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

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2024 Rule of Law Report

The rule of law situation in the European Union

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ABSTRACT

Several initiatives aimed at strengthening the resilience of the German judiciary are under way. Discussions are on-going about a possible reform to enhance the resilience of the Constitutional Court by including certain safeguards in the Constitution. The Ministry of Justice has presented a proposal to introduce further safeguards for the use of the power of Ministers of Justice at Federal and *Länder* level to issue instructions to prosecutors in individual cases. Measures to further promote the respect of constitutional values by lay judges, and for ordinary judges before their initial appointment, are under consideration in Parliament. Some steps have been taken to supplement the overall resources for the judiciary through additional investments, while the level of remuneration of judges remains a challenge. Digitalisation efforts in the judiciary are underpinned by a multi-annual investment programme and a number of dedicated legislative initiatives. However, discussions on the proposal to introduce digital documentation of main proceedings in criminal cases have stalled. The justice system overall continues to perform efficiently and measures to deal with so-called 'mass' civil cases are being discussed in Parliament.

The update of Germany's strategic anti-corruption framework for the federal administration remains pending. A number of legislative reforms increasing transparency and enhancing the prevention of corruption entered into force, including the lobby register, post-employment rules, whistleblower protection and political party and campaign finance. Work to establish a legislative footprint has advanced for Ministers but is still lacking for the Parliament. Shortcomings remain in the enforcement of conflicts of interest rules for parliamentarians and Government officials. A criminal law reform was put forward to criminalise the trading in influence, yet only when committed by members of the Parliament and under certain circumstances. Amendments of administrative offence provisions to strengthen liability and sanctions of legal persons to fight foreign bribery more effectively are still outstanding. High-level corruption is addressed without any systemic weaknesses identified.

The framework regulating the state media authorities and media ownership transparency has remained stable; in addition, reflections on revising the media concentration framework are ongoing. In 2023, stronger compliance safeguards for public service broadcasters were agreed, with a proposal for further reform of the system set to be presented in autumn 2024. While the Government maintains its plans to establish in law the right to information of the press as regards federal authorities and plans to present a draft reform in 2024, no concrete further steps have been taken so far. Authorities and journalists cooperate to address risks to the safety of journalists in the exercise of their work, in view of concerns related to an increasingly hostile perception in society of journalists and media.

As regards the legislative process, timeframes for stakeholder consultations at federal level vary in practice while the commitment to create a single portal for all legislative proposals remains outstanding. The German Institute of Human Rights was re-accredited with A-status in October 2023. There have been no concrete steps taken yet to address the uncertainty regarding the tax-exempt status of non-profit organisations, and practical concerns resulting from this persist. In addition, the overall situation of civic space has seen some deterioration, with certain restrictions related to the right to protest being subject to judicial review.

RECOMMENDATIONS

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

- Some progress on stepping up efforts to ensure adequate resources for the justice system, including on the level of remuneration for judges, taking into account European standards on resources and remuneration for the justice system.
- Some progress on proceeding with plans to introduce a 'legislative footprint' to allow for the monitoring and tracing of all interest representatives who seek to influence and contribute to specific legislative texts.
- Some further progress on strengthening the existing rules on revolving doors by increasing consistency of the different applicable rules, the transparency of authorisations for future employment of high-ranking public officials, and the length of cooling-off periods for federal ministers and federal parliamentary state secretaries.
- No further progress on advancing with the plan to create a legal basis for a right to information of the press as regards federal authorities, taking into account European standards on access to official document.
- No progress yet on taking forward the plan to adapt the tax-exempt status for non-profit organisations with a view to address the challenges which the currently applicable rules present for their operation in practice, taking into account European standards on funding for civil society organisations.

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

- Take measures to ensure an adequate level of remuneration for judges and prosecutors, taking into account European standards on remuneration for the justice system.
- Further strengthen the 'legislative footprint' by disclosing all interest representatives' inputs to legislation and by extending the scope to the parliamentary phase of the legislative procedure.
- Strengthen the existing rules on revolving doors by increasing the length of cooling-off periods for federal ministers and federal parliamentary state secretaries.
- Advance with the plan to create a legal basis for a right to information of the press as regards federal authorities, taking into account European standards on access to official documents.
- Take forward the plan to adapt the tax-exempt status for non-profit organisations with a view to address the challenges which the currently applicable rules present for their operation in practice, taking into account European standards on funding for civil society organisations.

I. JUSTICE SYSTEM

The court system in Germany is structured in a federal manner. Jurisdiction is exercised by federal courts and by the courts of the sixteen federal states ('*Länder*'). The main share of competence and workload regarding the administration of justice lies with the *Länder*[1]. The court structure is divided between the ordinary jurisdiction (civil and criminal) and specialised courts (administrative, finance, labour and social courts). Appointment of judges and prosecutors, except for the Federal Courts and the Prosecutor General at the Federal Court of Justice, falls within the competence of the *Länder*. While appointment procedures differ in details between the *Länder*, all share common core elements, in particular the principle of merit[2] and the judicial review of the process and decisions relating to appointments. For the Federal Courts, a judges' selection committee selects judges for appointment by the executive and Councils of judges of the relevant courts have to be consulted in this process[3]. There are currently 638 local courts, 115 regional courts and 24 higher regional courts, as well as 51 administrative courts and 15 higher administrative courts across the 16 *Länder*[4]. There are five Federal Courts: the Federal Court of Justice, the Federal Administrative Court, the Federal Finance Court, the Federal Labour Court and the Federal Social Court. Germany has a Federal Constitutional Court, as well as constitutional courts in each of the *Länder*. The prosecution services in Germany are part of the executive, at federal level with the Prosecutor General at the Federal Court of Justice. At the level of the *Länder*, each Land has its own public prosecution service. Germany participates in the European Public Prosecutor's Office (EPPO). There are 27 regional Bars in Germany[5], which are organised under the umbrella of the German Federal Bar.

Independence

The level of perceived judicial independence in Germany is now high among the general public and remains high among companies. Overall, 72% of the general population and 69% of companies perceive the level of independence of courts and judges to be 'fairly or very good' in 2024[6]. The perceived judicial independence among the general public has decreased in comparison with 2023 (77%), as well as with 2020 (76%). The perceived

1 The independence of the German justice systems is ensured by multiple safeguards, which include judicial control over appointments, professional appraisals, promotions, disciplinary sanctions and dismissals, and by a number of elements of judicial self-administration. 2020 Rule of Law Report, Country Chapter on the rule of law situation in Germany, p. 3.

2 The principle of merit is anchored in Article 33 para. 2 of the Basic Law; mainly on the basis of the grades in the two legal state exams.

3 The judges' selection committee is composed in equal parts of the responsible ministers of the federal states and members selected by the Federal Parliament. See Law on Election of Judges and German Law on Judges, Art. 54-55. Similar committees exist in certain *Länder*, though not all of them. Moreover, the process and decision of appointment or non-appointment is fully subject to judicial control before the administrative courts.

4 There are also 18 financial courts, 108 labour courts, 18 higher labour courts, 68 social courts and 14 higher social courts. Ministry of Justice (2020), Courts at federal level and of the *Länder.*

5 There is also a special bar for the lawyers with rights of audience in civil matters at the Federal Court of Justice.

6 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%).

judicial independence among companies has decreased in comparison with 2023 (71%), as well as with 2020 (73%)[7].

Discussions are ongoing about a possible reform to enhance the resilience of the Constitutional Court by including certain safeguards in the Constitution. According to the current legal framework, several key institutional features of the Constitutional Court, such as the binding nature of its judgments, the number of its senates and judges, their term of office and its non-renewability, as well as the election of its judges by a two-thirds majority in Parliament (with each legislative body electing one half of the judges), are regulated only at the level of ordinary law[8]. This means that Parliament can change them by simple majority. In November 2023, the Conference of the Justice Ministers of the Länder decided to set up a working group on 'resilient rule of law' (with the participation of the Federal Ministry of Justice) tasked with examining measures to avoid a possible weakening of rule of law safeguards[9]. At the Justice Ministers' Conference in June 2024, the *Länder* discussed the working group's report, which included a draft law to enshrine the above-mentioned elements in the Constitution[10] and require the consent of the *Bundesrat* to change the Law on the Federal Constitutional Court[11]. The draft also includes an anti-deadlock mechanism according to which, in a situation where the Bundesrat or Bundestag respectively would not manage to elect a new judge within one year, the other chamber would elect the judge instead[12]. In parallel, high-level political talks with representatives of the coalition parties and one parliamentary group of the opposition in the German Bundestag have been ongoing on a possible Constitutional Court reform, with the Federal Ministry of Justice having internally prepared draft constitutional amendments in March 2024, as a basis for further discussion[13]. The Federal President has called for reforms to better protect the Constitutional Court against the presence of extremist parties in Parliament[14]. The

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7 59% of the companies in Germany are either fairly or very confident that their investments are protected by the law and courts in the Member State. Only 15% of the surveyed companies see the quality, efficiency or independence of justice as one of the main reasons for concern about investment protection in the country. Figures 55 and 56, 2024 EU Justice Scoreboard.

8 This is set out in the Law on the Federal Constitutional Court. The Constitution only provides for the election of half of the judges each by the two chambers of Parliament (Article 94 of the Basic Law) and for the competences of the Constitutional Court.

9 Conference of the Justice Ministers, Resilient Rule of law – how can the free, democratic basic order and its institutions be defended against enemies of the constitution? The preparations were inter alia taking place in consultation with two former Constitutional Court judges.

10 Notably the draft law would include in the Constitution the binding nature of the Constitutional Court's judgments, the number of judges and senates, their election by two-thirds majority, the length of their mandate and incompatibilities with certain political mandates. This means that in the future a two-thirds majority would be required to change these provisions.

11 The Law on the Federal Constitutional Court is a federal law that can be adopted by the Federal Parliament without requiring explicit approval of the Federal Council. Conference of the Justice Ministers (2024), Annex to the Report of the working group 'resilient rule of law' – draft of law to amend the Constitution.

12 The Venice Commission has noted that the procedure for appointing judges to the Constitutional Court is among the most important and sensitive questions of constitutional adjudication and for the preservation of a credible system of the rule of constitutional law. It underlined the need to ensure both the independence of the judges of the Constitutional Court and to involve different state organs and political forces in the appointment process so that judges are seen as being more than the instrument of one or the other political force. Venice Commission, CDL-AD(2004)043, para. 18. See also Figure 66, 2024 EU Justice Scoreboard.

13 Legal Tribune Online (2024), Ministry of Justice proposes amendment of the Constitution.

14 Federal Government (2024), Speech of Federal President Dr. Frank-Walter Steinmeier. at the debate forum on the state and future of our democracy on February 29th in Berlin These concerns relate i.a. to the

Constitutional Court itself has not taken a position, though its President has noted the importance of a serene, careful and measured debate[15]. Stakeholders have broadly expressed support[16] for reform efforts to improve the resilience of the Constitutional Court, which reflect some longer-standing demands on their side[17]. At the same time, they note the importance of having a broad, inclusive debate on such a reform, and call for steps to improve safeguards related to appointments beyond the Constitutional Court[18]. The report of the working group 'resilient rule of law' also takes stock of ongoing reflection processes on improving safeguards for appointments to the Constitutional Courts of the *Länder*[19]. In this context, the commitment from the coalition agreement to strengthen safeguards for judicial independence in relation to the system of appointment of Federal court judges[20] can be recalled.

