 52 alerts in Spain in 2023, including cases of physical assaults, harassment or intimidation and threatening. The reform of the Citizen Security Law²²³, if approved, could address concerns from journalists²²⁴. Both the Government and journalists' associations are supportive²²⁵ of a draft bill on the professional secrecy of journalism²²⁶ that had been proposed at the end of the previous legislature. Though in practice there have been very few instances of courts requesting journalists to disclose their sources or to requisition their equipment, journalists feel it would be better to have such protection written in law²²⁷.

IV. OTHER INSTITUTIONAL ISSUES RELATED TO CHECKS AND BALANCES

Spain is a parliamentary monarchy, with a bicameral Parliament²²⁸. It is also a decentralised unitary state where the State and the Autonomous Regions have both exclusive and shared competences²²⁹. The Constitutional Court²³⁰ is exclusively competent to review the constitutionality of laws, as well as appeals for constitutional protection of fundamental rights and to decide on potential conflicts between constitutional bodies of the State²³¹. Both chambers of Parliament – the Congress and the Senate – have legislative competence, which they can delegate to the Government, subject to certain limitations²³². The Government, the two Chambers of Parliament, the assemblies of the autonomous regions, and a group of at least 500 000 citizens have the right of legislative initiative.

An “Organic Law on Amnesty for the Institutional, Political and Social Normalisation of Catalonia” was adopted by Congress on 30 May 2024 and entered into force on 11 June 2024. This law establishes an amnesty applying to acts and events encompassing criminal, administrative or accounting liability, defined both in terms of the dates of the acts and their connection with events around the “independence process” in Catalonia. The Amnesty Law was the subject of major controversy in Spain, linked to the political circumstances around its adoption process and its content, including demonstrations and public statements by different stakeholders, as well as extensive correspondence addressed to the European Commission. The Commission has engaged with the Spanish authorities to receive clarifications on the amnesty law, which it is analysing. A large number of stakeholders have shared their

²²³ Organic Law on the protection of public safety 4/2015, of 30 March.

²²⁴ Information received in the context of the country visit to Spain from journalists' associations. See Pillar IV. Other institutional issues related to checks and balances.

²²⁵ Information received in the context of the country visit to Spain from the Spanish authorities and journalists' associations.

²²⁶ Draft organic law for the protection of the professional secrecy of journalism 121/000135.

²²⁷ Information received in the context of the country visit to Spain from journalists' associations.

²²⁸ It consists of the Congress of Deputies (the lower house), and the Senate (the upper house). Both are directly elected.

²²⁹ Autonomous Regions have political and financial autonomy, having an institutional organisation based on a Legislative Assembly, a Governing Council with executive and administrative functions and a President, elected by the Assembly from among its members. Autonomous Regions hold the power to pass laws on a wide range of areas over which they have exclusive competence, but also secondary legislation in certain matters that are competence of the State, as well as the execution of State regulations.

²³⁰ The Constitutional Court does not form part of the judiciary.

²³¹ Title IX of the Spanish Constitution.

²³² Spanish Constitution, art. 82.

concerns²³³, including on the draft law's potential impact on the overall fight against corruption²³⁴. At the request of the President of the Parliamentary Assembly of the Council of Europe (PACE) and the President of the Spanish Senate, on 15 March 2024 the Venice Commission adopted an Opinion on the draft amnesty law²³⁵ addressing a number of issues relating to the rule of law, both in terms of general criteria applicable to amnesties and whether these applied to this case. The Venice Commission made a number of recommendations to clarify some provisions and avoid ambiguities, notably on the scope of the amnesty. It set out the requirements for the respect of the separation of powers with respect to the derogations to ordinary procedural powers of the courts, as well as how to avoid risks that the work of parliamentary committees could affect judicial independence. At the same time, it highlighted the fact that the legislative proposal was taken forward under an urgent procedure, allowing only for a limited consultation of the public. The Venice Commission underlined the importance of giving time and space for consultation on such legislation and the benefits to be gained from having the legislation supported by an enhanced majority in Congress.