The Ministry of Justice has presented a proposal to introduce further safeguards for the use of the power of Ministers of Justice at Federal and *Länder* level to issue instructions to prosecutors in individual cases. As noted in previous Rule of Law Reports[21], the coalition agreement had included an intention to reform the ministerial right to instruct prosecutors in individual cases in view of the requirements of the case law of the Court of Justice of the European Union[22], an issue of long-standing debate in Germany[23]. On 2 May 2024, the Ministry of Justice presented draft amendments[24] to the Courts Constitution Act to increase the transparency of instructions to the prosecution service. In particular, the draft would explicitly enshrine in law that instructions have to follow the principle of legality[25] and, additionally, that they are only permissible to prevent unlawful decisions or in cases where scope for discretion based on factual or legal elements exists. The instructions could

possibility of a 'blocking minority' if the two-thirds majority required in Parliament for the appointments could no longer be reached as well as to possible influence on judicial nominations.

15 Legal Tribune Online (2024), Harbarth in favour of careful and measured discussion.

16 Joint statement by the German Judges Association, the German Bar Association, the German Women Lawyers Association, and the Association of German Jurists, Better Protect the Rule of Law.

17 See e.g. Contribution from the German Bar Association for the 2024 Rule of Law Report, p. 4.

18 Joint statement by the German Judges Association, the German Bar Association, the German Women Lawyers Association, and the Association of German Jurists (2024), Better Protect the Rule of Law.

19 Conference of the Justice Ministers (2024), Report of the working group 'resilient rule of law'.

20 2022 Rule of Law Report, Country Chapter on the rule of law situation in German, p. 4. In this respect, see also: Contribution from the German Bar Association for the 2024 Rule of Law Report, pp. 7-8, contribution from the German Association of Judges for the 2024 Rule of Law Report, p. 10 and contribution from Gesellschaft für Freiheitsrechte as part as of Liberties for the 2024 Rule of Law Report, pp. 7-8.

21 Most recently, 2023 Rule of Law Report, Country Chapter on the rule of law situation in Germany, p. 4.

22 The relevant case law concerns the definition of the term 'judicial authority' in the context of the application of the European Arrest Warrant. Judgments of the Court of Justice of the European Union of 27 May 2019, OG and PI, Joined Cases C-508/18 and C-82/19 PPU, ECLI:EU:C:2019:456 and of 24 November 2020, AZ, C-510/19, ECLI:EU:C:2020:953.

23 Certain stakeholders have advocated for fully abolishing the possibility of instructions in individual cases to avoid the appearance of political influence; Contribution from the German Association of Judges for the 2024 Rule of Law Report, p. 12. On the other hand, the Federal Government and the *Länder* consider that the current system needs to be maintained to comply with the constitutional democracy principle and thereby ensure the accountability of the prosecution service. See 2021 Rule of Law Report, Country Chapter on the rule of law situation in Germany, p. 3 as well as the explanatory memorandum of the new draft law (see FN 24).

24 Ministry of Justice (2024), Draft law to increase the transparency of instructions to the prosecution service.

25 The principle of legality was already generally applicable as per para. 152 of the German Criminal Procedural Code, but this had not been specifically set out in the Courts Constitution Act, where the power to issue instructions to the prosecution service is regulated.

not be based on non-judicial considerations. Furthermore, the instructions would need to be issued in writing and be reasoned[26]. This would be consistent with European standards, which recommend adequate guarantees for transparency and equity such as the instructions being reasoned and in writing[27]. European standards further recommend seeking prior written advice from the competent public prosecutor and to include the instructions in the case file ahead of the trial[28]. While the introduction of these additional safeguards has generally been welcomed[29], there are calls to further restrict the power to issue instructions, notably a proposal by Nordrhein-Westfalen to limit it strictly to cases of misapplication of the law[30], as well as a preference of certain stakeholders to fully remove it[31].

Measures to further promote the respect of constitutional values by lay judges, and for ordinary judges before their initial appointment, are under consideration in Parliament. As noted in the 2023 Rule of Law Report[32], the Ministry of Justice had presented draft legislation providing that the non-respect of constitutional values is a mandatory ground for exclusion from becoming a lay judge. This draft law was submitted to Parliament in August 2023, where it is currently under consideration[33]. As regards the introduction of security checks for judges before their initial appointment to confirm their respect of constitutional principles[34], the coalition agreement in the Land of Hessen of December 2023 envisages to introduce such checks for judges, prosecutors, and police officers[35]. In the Land of Brandenburg a law will come into force on 1 September 2024 that allows a regular request at the constitutional protection agency (only non-intelligence resources) for every new official and judge[36].

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[26] If for special reasons the instruction is issued only orally or without reasoning, it has to be confirmed in written form and be reasoned at the latest the following day.

[27] Recommendation Rec(2000)19 of the Committee of Ministers of the Council of Europe, para. 13 d-e. For an overview of safeguards concerning instructions to prosecutors in individual cases, see Figure 55, 2020 EU Justice Scoreboard.

[28] Ibid., para 13 d, point 1 and 3.

[29] See e.g. the submissions of the Bar Association, the Federal Bar and the Union of Civil Servants to the public consultation on the draft law, with the Federal Bar however stressing that the inclusion of the instructions in the case file would also be essential to improve transparency. Ministry of Justice (2024), Legislative Procedure – law to increase the transparency of instructions to the prosecution service.

[30] The proposal, discussed at the Conference of the Justice Ministers in June 2024, was however not supported by a majority of the other *Länder.* Nordrhein-Westfalen (2024), Nordrhein-Westfalen demands more independence for prosecution services.

[31] Submissions by the German Judges Association and the New Association of Judges to the public consultation on the draft law, which both consider that the proposed changes would not suffice for the prosecution service to be considered a 'judicial authority' in the context of the European Arrest Warrant. Ministry of Justice (2024), Legislative Procedure – law to increase the transparency of instructions to the prosecution service.

[32] 2023 Rule of Law Report, Country Chapter on the rule of law situation in Germany, p. 5.

[33] An expert hearing took place in January 2024, confirming broadly that stakeholders agree with the reform. German Federal Parliament (2024), Experts – Reform of Judges' Law is necessary.

[34] 2022 and 2023 Rule of Law Report, Country Chapter on the rule of law situation in Germany, pp. 5-6 (for 2022) and pp. 4-5 (for 2023).

[35] Coalition agreement for Hessen 2024-2029, p. 37.

[36] Amendment of the Brandenburg State Civil Service Act of 14 May 2024. See also 2023 Rule of Law Report, Country Chapter on the rule of law situation in Germany, p. 4.

Quality

Some progress has been made to supplement the overall resources for the judiciary through additional investments, while the level of remuneration for judges remains a challenge. The 2023 Rule of Law Report recommended to Germany to '[s]tep up efforts to ensure adequate resources for the justice system, including on the level of remuneration for judges, taking into account European standards on resources and remuneration for the justice system'[37]. Germany's expenditure for the justice system in relation to GDP has remained stable, at a comparatively high level[38]. Beyond the additional investments by the Federal Government into the digitalisation of justice intended to support the Länder's strained budgets[39], a number of *Länder* have created additional posts in their justice systems in their budgets for 2023-24, amounting to around 340 new full-time positions for prosecutors and judges cumulatively[40]. However, based on the common personnel needs measurement system of the *Länder* (PEBB§Y)[41], the association of judges estimates that around 1 500 further posts for prosecutors and judges in criminal matters alone are currently needed[42] in view of increasing workload and processing times[43]. . These types of challenges are expected to be

[37] 2023 Rule of Law Report, Country Chapter on the rule of law situation in Germany, p. 2. In 2023 the Commission concluded that 'no progress' had been made on the recommendation addressed in the 2022 Rule of Law Report.

[38] 0.39% of GDP in 2022. Figure 24, 2024 EU Justice Scoreboard.

[39] Between 2023 and 2025, the Federal Government will invest EUR 200 million for this (see below). Input from Germany for the 2024 Rule of Law Report, pp. 1-3. In November 2023, the German Länder called for continuing to receive financial contributions from the federal level via the previous "Pact for the Rule of Law", Conference of the Justice Ministers, Resilient Rule of law – how can the free, democratic basic order and its institutions be defended against enemies of the constitution? See also Conference of the Justice Ministers (June 2024), Report of the working group 'resilient rule of law', reiterating this call.

[40] Additional posts created in 2023 and/or 2024 include: 67.5 in Baden-Württemberg, 150 in Bayern (across all judiciary professions), 38 in Berlin (plus 5 envisaged for 2025), 8 in Brandenburg (though no further increases are expected due to budgetary constraints), 31 in Hamburg (after 2021), 100 in Hessen, 5 in Mecklenburg-Vorpommern, 59 in Niedersachsen (2022-24), 40 in Nordrhein-Westfalen, 20 in Rheinland-Pfalz, 23 in Sachsen and 33 in Schleswig-Holstein, However, in Bremen, while a need for around 21 additional posts has been identified, no budgetary means to create them were available. In Sachsen-Anhalt and Thüringen no additional posts were created. Written contribution from the EU Affairs Committee of the Conference of the Justice Ministers in the context of the country visit to Germany. For context, it should be noted that there are currently over 20 000 judges in Germany overall and around 6 500 prosecutors. CEPEJ (2024), Study on the functioning of judicial systems in the EU Member States.

[41] PEBB§Y is a mathematical-analytical system to calculate the personnel needs of the Länder based on processing times registered by justice practitioners in an empirical study over a six-month period. The resulting average processing times can be multiplied with the pending and expected incoming cases of courts and prosecutions, to calculate the personnel requirements in each department. It was last updated in 2014 completely. On specific occasions, the commission of the state justice administrations for issues relating to the calculation of personnel requirements and its state working groups review whether adjustments to the basic figures or the product structure are necessary due to changes (an update of the calculation is planned for 2027). PEBB§Y figures are unrelated from the question of how many positions are currently vacant. Report – PEBB§Y update 2014.

[42] The length of criminal proceedings at regional courts has been steadily increasing and was at 8.6 months in 2022 (compared to 8.2 in 2021, and around 4 months in 2012), see German Judges Magazine 10/23, Files are piling up, cries for help are mounting and German Statistical Office (2023), Statistical Report – Criminal Courts – 2022.

[43] As the administration of justice is the responsibility of the *Länder*, no consolidated Germany-wide figure exists, and the measurement is not made public by all *Länder*. In Rheinland-Pfalz, where the PEBB§Y measurements are made available every year, indicators show that for 2023, 46 additional prosecutors would have been required. Ministry of Justice of Rheinland-Pfalz, Personnel needs calculation 2023 – Prosecutors.

further exacerbated by upcoming waves of retirements until 2030[44]. In June 2024, the *Länder* decided to develop a joint 'rule of law campaign' to improve the recruitment of future talent in the judiciary[45]. Stakeholders have also noted challenges as regards the recruitment of court staff, especially IT experts for the implementation of the on-going digitalisation initiatives[46]. As for the remuneration of judges, almost all *Länder* as well as the Federal Government, will apply to the judiciary the most recent collective bargaining agreement for the public sector [47], which provides for lump sum payments to compensate for inflation, and salary increases as of February 2025 at the latest[48]. However, the annual salaries of judges at the beginning of their career have remained the lowest in the EU compared to the average wages overall[49]. Judges' representatives continue to criticise this situation, which has led to open letters and protests by judges in certain *Länder*[50]. The criticism has highlighted the challenges for the ability of the judiciary to recruit qualified candidates, given the salaries in the private sector[51]. The Constitutional Court has repeatedly issued judgments interpreting the requirement of adequate remuneration of civil servants emanating from the Constitution[52], and further cases are expected to be decided in 2024[53]. Regional disparities between the different *Länder* as regards entry-level salaries for judges also remain significant, differing by up to 15%[54]. According to European standards, judges' remuneration should be commensurate with their profession and responsibilities and be sufficient to shield them from inducements aimed at influencing their decisions[55]. Overall, since resources have seen some increase, while challenges regarding the salaries of judges remain, some progress has been made on the recommendation made in the 2023 Rule of Law Report.