Several initiatives aimed at increasing public participation in policymaking and fostering a rule of law culture have been taken forward. The Open Government Forum provides a tool for participation and dialogue between public administrations and civil society representatives²³⁶. A Strategic Framework for Citizenship, Inclusion against Racism and Xenophobia (2023-2027) has been drawn up, with the aim of facilitating the inclusion of migrant citizens, as well as combating racism, xenophobia, and other forms of related intolerance, by fostering collaboration, bringing together initiatives, and ensuring coherence between actions from both the public sector and civil society²³⁷. On the occasion of the 45th anniversary of the adoption of the Spanish Constitution, different actions were carried out to bring its content closer to civil society, including the organization of the 'Second Training Activity on Youth and Constitution'²³⁸. On 6 June 2023, the Second Human Rights Plan for the period 2023-2027 was approved by agreement of the Council of Ministers, comprising four main strands of action in the areas of cooperation, human rights, equality between women and men and equal treatment, and including more than 400 specific measures²³⁹. The Third Sector Platform, a civil society umbrella organisation, has coordinated different events and workshops promoting an open government for all citizens, with particular attention to accessibility and the digital divide, youth and gender perspective approach²⁴⁰.

Concerns on some procedural practices relating to the use of emergency procedures for the approval of legislation remain. Stakeholders continue sharing concerns regarding the

²³³ Information received from Association of 'Abogados del Estado', Association of Prosecutors, Professional and Independent Association of Prosecutors, Council for the Judiciary, Foundation 'Hay Derecho', Civic Platform for the Judicial Independence, Independent Judicial Forum and Professional Association of the Magistracy in the context of the country visit to Spain.

²³⁴ Information received from Foundation 'Hay Derecho' in the context of the country visit to Spain. Contribution from *Impulso Ciudadano* for the 2024 Rule of Law Report, pp. 12-13. Information received from Prosecutors Associations in the context of the country visit to Spain.

²³⁵ CDL-AD(2024)003.

²³⁶ Input from Spain for the 2024 Rule of Law Report, p. 65.

²³⁷ Input from Spain for the 2024 Rule of Law Report, p. 67.

²³⁸ Input from Spain for the 2024 Rule of Law Report, p. 68.

²³⁹ Ibidem.

²⁴⁰ Input from Spain for the 2024 Rule of Law Report, pp. 68-69.

perceived excessive use of emergency procedures for the approval of legislation²⁴¹. The concerns result from the fact that these acts – though using the justification of urgency – sometimes included in the drafts a wider range of issues, and affect the requirements for public consultation, impact assessment and consultation of regulatory bodies. The quality of law-making remains a significant cause for concern about the effectiveness of investment protection among companies in Spain²⁴².

A new equality body is being set up, while posts in a number of independent authorities continue to be vacant. The Government is currently working to set up a new equality body, following a law adopted in July 2022²⁴³. As referred to in the 2023 Rule of Law Report²⁴⁴, the purpose of the Independent Authority on Equality and Non-Discrimination will be to protect and promote the equality and non-discrimination of all citizens both in the public and private sectors. The new body should be in place before the end of 2024²⁴⁵. There are other authorities where posts have remained vacant for a long period of time²⁴⁶, such as in the Data Protection Authority (since July 2019)²⁴⁷. Moreover, following the resignation of one of the members of the Constitutional Court in July 2022, this post had remained unoccupied until the agreement of 25 June 2024 on the renewal of the Council for the Judiciary, which also included this appointment decision, to be taken in July 2024²⁴⁸. On the other hand, a new President of the Council of State was appointed after the annulment of the previous nomination²⁴⁹. The Ombudsperson, which is the national human rights institution, accredited with A status by the UN Global Alliance of National Human Rights Institutions (GANHRI), has published its annual report in March 2024, including different suggestions, reminders and warnings related to citizens' rights to ensure they are taken into account in the decision-making process²⁵⁰.

²⁴¹ Contribution from the Judges and Magistrates' Association 'Francisco de Vitoria' for the 2024 Rule of Law Report, p. 27; Contribution from the Professional Association of the Magistracy for the 2024 Rule of Law Report, p. 19; Contribution from the Foundation 'Hay Derecho' for the 2024 Rule of Law Report, pp. 38-39; Written contribution from the Civic Platform for the Judicial Independence in the context of the country visit to Spain.