Digitalisation efforts in the judiciary are underpinned by a multi-annual investment programme and a number of dedicated legislative initiatives. The level of digitalisation of

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44 2023 Rule of Law Report, Country Chapter on the rule of law situation in Germany, p. 6.

45 Conference of the Justice Ministers (2024), Rule of law campaign to improve the recruitment of future talent in the judiciary.

46 Contribution from the German Judges Association for the 2024 Rule of Law Report, p. 13.

47 Input from Germany for the 2024 Rule of Law Report, p. 3. The exceptions so far are Saarland, Thüringen and Hessen, though in Hessen, as it is no longer part of the collective bargaining community of the Länder, a separate, similar collective bargaining agreement has been agreed. Written contribution from the EU Affairs Committee of the Conference of the Justice Ministers in the context of the country visit to Germany.

48 Input from Germany for the 2024 Rule of Law Report, p. 3; 5-6.

49 Figure 35, 2024 EU Justice Scoreboard. Prosecutors' entry-level salaries, in ratio to the annual average gross salary, are also among the lowest in the EU.

50 German Judges Association (2024), Salary protests in the *Länder*.

51 German Judges Association (2024), Justice is left behind on salaries.

52 See most recently Judgment of the Constitutional Court, of 4 May 2020, 2 BvL 6/17 and others. This judgment concerned the requirements regarding family bonuses. In the meantime, the Länder have in general taken measures to implement this judgment and adjust the family bonuses. Written contribution from the EU Affairs Committee of the Justice Ministers in the context of the country visit to Germany. While the Federal Government plans to present legislation on civil servants' salaries to implement this case law, a 2022 draft prepared by the Ministry of Interior has not yet been agreed within the Government, as confirmed at the Federal Government Press Conference of 20 December 2023. Stakeholders note that addressing the adequacy family bonuses does not address the question of judges' base salaries as such. Information received from the German Judges' Association in the context of the country visit to Germany.

53 Federal Constitutional Court, Annual Preview 2024. Written contribution from the Constitutional Court in the context of the country visit to Germany.

54 German Judges Association (2024), Salaries of justice professionals are further diverging.

55 CM/Rec(2010)12 of the Committee of Ministers of the Council of Europe to member states on judges: independence, efficiency and responsibilities, para. 54 and 33. Judgment of the Court of Justice of the European Union, 27 February 2018, C-64/16, Associação Sindical dos Juízes Portugueses, para. 45.

justice in Germany is overall very good, notably with regard to the use of digital technology and electronic communication tools by courts and prosecution[56], or arrangements for machine readable judgments[57]. Procedural rules allowing digital technology in courts in civil, commercial, and administrative cases are in place. With regard to criminal cases[58] some gaps remain for digital solutions to conduct and follow court proceedings[59]. A digitalisation initiative for the justice system includes funding of up to EUR 200 million for the period from 2023 to 2026[60]. In 2023, the funding of twelve projects of the Federal Government and the *Länder* amounting to EUR 112 million for 2023-2026 was approved and implemented, and additional projects are being prepared[61]. Furthermore, in November 2023, the Federal Government and the *Länder* agreed that the digitalisation of justice must go hand in hand with a modernisation of the procedural rules. To this end, they decided to convene a joint reform commission to draw up proposals for the civil procedure of the future, which should commence its work in July 2024[62]. In addition, in March 2024, the Government submitted to Parliament a legislative proposal to further digitalise the judiciary. The proposal includes a simplification of the electronic submission of certain motions for lawyers and parties, more flexible solutions for the transition to fully electronic court files as of 2026,[63] and the possibility for parties to participate in the main appeal hearing via videoconference in criminal matters before the Federal Court of Justice[64]. As noted in the 2023 Rule of Law Report, the Federal Government had, in May 2023, submitted a proposal to further expand the possibility of videoconferencing in civil and specialised courts to the Federal Council, which was subsequently adopted on 14 June 2024[65]. Furthermore, in March 2024, the

[56] Figures 42, 43 and 44, 2024 EU Justice Scoreboard.

[57] As also noted by stakeholders, room for improvement remains as regards the online publication of judgments. Figures 47 and 48, 2024 EU Justice Scoreboard. Contribution from the German Institute for Human Rights as part of ENNHRI for the 2024 Rule of Law Report, p. 7.

[58] The gaps exist concern admissibility of evidence filed in digital format only and on conducting the oral part of the procedure entirely via distance communication technology. Figure 41, 2024 EU Justice Scoreboard.

[59] Figure 46, 2024 EU Justice Scoreboard.

[60] The budget of the Federal Ministry of Justice has a dedicated and separate title for this purpose, which has been allocated EUR 50 million per year for the relevant period. All supported projects must comply with the 'one for all' principle, namely projects must be designed in such a way that it can be extended to and used by all Länder as well as the Federal Government.

[61] The funding for the digitalisation projects of the Federal Government in financial years 2023 and 2024 amounts to EUR 17 million, and EUR 95 million for the projects of the Länder in the financial years 2023-2026. The financing of further projects is in preparation. The twelve funded projects include development and testing of an online civil court procedure, a video portal of the judiciary, an AI strategy and an AI platform. Written contribution from the Ministry of Justice in the context of the country visit to Germany.

[62] The commission will be composed of representatives of the courts, attorneys, consumer organisations, businesses and academia. It should prepare revisions to procedural law in 2024. Conference of the Justice Ministers (2023) Joint declaration – Federal Government – Länder digital summit on 10 November 2023.

[63] A transition towards a fully digital file in the judiciary is underway as courts and public prosecutors will be obliged to keep court and procedural files as electronic files by 1 January 2026. This transition is progressing well and has been completed to large extent in some of the Länder. Written contribution from the EU Affairs Committee of the Conference of the Justice Ministers in the context of the country visit to Germany.

[64] Ministry of Justice (2024) A legislative proposal on the further digitalisation of the judiciary.

[65] The final version of the law as agreed in the conciliation committee provides that hearings by videoconference are only possible if the cases are suited to this and if sufficient capacities are available. If this is the case, the judge can both allow and require the parties to conduct a videoconference hearing, with a two-week deadline for the parties to object. See also 2023 Rule of Law Report, Country Chapter on the rule of law situation in Germany, pp. 7-8.

Parliament adopted a law on the introduction of electronic submission of documents and the use of electronic files at the Federal Constitutional Court[66].

Discussions on the proposal to introduce digital documentation of main proceedings in criminal cases have stalled due to diverging views between the Federal Government and the *Länder*. As noted in the 2023 Rule of Law Report[67], the Government's proposal to introduce digital documentation through audio recordings[68] of main proceedings in criminal cases had been submitted to Parliament in May 2023[69]. While the Federal Parliament adopted the proposal on 17 November 2023, the Federal Council, representing the *Länder*, did not find a majority in support and called on the conciliation committee to find a compromise[70]. The *Länder* have raised issues with the proposal, related to the timeline, costs, and content of the proposal. They highlighted a potential impact on the willingness of victims and accused persons to testify and a possible risk of leaks of the recordings[71]. The Federal Government considers that introducing digital documentation will ensure a reliable, objective, and uniform tool to support the work of all parties to the proceedings[72]. Stakeholders remain split on the proposal, with the Judges' Association sharing the *Länder's* concerns as regards the impact of the digital documentation on criminal proceedings[73]. The Bar and associations of lawyers have welcomed the proposal, which they consider will improve the traceability and transparency of proceedings, also in the interest of witnesses, noting that similar solutions are common in other European countries[74]. Discussions in the conciliation committee initially scheduled for February 2024 have been postponed[75].

Several legislative proposals aim at increasing the attractiveness of Germany as a location for civil and commercial cases. To follow-up on the 2023 study by the Ministry of Justice[76] examining the significant decline in incoming civil cases between 2005 and 2019, Germany has presented several initiatives to address this phenomenon. On 4 July 2024

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66 German Federal Parliament (2023) Tenth Act amending the Federal Constitutional Court Act - Introduction of electronic legal communication with the Federal Constitutional Court. The Federal Constitutional Court expects that the electronic file management will start to be used within the administration at the Federal Constitutional Court in autumn 2024; in the judicial area, it is foreseen within that same year to establish a working group for the introduction of electronic file management. Written contribution from the Federal Constitutional Court in the framework of the country visit to Germany.

67 2023 Rule of Law Report, Country Chapter on the rule of law situation in Germany, pp. 8-9.

68 The audio recording would then be transformed into a written protocol through a transcription software. Currently, for criminal proceedings at regional and higher regional courts, only a formal protocol is prepared, noting the procedural steps but not the content or interventions, meaning that judges, prosecutors and lawyers each take their own notes. The proposal also foresees an optional possibility to introduce video recordings, at the discretion of the *Länder*.

69 Draft Law of the Federal Government for a law on the documentation of main proceedings.

70 Convocation of the conciliation committee by the Federal Council on 15 December 2023 – Law on the documentation of main proceedings.

71 Ibid.

72 Accompanying note by the Federal Government on the Draft law on the documentation of main proceedings. To be noted that a full protocol is already provided in civil cases and in criminal cases at the local courts.

73 German Judges Association, Position Paper on the draft law on the documentation of main proceedings.

74 German Bar Association (2024), Why the documentation of criminal proceedings is indispensable. 2023 Rule of Law Report, Country Chapter on the rule of law situation in Germany, pp. 8-9.

75 Information received from the Ministry of Justice and the EU Affairs Committee of the Conference of the Justice Ministers in the context of the country visit to Germany. If adopted as proposed, the digital documentation would be fully applicable as of 2030, following a pilot phase.

76 Ministry of Justice (2023) Decline in civil court filings: Research report handed over to the Federal Ministry of Justice. Among the reasons identified are a lack of specialisation and slow digitalisation of justice.

Parliament adopted a proposal to create 'commercial courts', with the aim to make the German justice system more attractive for large and international commercial disputes[77]. These commercial courts will take the form of specialised senates that the *Länder* can create at a higher regional court to hear first instance commercial cases above a dispute value of EUR 500 000, with the possibility to conduct proceedings in English[78]. This proposal aims to address long-standing calls by the *Länder*[79]. The Federal Council has generally welcomed the proposal but criticised the limitation to certain areas of law and to disputes involving companies[80]. Stakeholders[81] have also expressed overall support, though business representatives[82] have questioned the high threshold for the dispute value. With a similar objective of increasing the attractiveness of Germany as a location for arbitration, on 26 June 2024 the Government submitted a proposal for the modernisation of arbitration law to Parliament[83]. The proposal foresees inter alia the possibility to conduct arbitration-related court proceedings in English, enhanced digitalisation of arbitration proceedings and the possibility to publish the decisions, with agreement of the parties. Finally, a legislative proposal submitted to Parliament on 5 June 2024 foresees further measures as regards civil proceedings, notably strengthening local courts by increasing the dispute value threshold for cases that can be heard at their level[84] and clarifying the division of competences between local and regional courts to improve specialisation[85].

Efficiency

The justice system overall continues to perform efficiently and measures to deal with so-called 'mass' civil cases[86] are being negotiated. The number of incoming civil and commercial litigious cases has continued a declining trend from the past years (1.2 cases at first instance per 100 000 inhabitants in 2022 compared to 1.3 in 2021)[87]. The disposition time in administrative cases at first instance continued to decrease (from 422 days in 2021 to

[77] Federal Government (2023), Draft law on strengthening Germany as a justice location.

[78] In addition, the proposal provides for the possibility of more detailed protocols and to have a first court date for the purpose of discussing the organisation of proceedings.

[79] 2021 and 2022 Rule of Law Reports, Country Chapter on the rule of law situation in Germany, p. 6 and p. 8.

[80] Information received from the EU Affairs Committee of the Conference of the Justice Ministers in the context of the country visit to Germany.

[81] Contribution from the German Bar Association for the 2024 Rule of Law Report, p. 13.

[82] DIHK, Position paper on draft law on strengthening Germany as a justice location.

[83] Federal Ministry of Justice (2024), Modernisation of the German arbitration procedural law.

[84] The maximum dispute value would be increased from EUR 5 000 to EUR 8 000, taking account of inflations, as the value had not been increased since 1993. This aims at increasing the number of first instance civil cases that are handled at local court level.

[85] In civil cases, the local court or regional court are responsible as the court of first instance, depending on the nature of the case. The draft foresees that regardless of the dispute value, certain cases such as some neighbour-related disputes are always handled by local courts, while others such as procurement matters are always handled by the regional courts. The decline in civil cases is an issue in particular for courts in smaller locations, as they are unable to compensate for the decline in the number of cases by reducing the number of posts and therefore run the risk of having to close completely. Ministry of Justice (2024) Draft legislative proposal on amending the jurisdictional value in dispute of the local courts, to expand the specialisation of the judiciary in civil matters and to amend other procedural regulations.

[86] These are usually a large number of individual lawsuits, giving rise to the same key legal issues and asserting similar claims, such as following the so-called Dieselgate scandal or relating to consumer disputes in insurance or bank contracts.

[87] This trend can be observed in the EU Justice Scoreboard since 2012. The same trend can be observed also with regard to the incoming administrative cases at first instance (0.6 cases per 100 000 inhabitants in 2022 compared to 0.7 in 2021 and 2020, and 0.8 in 2019). Figures 3 and 4, 2024 EU Justice Scoreboard.

408 days in 2022)[88] and slightly increased for litigious civil and commercial cases at first instance (from 231 days in 2021 to 241 days in 2022)[89]. At the same time, the number of pending litigious civil and commercial cases as well as administrative cases at first instance decreased[90]. However, the phenomenon of 'mass' civil court cases continues to pose serious challenges for the justice system. In June 2023, the Ministry of Justice presented a draft legislative proposal on a 'leading decision' procedure to the Federal Court of Justice, aimed at dealing with some of those cases more efficiently[91], which was then submitted to Parliament in August 2023. However, in October 2023, the Federal Council expressed reservations[92] on certain elements of the proposal.

II. ANTI-CORRUPTION FRAMEWORK

Germany has several authorities responsible for the prevention of corruption at the federal level, including the Federal Ministry of the Interior and Community, and the Supreme Audit Institution. Competences for the policy coordination and corruption prevention in the 16 Ministries of the Interior at the *Länder* level depend on the anti-corruption frameworks in place. The Federal Court of Auditors[93] and the Courts of Auditors at the *Länder* level have a preventive role in monitoring the public spending, including controls of corruption. As to the repression of corruption, Germany has a decentralised approach. The sixteen *Länder* are in charge of the investigation and prosecution of corruption offences across Germany. Some *Länder* have specialised police and prosecution offices on corruption in place. The Federal Criminal Police Office plays a role in the information-exchange between the international level and the local level as well as among police offices at the *Länder* level.

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, Germany scores 78/100 and ranks 5th in the European Union and 9th globally[94]. This perception has been relatively stable over the past five years.[95] The 2024

88 Figure 8, 2024 EU Justice Scoreboard.

89 Figure 6, 2024 EU Justice Scoreboard.

90 Figures 13 and 14, 2024 EU Justice Scoreboard.

91 This proposal is intended to be an element towards a more efficient handling of mass civil court cases, allowing the Federal Supreme Court to clarify central legal issues affecting a large number of similar cases pending at lower instance courts. The Federal Court of Justice could designate a case in revision proceedings as a 'leading decision'. The lower instance courts could suspend pending parallel proceedings with the consent of the parties. Most importantly, the Federal Supreme Court would be able to rule on the legal issues of broader importance in the form of the leading decision even if the parties were to subsequently withdraw the revision or the revision case was settled. Ministry of Justice (2023) Law on the introduction of a leading decision procedure at the Federal Court of Justice.

92 The Federal Council considers it problematic that a legal dispute must proceed through the lower instances until it reaches the Federal Supreme Court. Instead, it considers that it should be possible to submit the relevant legal issues to the Federal Court of Justice already at the first instance. Furthermore, it believes that an overall concept for dealing with mass proceedings is necessary, which should also include, for example, a possible concentration of the taking of evidence.

93 There is also a role for the Federal Court of Auditors to assess the implementation of the Federal Government Corruption Prevention Directive. It can provide recommendations for corruption risks and for corruption prevention.

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

Special Eurobarometer on Corruption shows that 51% of respondents consider corruption widespread in their country (EU average 68%) and 11% of respondents feel personally affected by corruption in their daily lives (EU average 27%)[96]. As regards businesses, 47% of companies consider that corruption is widespread (EU average 65%) and 20% consider that corruption is a problem when doing business (EU average 36%)[97]. Furthermore, 32% of respondents find that there are enough successful prosecutions to deter people from corrupt practices (EU average 32%)[98], while 40% of companies believe that people and businesses caught for bribing a senior official are appropriately punished (EU average 31%)[99].

The update of Germany's strategic anti-corruption framework at the Federal level and revision of its rules on gifts has remained pending. The revision of the 2003 'Federal Government Directive Concerning the Prevention of Corruption in the Federal Administration' led by the Ministry of Interior, as the federal administration's corruption prevention strategy[100], was originally expected to be finalised by the end of 2022[101], but has seen several delays since 2021. The revision of the Directive is currently planned to be finalised after the adoption of the proposed EU directive on combating corruption through criminal law, which is not expected before next year[102]. Consequently, input from stakeholders has not yet been sought[103]. The revision of the 2004 rules on the prohibition to accept favours and gifts is also still ongoing.[104] but planned to be finalised still in 2024[105]. The comprehensive compilation report on integrity in the federal public administration of

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95 In 2019, the score was 80, while, in 2023, the score is 78. The score significantly increases/decreases when it changes more than five points; improves/deteriorates (changes between 4-5 points) and is relatively stable (changes from 1-3 points) in the last five years.

96 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).

97 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).

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

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

100 It applies to all categories of federal employees, authorities and offices, the supreme federal authorities, the military and state-owned enterprises. The strategy is limited to the federal level and to corruption prevention. GRECO considers the directive a solid framework, see GRECO, Fifth Evaluation Round, Evaluation Report Germany (2019), p. 4.

101 See 2023, 2022 and 2021 Rule of Law Report, Country Chapter on the rule of law situation in Germany, p. 11 (2023), p. 10 (2022) and p. 7 (2021).

102 Information received from the Ministry of Justice/Ministry of Interior in the context of the country visit.

103 Germany has been encouraged during the UNCAC review to seek, where appropriate, input from stakeholders outside of the public sector. UNCAC Review Report of Germany for the Review Cycle 2016-2021 (2020), p. 30. Germany was originally criticised for not having assessed the impact of its corruption prevention strategy, especially in fields prone to corruption and was recommended to revise the directive, see UNCAC, Executive Summary, p. 3.

104 The revision aims to assess whether more up-to-date, harmonised rules and increased legal certainty would be required. Information received from the Ministry of Interior in the context of the country visit to Germany, noting that thematically the rules are envisaged to be more comprehensive, including concrete examples to inform public officials. See also 2023, 2022 and 2021 Rule of Law Reports, Country Chapter on the rule of law situation in Germany, p. 11 (2023), p. 10 (2022) and p. 7 (2021).

105 Information received from the Ministry of Interior in the context of the country visit to Germany.

2022 was published in September 2023, including, among others, specific data on corruption cases and suspicion of corruption in the federal public administration[106].

Germany has further strengthened its criminal law relating to corruption, while plans on corporate sanctions for foreign bribery have not yet advanced further. While bribery in the public and private sector, including members of Parliament is already broadly criminalised in Germany, a new law was adopted by the Parliament in May 2024 and came into force in June 2024[107]. This law introduces as a new provision the criminal offence of trading in influence involving members of Parliament[108]. Notably, the new provision criminalises illicit peddling of actual or alleged influence by members of Parliament, and thus unethical commercial conduct[109] by exerting influence outside of their official parliamentary activities. As such, the newly introduced provision complements already existing provisions on members of Parliaments, closing a criminal liability gap[110]. The regulation of parliamentarians' secondary activities leaves room for concern[111]. As to previously reported plans to strengthen sanctions for companies for foreign bribery, there is still no concrete timeline for the Minister of Justice's plan to provide for precisions in the Code of Administrative Offences[112], which would include an adaptation of the level of sanctions for legal persons, but changes are still planned for 2025. Increased corporate liability[113] for criminal offences could further facilitate enforcement levels in criminal prosecutions of foreign bribery[114].

Germany overall provides an effective response in its fight against corruption. As in previous years, no concerns were raised by stakeholders identifying any systemic weaknesses

[106] Ministry of Interior (4 September 2023), Integrity in the federal public administration - Annual Report 2022,

[107] Law amending the criminal code – Criminalisation of undue interest representation. German Parliament, Draft law amending the criminal code – Criminalisation of undue interest representation, 20/10376, (20 February 2024), introducing the new Section 108(f).

[108] Ibid. See also LobbyControl (22 February 2024), Corruption of MPs: the Traffic Light coalition draws consequences from mask affair, largely welcoming the proposal.

[109] Other than for public officials, commercial conduct of parliamentarians is not prohibited. Section 108(e) of the Criminal Code.

[110] The new provision in Section 108(f) of the Criminal Code complements the already existing provision in Section 108(e) of the Criminal Code criminalising bribery involving members of Parliament. It closes criminal liability gaps resulting from the fact, that Section 108(e) only applies to bribes paid in return for the member of Parliament to perform an act in the exercise of his or her mandate.

[111] See Federal Court of Justice calling for the legislator to regulate this gap. Bundesgerichtshof, decision of 5 July 2022, StB 7-9/22. There is no stand-alone provision on trading of influence under German law, UNODC, Country Review Report of the Federal Republic of Germany (2017), p. 55. GRECO requested Germany to reconsider its reservations and to consider a stand-alone trading in influence offence. GRECO, Third Evaluation, Second Addendum to the Second Compliance Report on Germany (2019), recommendation ix.

[112] Information received from the Ministry of Justice in the context of the country visit to Germany. See 2023 Rule of Law Report, Country Chapter on the rule of law situation in Germany, p. 12.

[113] Companies can be held liable for corruption offenses committed by their representatives under the more generic Act on Regulatory Offences with a fine of up to EUR 10 million and the possibility to confiscate profits, which represents an administrative corporate liability regime.