²⁴² In Spain, 46% of the surveyed companies perceive the quality of law-making and the frequent changes in legislation as a reason for the lack of confidence in the investment protection in Spain (same as in 2023). Figure 56, 2024 EU Justice Scoreboard.

²⁴³ Law 15/2022 of 12 July 2022 on equal treatment and non-discrimination.

²⁴⁴ 2023 Rule of Law Report, Country Chapter on the rule of law situation in Spain, p. 28.

²⁴⁵ Information provided by the Spanish authorities in the context of the country visit to Spain.

²⁴⁶ Also the new Independent Authority competent to receive external whistleblowers reports and corruption-related still needs to be appointed, see Pillar II.

²⁴⁷ 2023 Rule of Law Report, Country Chapter on the rule of law situation in Spain, p. 27. On 24 May 2022 the Supreme Court had annulled the agreement of the Council of Ministers of 22 February 2022 by which the names of the candidates for the President and Deputy of the Spanish Data Protection Agency (AEPD) were communicated to the Congress of Deputies. On 13 July 2024 the Ministry of the Presidency, Justice and Relations with the Parliament published an order by which the selection process for the President and Deputy of the AEPD must be resumed in the conditions provided for in the application call of 17 November 2021, subject to publicity and with the understanding that the Council of Minister will send to Congress only one proposal for President and only one for Deputy.

²⁴⁸ The Senate appointed in 2017 the four members that it was entitled to, but one of them had to resign due to health problems in July 2022. The necessary decision in this respect had been postponed repeatedly.

²⁴⁹ Decision of the Supreme Court 1611/2023.

²⁵⁰ Defensor del Pueblo (2024), Annual Report 2023.

Measures to speed up ‘amparo proceedings’ are being implemented. As referred to in the 2023 Rule of Law Report²⁵¹, on 15 March 2023 the Constitutional Court approved an action plan to accelerate the processing and resolution of so-called ‘amparo appeals’. The aim of ‘amparo appeals’ before the Constitutional Court is the protection against breaches of rights and freedoms enshrined in the Constitution by any action or omission of the Government of the State, the Autonomous Communities, or other public bodies of territorial, corporate or institutional nature. The action plan regulates the submission of claims via digital tools by filling a form enabling the amparo appellants to set out clearly and precisely the potential infringements of fundamental rights, the special constitutional significance of the appeal and the way the prior judicial remedy has been exhausted. One of the aims of this action plan is to update the processing of ‘amparo proceedings’ and combat the existing serious delays, and so far, the number of rulings has indeed increased²⁵².

On 1 January 2024, Spain had 23 leading judgments from the European Court of Human Rights pending implementation, an increase of two compared to the previous year²⁵³. At that time, Spain’s rate of leading judgments from the past 10 years that remained pending was at 51% (compared to 53% in 2023), the average time that the judgments had been pending implementation was 2 years and 10 months (compared to 2 years and 9 months in 2023)²⁵⁴. The oldest leading judgment, which became final 10 years ago, that is pending implementation, concerns the lack of an effective remedy with suspensive effect, against decisions to remove the applicants to their country of, notwithstanding the risk to their lives and risk of ill-treatment²⁵⁵. As regards the respect of payment deadlines, on 31 December 2023 there were 3 cases in total awaiting confirmation of payments (compared to 4 in 2022)²⁵⁶. On 1 July 2024, the number of leading judgments pending implementation had decreased to 22²⁵⁷.

A reform of the Citizen Security Law aiming to address concerns regarding its impact on the civic space is still pending. Civil society space continues to be considered narrowed²⁵⁸. The possible reform of the Citizen Security Law²⁵⁹, halted by the parliamentary

²⁵¹ 2023 Rule of Law Report, Country Chapter on the rule of law situation in Spain, p. 27.

²⁵² Constitutional Court, Press Release No. 1/2024 of 11 January 2024.

²⁵³ 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.

²⁵⁴ 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, pp. 7-8.