[114] According to the Federal Criminal Police Office (15 September 2023), Federal Situation Report - Corruption 2022, p. 11, there were two cases in 2022. See also OECD (2021), Working Group on Bribery, Implementing the OECD Anti-Bribery Convention, Phase 4 - Two Year Follow-Up Report Germany, noting, however, that enforcement primarily targets natural persons who commit economic offences, while Germany's corporate liability regime remains critically low. Transparency International, Exporting Corruption (2022), pp. 8, 48-49, also noting the lack of criminal liability of corporations as the main weakness.

in the treatment of high-level corruption cases or the investigation, prosecution or final judgement of corruption and high-level corruption cases[115]. No corruption cases or challenges in the cooperation between the German authorities and the EPPO on corruption-related investigations have been reported[116]. The levels of human and financial resources as well as high specialisation specifically for corruption cases within the police, the financial intelligence unit, the prosecution service, and courts are found to be overall sufficient to carry out their tasks effectively[117]. The FIU is reported to work on enhancing its operational effectiveness regarding its practice and backlogs[118]. To facilitate cooperation between the Financial Intelligence Unit (FIU) and law enforcement, including on corruption as a predicate offence, amendments to the money laundering law came into force on 18 November 2023[119]. The 2023 Situation Report by the Federal Criminal Police illustrates in a robust annual analysis recent trends, developments and statistics on corruption and Germany's efforts to repress it[120]. It details 3 600 police-registered corruption cases for 2022, which presents a stark decrease of approximately 51% compared to 2021[121]. According to this Situation Report, the decrease can be observed across the board for almost all corruption-related crimes[122]. It is reportedly due to the complexity of corruption investigations and the fact that a few large-scale investigations in several *Länder* conducted in the previous year involved a high number of individual criminal acts. Medical and pharmaceutical industries are identified as the most affected sectors by corruption-related crimes, while the business sector and public administration represent the preferred targets. Also, law enforcement and justice authorities are reported to increase as a target for corruption-related crimes[123].

[115] Information received by the Prosecution Service, Association of Judges and Bar Association in the context of the country visit to Germany.

[116] EPPO Annual Report 2023 (2024), p. 33; written input from EPPO for the 2024 Rule of Law Report, p. 4.

[117] Information received from the Ministry of Interior, Federal Criminal Police, Prosecution Service and Financial Intelligence Unit in the context of country visit to Germany. See also written contribution from the FIU in the context of the country visit to Germany.

[118] FIU (8 December 2023), FIU Annual Report 2022, reporting an increase of 31% in FIU analytical crime suspicion reports to the police and prosecution services compared to 2021. See also ACAMS-moneylaundering.com (13 September 2023), After Years of Turmoil, Germany Seeks to Reinvigorate, Modernise FIU.

[119] Written contribution from the FIU in the context of the country visit to Germany, p. 1. Federal Ministry of Finance (October 2023), New direction in the fight against criminal finance, and Law of 13 November 2023 to strengthen the risk-based working methods of the Central Office for Financial Transaction Investigations

[120] The data is based on information from the Federal Criminal Police Office and its counterparts in the federal states, the Federal Police and the Customs Criminological Office using a nationally standardised questionnaire. As such, it does not include data broken down by the 16 *Länder*, which could help identify regional discrepancies and areas for particular attention. The report is published annually.

[121] Federal Criminal Police Office (5 September 2023), Federal Situation Report - Corruption 2022. Overall, the number of identified public officials accepting a bribe continue to be at the lowest level of the past five years. The detected financial damage caused by corruption has notably decreased compared to 2021, by approximately 56% amounting to EUR 27 million in 2022. Of those who have been found to have accepted a bribe, 51% have been public officials, a decrease of four percentage points compared to 2021.

[122] With the only notable exception of electoral bribery as regulated in Section 108(b), where there is a slight increase from 2 to 7 cases compared to the previous year.

[123] With an increase of more than 11 percentage points compared to the previous year. This data illustrates a change to the previous year, where the construction sector was the most affected, while law enforcement and justice sector ranging at 7.6% (2022 data for 2021) compared to 18.8% (2023 data for 2022). See 2023 Rule of Law Report, Country Chapter on the rule of law situation in Germany, p. 13.

Stricter rules for Germany's lobbying register came into force. With more than 6 000 interest representative entries by the end of 2023, the lobby register is further expanding[124]. On 1 March 2024, the reform of the Lobby Register Act entered into force[125], further elevating the levels of transparency in Germany's decision-making process. The mandatory lobby register administered by the Federal Parliament now provides for a broader scope of those considered potential lobby targets in the public administration[126] and more extensive publication requirements for lobbyists. These include the requirement to publish the lobby organisation's financial sources, interest representatives' previous roles as public or elected officials (revolving doors)[127], lobbying activities on behalf of third parties, the specific legislation lobbied, and the range of potential lobby targets envisaged[128]. Stakeholders view this initiative largely positively providing for more transparency in Germany's environment of strong industry interest representation[129]. Until 30 June 2024, all interest representatives will have to update their entries[130]. The Parliament Administration is monitoring all entries and verifying and following up on suspicious data content in the register[131], while also increasingly taking third parties' compliance monitoring into account. In the reporting period, the first administrative proceeding was opened against a lobby group for failure to register while lobbying a minister[132]. As sanction, this can lead to an administrative fine of up to EUR 50 000. There are plans to interconnect the lobby register with a future digital legislative portal to enhance transparency in decision-making further, so far without an indicative timeline[133].

[124] Input from Germany for the 2024 Rule of Law Report, p. 20. By March 2023, 5 500 entries were registered.

[125] Consolidated version of the Lobby Register Act (1 March 2024)

[126] Individuals, companies, associations, and other organisations already had to register contact members, bodies, factions or groups of the Federal Parliament, the Federal Government, including parliamentary state secretaries, heads of directorates and other top-level executives above this level, in order to (in)directly influence the decision-making process. Now they are also obliged to register when they lobby the technical level in ministries down to the level of head of unit.

[127] The obligation to publish encompasses any membership in the Federal Parliament or Government and any function for members of Parliament or in the Federal Administration currently held or held in the Government for the past five years.

[128] Input from Germany for the 2024 Rule of Law report, p. 21. Interest representatives must also state all current, planned, or intended regulatory proposals at federal level or European Union level, for which lobbying is to be carried out. Also written comments and expert opinions submitted to lobby targets that contain material arguments or positions concerning these specific regulatory proposals have to be provided in PDF format and their content also in machine-readable format, even if these contributions are not mentioned in the executive footprint (for more details, see next section). See also GRECO (2024), Fourth Evaluation Round - Addendum to the Second Compliance Report on Germany, recommendation (i), paras. 9-16, pp. 3-4. In detail, GRECO recommended that 'the transparency of the parliamentary process be further improved, e.g. by introducing rules for members of parliament on how to interact with lobbyists and other third parties seeking to influence the parliamentary process.'

[129] Information received from LobbyControl/Allianz Rechtssicherheit/ Bündnis Bürgerschaftliches Engagement in the context of the country visit to Germany, stressing only the persisting shortcomings of exemptions for churches, employer and trade unions and the lack of real-time reporting of lobby meetings.

[130] Failure to do so leads to the deletion of the register data with the result that no lobby activity may be undertaken, as further lobby activity is an administrative offence.

[131] According to the information received from the Parliament Administration in the context of the country visit to Germany more than 2 500 emails were sent to interest representatives to assist in the correction of data.

[132] Der SPIEGEL (16 February 2024), Fishing association faces fine from Bundestag – administrative offence proceedings against lobby group.

[133] Information received from the Parliament Administration in the context of the country visit to Germany.

Some further progress was made regarding the introduction of a legislative footprint to increase transparency in decision-making. The 2023 Rule of Law Report recommended to Germany to 'proceed with plans to introduce a "legislative footprint" to allow for the monitoring and tracing of all interest representatives who seek to influence and contribute to specific legislative texts'[134]. On 6 March 2024, the Federal Government revised its Rules of Procedure introducing a legislative footprint[135] for the executive, from where the majority of legislative proposals originate[136]. As of June 2024, officials in Federal Ministries[137] are required to disclose the influence of lobbyists on legislative drafts. Although largely welcomed by stakeholders, the changes do not yet encompass reporting obligations on meetings in person with lobbyists nor the disclosure of those written contributions which have ultimately not been taken into account by the Government[138]. Only lobbying input that contributed to a significant extent or led to changes of core aspects of the legislative draft fall under the disclosure obligation, providing for a wide discretion[139]. The introduction of a 'legislative footprint' for the Parliament and of a joint digital legislative portal for Government and Parliament continue to be delayed[140]. The larger e-legislation initiative remains at a conceptual stage with results envisaged by the end of 2025[141]. Against this background, some progress has been made on the recommendation made in the 2023 Rule of Law Report.

Some further progress has been made on stricter post-employment regulations for high-level officials with new rules having entered into force and higher transparency standards. The 2023 Rule of Law Report recommended Germany to '[s]trengthen the existing rules on revolving doors by increasing consistency of the different applicable rules, the transparency of authorisations for future employment of high-ranking public officials, and the length of cooling-off periods for federal ministers and federal parliamentary state secretaries'[142]. The stricter rules recently introduced for the lobbying register include a new requirement to disclose interest representatives' current or previous roles as public and elected officials[143], which stakeholders largely welcomed[144]. As of 1 April 2024,

[134] 2022 and 2023 Rule of Law Report, Country Chapter on the rule of law situation in Germany, p. 2. The 2023 Rule of Law Report concluded that 'some progress' had been made on the 2022 recommendation.

[135] A legislative footprint is a comprehensive public record of lobbyists' influence on a piece of legislation.

[136] Federal Ministry of Interior, Draft Amendments to the Rules of Procedure of the Federal Ministries for the Implementation of an 'Executive Footprint' and 'Synopsis'. See also Ministry of Interior (6 March 2024), Press statement, executive footprint: federal legislation becomes more transparent and easier to understand. Approximately 80-90% of the legislative drafts are prepared by the Government.

[137] Stakeholders call for a wider scope, including also lobby contacts with the head of unit or even policy officer level Abgeordnetenwatch (22 June 2023), Lobby register 2.0? Full lobby transparency still does not exist; LobbyControl (6 March 2024), Coalition finally decides on lobbying footprint.

[138] LobbyControl (6 March 2024), *ibid*, indicating that the lobbyists' arguments not taken into account in the draft law as well as the balance of the different, contributing interest representatives is of public interest.

[139] There is an obligation, however, to provide lobbying input in the lobbying register, see section above.

[140] As previously reported the introduction of this legislative footprint was expected by the end of 2024, see 2023 Rule of Law Report, Country Chapter on the rule of law situation in Germany, p. 16.

[141] Information received from Administration of the Parliament in the context of the country visit to Germany.

[142] 2022 and 2023 Rule of Law Report, Country Chapter on the rule of law situation in Germany, p. 2. The 2023 Rule of Law Report concluded that 'some progress' had been made on the 2022 recommendation.

[143] See further above in the section on lobbying. The obligation to publish encompasses any membership in the Federal Parliament or Government and any function for members of Parliament or in the Federal Administration currently held or held in the Government for the past five years. Input from Germany for the 2024 Rule of Law report, p. 21.

amendments[145] entered into force, introducing a tiered system of declaration and authorisation obligations for former high-ranking public officials, including political officials and those who had received a security-vetting before their retirement[146]. Instead of only covering activities linked to their role in the past five years in service, the obligation extends now to all post-employment activities and to a period of seven years following their service[147]. Subsequent employment will not be authorised if the new activity impairs the interests of the public administration[148]. Failure to comply with the prohibition of subsequent employment is considered a disciplinary offence[149]. Varying cooling-off periods[150] persist[151]. Therefore, some further progress has been made on the recommendation made in the previous years.

The monitoring of secondary activities of members of Parliament continues to constitute a challenge. Certain prohibitions are in place for remunerated lobby activities of members of Parliament[152] but there is no requirement to disclose the actual time spent on them[153] nor is there a requirement for *ad-hoc* disclosures in plenary debates when a conflict between specific private interests emerges in relation to a matter under discussion in Parliament[154]. Several recent cases of non-compliance by members of the Parliament have been reported in the reporting period and were addressed afterwards[155]. Questions remain however as to

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144 Information received from LobbyControl/ Allianz Rechtssicherheit/ Bündnis Bürgerschaftliches Engagement in the context of the country visit to Germany.

145 As regards Section 105 of the Law on Federal Public Officials

146 Input from Germany for the 2024 Rule of Law Report, p. 18.

147 New employment needs to be declared one month ahead of the start of the new activity. In case of failure to comply, there is a possibility to prohibit for a period of one month the start of the new activity.

148 There is detailed jurisprudence by courts concretising in guiding decisions the interpretation of impairment of the interest of the public administration as stipulated in sections 105 and 41 Federal Civil Service Law.

149 See Section 77(2) Civil Service Act. The prosecution of the offences is based on the Federal Disciplinary Act.

150 For federal ministers and federal parliamentary state secretaries, the cooling-off periods are shorter with a 12-18 month-period, compared to the period applicable to state secretaries and directors general of three to five years and thus could warrant a longer mandatory cooling-off period, as also recommended by GRECO Fifth Evaluation Round – Evaluation Report, para. 89. Federal ministers and parliamentary state secretaries hold their offices for a shorter period of time. In this context, stakeholders, including LobbyControl and Transparency International, call for a three-year cooling-off period to better prevent and reduce risks of undue influence, see for instance Lobbycontrol, Lobbypedia – Cooling-off Period.

151 GRECO (2023) Fifth Evaluation Round – Compliance Report on Germany, paras. 37-45; for a list of relevant revolving door cases, see Lobbycontrol, Lobbyreport 2024, pp. 36-37, calling for an effective control mechanism, as there are currently no consequences in practice for the failure to report a new employment or to comply with a decision on a cooling-off period. Also the Government has not reported any such consequences in practice.

152 2023 Rule of Law Report, Country Chapter on the rule of law situation in Germany, pp. 17-18, and Abgeordnetenwatch (2023), Income published: this is what the members of the Bundestag earn on the side.

153 Reported since 2021 Rule of Law Report, Country Chapter on the rule of law situation in Germany, p. 10.

154 GRECO Fourth Evaluation Round – Interim Compliance Report, p. 4. Similarly, ministers and parliamentary state secretaries are not yet under any unequivocal obligation to disclose potential conflict of interests on an ad hoc basis, see GRECO, Fifth Evaluation Round – Compliance Report, recommendation vi, pp. 8-9. Section 49 of the Member of the Bundestag Act stipulates a requirement of ad-hoc disclosure for committee members and rapporteurs in committee meetings.

155 Abgeordnetenwatch (25 January 2024), Controversial secondary activity: how Peter Ramsauer opened the door to government for a business association; Abgeordnetenwatch (10 July 2023), Secondary activities: prominent MPs obviously violated the law. See also Parliament reply 20/6919 to Parliamentary Question 20/6696 on Decisions on the selection of staff in the Federal Ministry of Economy and the Climate Protection.

systematic oversight and enforcement, which remain an obstacle in practice[156]. No information is available or has been reported regarding the application of the existing sanctions in practice during the reporting period, such as by the issuance of fines. Given the Parliament Administration's limited mandate to investigate and subordination to the Presidium of the Parliament, stakeholders continue to remark as in previous years the lack of a fully independent oversight body or ethics committee with a mandate to investigate breaches[157].

Weaknesses remain in conflict of interest and asset disclosure rules and their enforcement in practice. In relation to top executives, there have been no developments to strengthen oversight and to increase transparency over financial and business interests of federal ministers, parliamentary state secretaries, state secretaries and directors general to disclose potential conflicts of interest, as had been recommended by GRECO[158]. Several cases of conflict of interests have raised public attention, leading to calls to modernise the rules in place for public officials[159]. The Legal Commission of the Federal Parliament's Council of Elders is drafting an evaluation report on interest and asset disclosure rules for member of the Federal Parliament[160]. Their financial declarations do not extend to liabilities and significant assets, such as shareholdings in private enterprises below the current threshold[161]. Their assets and financial interests are only subject to notification if the respective member is in charge of an issue in a parliamentary committee, while being remunerated through a secondary activity[162].

New rules have been adopted increasing political party and campaign financing transparency. On 14 December 2023, the Parliament passed amendments to the law increasing the ceiling of state subsidies for political parties as well as the level of

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[156] 2023 Rule of Law Report, Country chapter on the rule of law situation in Germany, pp. 17-18. See also LobbyControl (2024), Lobby report 2024 and GRECO (2024), Fourth Evaluation Round - Addendum to the Second Compliance Report on Germany, recommendation (iv), paras. 21-27, pp. 5-6, recognising the general staff increase in the Parliament Administration assigned to the monitoring of the lobby register.

[157] Information received from LobbyControl and Transparency International in the context of the country visit to Germany. See also GRECO Fourth Evaluation Round – Second Interim Compliance Report (22 November 2022), p. 9, raising questions as to whether the administration is not too close to power in order to effectively monitor and, if need be, criticise members of Parliament.

[158] Information received from Ministry of Justice and Ministry of Interior in the context of the country visit to Germany. The related GRECO recommendation (viii) has not been implemented, see GRECO Fifth Evaluation Round – Compliance Report, pp. 12-13.

[159] LobbyControl (21 February 2024), Press comment on the hydrogen affair, and (22 May 2023), After Graichen: 7 key points for stricter rules in the event of conflicts of interest. Wirtschaftswoche (22 August 2023), How managers protect themselves from accusations of nepotism.

[160] Information received from the Parliament Administration in the context of the country visit to Germany, parts of which may become public upon deliberations by the respective parliamentary Committee. Germany had already carried out an extensive internal review of its asset declarations rules in 2021-2022 that GRECO accepted as meeting its recommendation (iii) of the Fourth Evaluation Round, Evaluation Report.

[161] Members of the Parliament are obliged to disclose shareholdings above five percent in private corporations or partnerships, with certain exceptions. See section 45(2)(6), 45(3) Member of the Bundestag Act.

[162] 2023, 2022 and 2021 Rule of Law Report, Country Chapter on the rule of law situation in Germany, p. 18-19 (2023) p. 14 (2022) and p. 10 (2021). Between 2005-2021, ten fines have been imposed for serious violations, which have been made public by the President of the Parliament, see Abgeordnetenwatch (26 February 2022), Members of Parliament breached transparency rules a hundred times - without consequences. Fines can be of up to half their annual remuneration, depending on the severity of the individual case and the degree of fault. See also report on investigations and sanctions by the President of the Bundestag (23 September 2022).

transparency in party finance[163]. This comes partly in response to a Constitutional Court ruling in January 2023[164]. The amendments further provide new rules regulating party sponsoring and hidden party campaign finance by other persons at federal and *Länder* level, increasing overall transparency in party financing[165]. Stakeholders consider the legislative reform as promising, although they noted a lack of a maximum ceiling for party and campaign donations, which risks affecting the level playing field, since large-scale companies would have proportionally higher influence possibilities[166]. In practice, four administrative lawyers are competent, including the head of the party finance division of the Parliament Administration for the general control of potential infringements and administrative offences, including on party and campaign finance[167]. The Parliament Administration also does not have access to donors' tax information to be able to cross-check data during the verification process of statements of accounts of political parties[168]. Stakeholders continue to regard this lack of investigative powers and limited human resources as problematic to ensure effective responses in practice[169], proposing the establishment of an independent control body[170]. A further concern in practice relates to the continuing significant time lapse between the actual party income and its reporting[171].

New legislation on whistleblower protection has entered into force. A new law for enhanced protection of whistleblowers entered into force on 2 July 2023, aiming to transpose the EU Whistleblower Directive. The material scope of the German law is wider than that of the Whistleblower Directive since it also encompasses, among others, breaches related to all

[163] Law amending the law for political parties (20/9147). The initiative falls into the competence of the Parliament. A first reading has taken place in November 2023. See in this context also Transparency International-Deutschland (27 November 2023), Statement on the hearing for the Political Parties Act.

[164] For unscheduled, additional increases there are strict regulations in place, which the Constitutional Court confirmed in its ruling of 24 January 2023, 2 BvF 2/18.

[165] The threshold for donation reporting requirements was lowered from EUR 50 000 to EUR 35 000. Party sponsorship must now be disclosed in annual reports. Campaigning by other persons, e.g. through advertisements, is considered a donation after notification and no distancing by the party.

[166] Information received from LobbyControl/Transparency International-Deutschland in the context of the country visit to Germany. LobbyControl (7 November 2023), Party financing: coalition and CDU agree, but a party donation cap is missing. See also Transparency International-Deutschland (27 November 2023), Statement on the hearing for the Political Parties Act.

[167] The Parliament Administrations' human resources were further increased in 2023 in support of its oversight and monitoring functions. In 2022-2023, the human resources increased from 4 to 10 staff members, of which 9 are permanent positions for the control of lobby register. However, this staff increase is primarily meant to enhance oversight over the lobby register, not political party, and campaign finance. Information received from the Parliament Administration in the context of the country visit to Germany.

[168] Concerns are flagged in UNCAC Country Review Report of Germany, Review cycle 2016-2021, p. 67.

[169] Sueddeutsche Zeitung (10 October 2023), CDU: voluntary disclosure due to party donation to the Cologne district association; Tagesschau (10 October 2023), Suspicion of corruption at Cologne CDU; LobbyControl (13 September 2023), Party financing: Gröner donations to the CDU.

[170] Transparency International-Deutschland (27 November 2023), Statement on the hearing for the Political Parties Act, suggesting the creation of a Lobbying Supervisor (similar to the Data Protection Supervisor) vested with investigative competences to launch ex-officio verification proceedings for the control of party finance, lobbying and compliance with the register, side incomes of public officials, and revolving doors.

[171] 2023, 2022 and 2021 Rule of Law Report, Country Chapter on the rule of law situation in Germany, p. 19 (2023), p. 15 (2022) and p. 10 (2021). See Transparency International-Deutschland (27 November 2023), Statement on the hearing for the Political Parties Act; LobbyControl (2023), Party donations are increasing, the lack of transparency remains, noting that party accountability reports covering 2021 were only published in 2023.

types of corruption crimes without the need of a link to the EU budget[172]. Several internal reporting structures exist at the Federal Government level, including in anti-corruption units[173]. The central external reporting channel for public and private sector matters concerning the Federal and the *Länder* level is administered by the Federal Office for Justice[174]. Stakeholders consider the new legal framework essential to supporting whistleblower reports to uncover large-scale corruption, economic crimes, and other wrongdoings[175], noting however that the *Länder* are still in the process of setting-up internal reporting channels with varying degrees of readiness so far[176]. According to federal police statistics, in 2023, 63.5% of corruption investigations were initiated on the basis of external information and public disclosures[177].