²⁵⁵ Judgment of the European Court of Human Rights of 24 April 2014, *A.C. and Others v. Spain*, 47159/08, pending implementation since 2014.

²⁵⁶ 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. 138.

²⁵⁷ Data according to the online database of the Council of Europe (HUDOC).

²⁵⁸ Rating by CIVICUS; ratings are on a five-category scale defined as: open, narrowed, obstructed, repressed and closed.

²⁵⁹ Organic Law on the protection of public safety 4/2015 of 30 March.

elections of July 2023, is considered a priority by the Government²⁶⁰. On 17 July 2024, the Government has announced the main aspects of a Democracy Action Plan, addressing transparency and accountability and including the reform of the Citizen Security Law²⁶¹. In March 2023, political parties had failed to reach an agreement in the Internal Affairs Committee of the Congress over the reform of the Citizen Security Law²⁶². Stakeholders underscored this was a missed opportunity, as they consider that the current law has a negative impact on the right of assembly and the freedom of expression, as well as on the civic space in general and on human rights defenders and journalists in particular, and have asked political parties to resume the work on the reform²⁶³. The Council of Europe Commissioner for Human Rights also underlined that the Citizen Security Law should have been brought fully in line with European and international human rights standards²⁶⁴.

²⁶⁰ Information provided by the Spanish authorities in the context of the country visit to Spain. The aim to reform this law was included in the Coalition Agreement between PSOE and Sumar “Una España que avanza”, October 2023, p. 43.

²⁶¹ Public statement at the Congress of Deputies made by the Government on 17 July 2024.

²⁶² 2023 Rule of Law Report, Country Chapter on the rule of law situation in Spain, p. 29.

²⁶³ Public statement made on 29 June 2023 by Amnistía Internacional, Greenpeace, Irídia, Novact, Defender a Quien Defiende, Comisión Legal Sol, Rights International Spain and No Somos Delito.

²⁶⁴ Council of Europe (2023), Press release of 10 May 2023. See also Commissioner for Human Rights of the Council of Europe, Dunja Mijatović, Report following her visit to Spain from 21 to 25 November 2022, pp. 20-22 and 25-26. Previous Rule of Law Reports referred to concerns from stakeholders, related to, among others, offences in the context of meetings and demonstrations, and the use of images or data by the police (2023, 2022 and 2021 Rule of Law Reports, Country Chapter on the rule of law situation in Spain, p. 29, pp. 21-22 and pp. 18-19 respectively).

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 Spain

The Commission services held virtual meetings in March 2024 with:

- Association of ‘Abogados del Estado’
- Association of Media Users
- Association of Prosecutors
- Association of Women Judges of Spain
- Civic Platform for the Judicial Independence
- Civil Guard
- Constitutional Court
- Coordinator of Non-Governmental Organisations for Development in Spain
- Court of Auditors
- European Journalists’ Association (APE)
- Federation of associations of journalists of Spain (FAPE)
- Foundation ‘Hay Derecho’
- General Council of Spanish Lawyers
- General Council for the Judiciary
- Independent Judicial Forum
- Judges and Magistrates’ Association “Francisco de Vitoria”
- Judges for Democracy
- Madrid Press Association (APM)
- Ministry of Finance
- Ministry of Foreign Affairs
- Ministry of Home Affairs
- Ministry of the Presidency, Justice and Relations with the Parliament
- Ministry of State Administration and Digital Reform
- National Commission of Markets and Competition
- National Council of Court Clerks
- National Police
- Office of Conflict of interests
- Ombudsperson’s Cabinet
- Platform “Tercer Sector”
- Professional and independent association of prosecutors
- Professional Association of the Magistracy
- Progressive Union of Prosecutors
- Representatives of Congress and Senate
- Professional and Independent Association of Prosecutors (APIF)
- Prosecutor’s Office Against Corruption and Organised Crime
- Supreme Court
- Technical Cabinet of the Prosecutor General’s Office
- Transparency Council
- Transparency International España

* 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
- Philanthropy Europe Association
- PICUM
- Reporters Without Borders
- SOLIDAR
- Transparency International EU