Proposals to modernise public procurement rules are still under preparation. Businesses' attitudes towards corruption in the EU show that 17% of companies in Germany (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 years[178]. The legislative package to simplify, digitalise and speed up public procurement procedures is still planned to be submitted to Parliament in 2024[179]. The initiative, which is part of the Government's coalition agreement, was overall welcomed by stakeholders as having the potential to increase transparency and thus prevent corruption in public contracting[180].

III. MEDIA PLURALISM AND MEDIA FREEDOM

In Germany, the Basic Law, complemented by the relevant jurisprudence of the Constitutional Court and secondary legislation form a well-established legal framework, guaranteeing media freedom and pluralism as well as the right of access to information. The main legislative competence in the area lies with the *Länder*, which conclude state treaties to

[172] Input from Germany for the 2024 Rule of Law Report, p. 23, including apart from all crimes also misdemeanours in as much as they concern important legal interests.

[173] At the federal level, the Federal Office for Justice and also the '*Bundesanstalt fuer Finanzdienstleistung'* and the '*Bundeskartellamt'* provide reporting channels.

[174] According to input from Germany for the 2024 Rule of Law Report, p. 23, in the period since enforcement on 2 July 2023 until 30 November 2023, of the 309 disclosure reports received by the Federal Office for Justice, 19 proceedings have already been dealt with, while 23 cases have been transferred to other competent authorities. Whistleblowers have the option to report either to internal or external reporting channels, while going public must be last resort, unless there is an imminent danger or risk of losing evidence.

[175] Information received from the Prosecution service/Allianz Rechtssicherheit/Bündnis Bürgerschaftliches Engagement in the context of the country visit to Germany. Whistleblowers helped to unveil the Cum-Ex, Wirecard and tax leaks. Frankfurter Rundschau (2023), Despite Wirecard and Cum-Ex: no protection for whistleblowers.

[176] Information received from Gesellschaft für Freiheitsrechte in the context of the country visit to Germany, reporting that, e.g. Bavaria established quite many reporting channels, while Mecklenburg-Vorpommern has provided only one in its Ministry of Interior.

[177] Federal Criminal Office, Federal Situation Report Corruption 2022 (2023), p. 19.

[178] Flash Eurobarometer 543 on Businesses' attitudes towards corruption in the EU (2024). This is 10 percentage points below the EU average.

[179] Information received from Ministry of Justice and Ministry of Interior in the context of the country visit to Germany. 2023 Rule of Law Report, Country chapter on the rule of law situation in Germany, pp. 20-21.

[180] Transparency International-Deutschland (14 February 2023), Position paper for the public consultation on the transformation of public procurement

establish a common media policy framework, including notably the State Media Treaty[181]. The federal structure results in a variety of legal frameworks, supervisory structures and public service broadcasters providing an additional safeguard for media pluralism and media freedom[182].

The framework regulating the state media authorities and media ownership transparency has remained stable; in addition, reflections on revising the media concentration framework are ongoing. The independence of the 14 State media authorities functioning as regulatory authorities for commercial broadcasters at the *Länder* level remains guaranteed[183]. As regards transparency of media ownership, obligations are in place for commercial broadcasters, online news media and the press[184]. As reported previously[185], access to ownership information covering television, radio, press, and online media is ensured via a public database of the Commission on Concentration in the Media (KEK)[186]. Since the 2023 Rule of Law Report, the *Länder* continued their deliberations on a revision of the media concentration framework, including by holding a stakeholder consultation on the matter[187]. The allocation of state advertising is not considered to be a problematic issue in Germany[188].

The self-regulation of the press by the German Press Council continues to be well established, with an increase of reprimands issued in 2023. The Press Council, gathering the main journalists' and publishers' associations, continues to be a well-accepted actor in the German media landscape for print and increasingly also online media[189]. In 2023, the number of complaints on press publications received by the Press Council increased slightly (1 850 complaints received in 2023, compared to 1 733 in 2022 and a peak of 4 085 complaints in 2020, linked to the COVID-19 pandemic)[190]. At the same time, the number of non-binding public reprimands issued by the Press Council increased from 47 in 2022 to 73 in 2023, of which more than 80% have been published. 60% of these reprimands related to either violations in relation to journalistic due diligence or violations of the protection of privacy as defined in the Press Code[191].

Stronger compliance safeguards for public service broadcasters were agreed in 2023, with a proposal for further reform of the system set to be presented in autumn 2024. The independence of the public service broadcasters remains ensured. The 4th amendment to

[181] The state treaties on media do not regulate the press (except for the digital press). There are press laws at the level of the *Länder*.

[182] Germany ranks 10th in the 2024 Reporters Without Borders World Press Freedom Index, compared to 21st in the previous year.

[183] 2024 Media Pluralism Monitor, p. 13.

[184] The indicator on transparency of media ownership of the 2024 Media Pluralism Monitor shows a low risk. 2024 Media Pluralism Monitor, p. 15; 2023 Media Pluralism Monitor, p. 13.

[185] 2023 Rule of Law Report, Country chapter on the rule of law situation in Germany, p. 22.

[186] KEK (2024), Media concentration.

[187] Input from Germany for the 2024 Rule of Law Report, p. 38. The State Media Treaty of 2020 included a protocol declaration of the Länder agreeing on the objective to ensure a future-proof media concentration framework.

[188] 2023 Media Pluralism Monitor, p. 17; Euromedia Ownership Monitor (2022), Country report Germany; Input from Reporters Without Borders for the 2024 Rule of Law Report, p. 17.

[189] This was further confirmed by information received from German Association of Journalists and the German Newspaper Publishers and Digitalpublishers Association in the context of the country visit to Germany.

[190] Press Council (2024), Annual Report 2023.

[191] Press Council (2024), Annual Report 2023, pp. 2-5.

the State Media Treaty entered into force at the beginning of 2024 and aims at further strengthening the independent supervisory committees of the public service broadcasters and improving mechanisms for compliance, transparency, and the prevention of conflicts of interest[192]. The revision follows the 2022 scandal relating to allegations of mismanagement concerning the public service broadcaster for Berlin and Brandenburg (RBB)[193].. As regards financing, based on the financial needs declared by the public service broadcasters, the Commission for the determination of the financial needs of public service broadcasters (KEF) recommended in February 2024 to raise the monthly licence fee for the public service broadcasters by 3.2% to EUR 18.94 from 2025 onwards[194]. As part of the third stage of the procedure provided by law for setting the broadcasting fee, there are statements in several *Länder* which argue for maintaining the fee at the current level[195]. The margin to deviate from the KEF's recommendation is limited due to the jurisprudence of the Federal Constitutional Court[196]. Furthermore, there is an on-going reform discussion between the *Länder* on possible changes to the public service broadcasting system. The recommendations of a Board of independent experts commissioned by the Broadcasting Commission of the *Länder* on the future of public service broadcasting serve as an impetus for the reform discussion [197]. For further discussions, the Broadcasting Commission of the *Länder* also requested an evaluation conducted by the KEF on the potential financial impact of possible reforms concerning the scope of remit and structures of public service broadcasters[198]. The *Länder* are aiming to present a reform of the provisions concerning the public service broadcasters by autumn 2024[199].

While the Federal Government intends to present in 2024 a proposal to establish in law the right to information of the press as regards federal authorities, no further progress has been made so far. The 2023 Rule of Law Report recommended to Germany to 'advance with the plan to create a legal basis for a right to information of the press as regards federal authorities, taking into account European standards on access to official document'[200], which was part of the coalition agreement of the Federal Government in 2021[201]. While the right of the press to access information is guaranteed at regional level in the press laws of all *Länder* and at national level based on the Constitution, stakeholders continue to highlight gaps in the

[192] 4th Amending Treaty to the State Media Treaty (2023).

[193] 2023 Rule of Law Report, Country Chapter on the rule of law situation in Germany, p. 23.

[194] KEF (2024), 24th report. With its recommendation the KEF remained about EUR 1 below the declared financial needs the public service broadcasters had declared.

[195] State Parliament of Saxony (2024) Position paper from the Presidents of the state parliaments of Brandenburg, Saxony, Saxony-Anhalt, and Thuringia to reform public service broadcasting; Broadcasting Commission (2024), Protocol declaration from the Free State of Bavaria.

[196] Constitutional Court, 20 July 2021, Order of the First Senate of - 1 BvR 2756/20 -, paras. 1-119; Contribution from Reporters Without Borders for the 2024 Rule of Law Report, p. 16.

[197] The council provided 10 main recommendations to modernise the system as regards the remit, offer and the internal structure of the public service broadcasters. Zukunftsrat (2024), Report of the Council for the future development of public service broadcasting.

[198] Broadcasting Commission (2024), Special evaluation on the relevance of possible reform approaches on the licence fee.

[199] Broadcasting Commission (2024), Meeting of the Broadcasting Commission of the *Länder* 25/26 January 2024; Information received from the representatives of the Länder in the context of the country visit to Germany.

[200] 2023 Rule of Law Report, Country Chapter on the rule of law situation in Germany, p. 3. In the 2023 Rule of Law Report, the Commission concluded that 'some progress' had been made on the 2022 recommendation.

[201] Coalition Agreement 2021-2025, p. 124.

legal framework regarding the access to information from federal authorities[202]. This is also supported by the Federal Commissioner for Data Protection and Freedom of Information and the Conference of the Commissioners for Freedom of Information of the *Länder*, who are calling for a federal press law providing journalists with a right to access information and are also calling for a more uniform approach at the level of the *Länder*[203]. As also noted in the 2023 Rule of Law Report, the Federal Government maintains its plan to establish in law a right to information of the press as regards federal authorities and has indicated that it intends to present a legislative proposal in 2024[204]. As no concrete information is available on the preparations of this legislative proposal, no further progress has been made on the recommendation made in the 2023 Rule of Law Report.

Authorities and journalists cooperate to address risks to the safety of journalists, in view of concerns related to an increasingly hostile perception in society of journalists and media, manifesting itself in hate speech and violence. Since July 2023, the Council of Europe Platform to promote the protection of journalism and safety of journalists registered six alerts concerning Germany[205]. The Mapping Media Freedom project recorded 92 alerts related to media freedom in Germany in 2023 (compared to 87 alerts in 2022 and 119 in 2021)[206]. Preliminary police statistics for 2023 indicate a total of 290 registered criminal offences in the broad target category 'media', showing a slight decrease (compared to 320 in 2022 and 276 cases in 2021)[207]. Protests continue to be a focal point for violent incidents against journalists[208]. Journalists and media representatives report that journalists are increasingly the subject of hate speech and physical attacks[209]. Reporters Without Borders notes that the situation of press freedom in Germany has not fundamentally changed compared to the previous year. As a result of the sharp decline in anti-COVID measures and right-wing extremist demonstrations, the number of physical attacks against media workers decreased in 2023 with 41 attacks compared to 103 in 2022[210]. Among the actions targeting media outlets, there have also been blockades against print and distribution centres of press outlets and protests in front of media offices[211]. Reports suggest that police authorities

[202] Contribution from the Civil Liberties Union for Europe for the 2024 Rule of Law Report, pp. 13-16; 2023 Rule of Law Report, Country Chapter on the rule of law situation in Germany, p. 24; 2022 Rule of Law Report, Country Chapter on the rule of law situation in Germany, p. 19.

[203] BfDI (2023), IFK calls for a modern federal press law; BfDI (2024), IFK demands a uniformly high level of transparency in the federal and regional governments.

[204] Input from Germany for the 2024 Rule of Law Report, p. 33.

[205] The alerts relate to intimidation, physical attacks, and surveillance. Platform to promote the protection of journalism and safety of journalists (coe.int).

[206] Media Freedom Rapid Response (2023), Mapping Media Freedom – Monitoring Report 2023, p. 4. Media Freedom Rapid Response (2022), Mapping Media Freedom - Monitoring Report 2022, p. 26; Media Freedom Rapid Response (2021), Mapping Media Freedom - Monitoring Report 2021, p. 11.

[207] These 290 cases include 30 cases of threats, and 25 cases of violent offences, of 22 qualified as personal injuries. Bundestag (2024), Reply of the German Federal Government to a Parliamentary Question on attacks on media professionals (Drucksache 20/11127).

[208] Input from Reporters Without Borders for the 2024 Rule of Law Report, p. 19. See for example dju in ver.di (25 January 2024), Ver.di union condemns cowardly attack on press representatives at the pro-Palestine demonstration in Leipzig.

[209] Contribution from ZDF for the 2024 Rule of Law Report, p. 20. Information received from the German Association of Journalists and the German Newspaper Publishers and Digitalpublishers Association in the context of the country visit to Germany.

[210] Reporters Without Borders: Country Report Germany 2024.

[211] BDZV (5 February 2024), BDZV condemns the blockade in front of the Hamburg press distribution centre; dju in ver.di (5 February 2024), ver.di: 'Call to all of us to defend freedom of the press!'.

generally react appropriately to attacks against journalists[212]. There continue to be efforts by the authorities to address issues related to aggression against journalists, including for example training for police officers[213]. The long-discussed update of the existing principles on conduct for the media and the police could potentially be agreed in 2024[214]. Media representatives highlight that the increased risk of physical attacks may impact journalistic reporting, in particular of smaller media outlets at local level that might be unable to send out a sufficiently strong team to cover an event with an increased risk[215]. The 2024 Media Pluralism Monitor continues to show an overall low risk for its indicator on the journalistic profession, standards, and protection, but underlines increasing concerns related in particular to attacks on journalists[216].

While the professional environment for journalists remains good, stakeholders see room for further improvement by abolishing the prohibition of verbatim publication of official documents in criminal proceedings. Strategic lawsuits against public participation targeting journalists are generally not a concern in the German media environment. However, some civil society organisations continue to flag that there are some cases of abusive legal measures targeting journalists intended to deter them from reporting[217], which may in particular intimidate smaller outlets or freelance journalists. A broad coalition of civil society and journalist associations is also calling for changes to the Criminal Code prohibiting the verbatim publication of official documents in criminal proceedings before they have been discussed in a public hearing or the proceedings have been concluded, arguing that this prohibition could restrict reporting and constitutes an unjustified limitation on the freedom of the press, raising questions as regards its constitutionality and compatibility with the European Convention of Human Rights[218].

IV. OTHER INSTITUTIONAL ISSUES RELATED TO CHECKS AND BALANCES

Germany is a federal republic, with powers distributed between the federal and the sixteen state Governments. The separation of powers is enshrined in the Basic Law[219] and the constitutions of the *Länder*. At the federal level, federal legislative power is vested in the

[212] Information received from the German Association of Journalists in the context of the country visit to Germany. However, there are also some exceptions reported as regards the appropriateness of the reaction from police authorities. See MDR (8 February 2024), Eisenach police takes action against journalists; DJV (8 February 2024), No criminalisation of journalists.

[213] Input from Germany for the 2024 Rule of Law Report, p. 39.

[214] Input from Germany for the 2024 Rule of Law Report, p. 39; Information received from the German Press Council in the context of the country visit to Germany.

[215] Information received from the German Newspaper Publishers and Digitalpublishers Association in the context of the country visit to Germany. European Centre for Press & Media Freedom (2023), Enemy image journalist No 7: The occupational risk of proximity, pp. 29-34.

[216] 2024 Media Pluralism Monitor, p. 12.

[217] Contribution from Reporters Without Borders for the 2024 Rule of Law Report, pp. 19-20; Contribution from Gesellschaft für Freiheitsrechte as part of the Civil Liberties Union for Europe for the 2024 Rule of Law Report, pp. 15-16.

[218] Joint statement by 7 civil society and journalist association (2024), Criminal law reform to abolish Section 353d No. 3 StGB. This is also illustrated by an on-going case against the editor-in-chief of the NGO FragDen Staat, in which the defendant, supported by FragDenStaat and the Gesellschaft für Freiheitsrechte, has applied for a stay of proceedings to submit §353d of the Criminal Code to the Constitutional Court to review its constitutionality (Society for Civil Rights (1 December 2023), Letter to the Public Prosecutor's Office of Berlin).

[219] Art. 20. Basic Law.

Federal Parliament (*Bundestag*) and the representative body of the *Länder* (*Bundesrat*)[220]. The Government, the *Bundesrat* or members of the *Bundestag* can submit legislative proposals[221]. Constitutional review is ensured by the Federal Constitutional Court and the constitutional courts of the *Länder*. The German Human Rights Institute, which is the national human rights institution, and the Federal Anti-Discrimination Agency, which functions as the equality body, contribute to upholding fundamental rights.

Timeframes for stakeholder consultations at federal level vary in practice while the commitment to create a single portal for all legislative proposals remains outstanding. The joint rules of procedure of the Federal Ministries recommend a consultation period on legislative drafts of four weeks[222]. However, stakeholders report that consultation periods continue to vary in practice and are often significantly shorter than the recommended four weeks, with a number of important and complex initiatives being submitted to consultation for only a few days or even hours[223]. No concrete steps have been taken so far to follow-up on the commitment in the coalition agreement to create single portal for all legislative proposals[224], meaning that legislative drafts are published across individual Ministries' websites and there is no information provided about consultation procedures in a centralised manner[225]. As regards the legislative process in Parliament, on 5 July 2023 the Constitutional Court granted an emergency injunction requested by an opposition party to prevent the adoption of a specific law within the on-going parliamentary week, which had been substantially amended in the parliamentary process, with only a week foreseen between these changes and adoption. The Court found that the potential for the violation of the right to equal participation to the decision-making process as a member of Parliament was not manifestly unfounded, in particular concerning the envisaged timing of the second and third reading[226]. A decision in the main proceedings is pending.

On 1 January 2024, Germany had 10 leading judgments of the European Court of Human Rights pending implementation, a decrease of two compared to the previous

[220] Arts. 70 *et seq*., Basic Law.

[221] Proposals by the *Bundestag* can be submitted by (at least) 5% of its members. In practice, most proposals emanate from the Government.

[222] Joint Procedural Rules of the Federal Government, §45-50. Germany overall performs slightly below average in indicators on stakeholder consultations. OECD (2022), Indicators of Regulatory Policy and Governance Europe 2022 – Germany. Only 16 % of the surveyed investors perceive frequent changes in legislation or concerns about quality of law-making process as a reason for the lack of confidence in investment protection. Figure 56, 2024 EU Justice Scoreboard.

[223] For example, for the new Act on Federal Foreign Intelligence, only 24 hours were provided for stakeholders to respond. Contribution from the German Institute for Human Rights as part of ENNHRI for the 2024 Rule of Law Report, p. 7. See also the contribution from the German Bar Association, for the 2024 Rule of Law Report, p. 19, from Gesellschaft für Freiheitsrechte as part of Civil Liberties Europe, p. 17-18 (which provides further examples) and from European Civic Forum (2024), Civic Space Report 2024 – Germany (Maecenata Foundation), p. 197.

[224] 2023 Rule of Law Report, Country Chapter on the rule of law situation in Germany, p. 26.

[225] It is not foreseen to systematically publish stakeholder contributions on this portal, once created, but links to the lobby register (where stakeholder contributions can be accessed) are under consideration. Information received from the Federal Ministry of the Interior in the context of the country visit to Germany.

[226] Constitutional Court, 5 July 2023, Decision 2 BvE 4/23. The second and third reading were foreseen to take place two days after the adoption of the position of the responsible committee. It should be noted that the German constitution does not prescribe any minimum timeframes for the legislative process in Parliament.

year[227]**.** At that time, Germany's rate of leading judgments from the past 10 years that remained pending was at 33% (compared to 43% in 2023) and the average time that the judgments had been pending implementation was 4 years (compared to 4 years and 2 months in 2023)[228]. The oldest leading judgment, pending implementation for 7 years, concerns the lack of compensation for the adverse effects of partial expropriation of a property[229]. As regards the respect of payment deadlines, on 31 December 2023 there was 1 case in total awaiting confirmation of payments (compared to none in 2022)[230]. On 1 July 2024, the number of leading judgments pending implementation had increased to 11[231].

The German Institute of Human Rights was re-accredited with A-status in October 2023. As part of the reaccreditation, the Subcommittee on accreditation (SCA) of the Global Alliance of Human Rights Institutions (GANHRI)[232] encouraged the German Institute for Human Rights to continue advocating for strengthening its protection mandate[233], to make the two rapporteur mechanisms on trafficking in human beings and on gender-based violence permanent, and to strengthen and seek a formalisation of its engagement with the Federal Parliament including participation in Parliamentary hearings[234]. Furthermore, the SCA encouraged the Institute to continue calling for changes in its governance structure with regards to political representatives on the Board of Trustees[235] and the term of office of the Board of Directors[236]. As noted in the 2023 Rule of Law Report, the Institute does not yet have a horizontal mechanism to monitor implementation of its recommendations by the public authorities; itis looking into developing this in the future although it has not

[227] 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.

[228] All figures are calculated by the European Implementation Network and are based on the number of cases that are considered pending at the annual cut-off date of 1 January 2024. See the Contribution from the European Implementation Network for the 2024 Rule of Law Report, p. 4.

[229] Judgment of the European Court of Human Rights of 19 April 2018, *Werra Naturstein GMBH & KO KG v Germany*, 32377/12, pending implementation since 2017.

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

[231] Data according to the online database of the Council of Europe (HUDOC).

[232] Contribution from the German Institute for Human Rights as part of ENNHRI for the 2024 Rule of Law Report, pp. 3-4.

[233] This would include strengthening the investigation function and the powers to access information and data, as well as to monitor places of deprivation of liberty. Global Alliance of Human Rights Institutions (2023) Sub-Committee on Accreditation Report – September & October 2023, p. 12.

[234] Ibid., p. 12.

[235] Two voting members of the Institute's Board of Trustees are members of the Federal Parliament. The SCA noted that the Board of Trustees is also an organ of the Institute that takes some important decisions and that a national human rights institution is required to be independent of Government in its composition, operation, and decision making. Therefore, government representatives and members of Parliament should not be members of or participate in the decision-making of organs of an NHRI. Ibid., p. 13.

[236] The SCA reiterated its concern that the members of the Board of Directors are appointed for a renewable period of four years and without the term limits being defined in legislation. The SCA considered it preferable for the term of office to be limited to one reappointment. Ibid., p. 14.

experienced issues in this respect[237]. The Institute considers its financial and human resources adequate to allow it to carry out its tasks[238].

There has been no progress yet to address the uncertainty regarding the tax-exempt status of non-profit organisations and practical concerns resulting from this persist. The 2023 Rule of Law Report recommended to Germany to 'take forward the plan to adapt the tax-exempt status for non-profit organisations with a view to address the challenges which the currently applicable rules present for their operation in practice, taking into account European standards on funding for civil society organisations'[239]. The Government has repeated its general commitment to present a reform in the course of 2024 and has set-up an inter-ministerial working group to discuss new regulations[240], which it intends to still apply in 2024. However, no concrete steps have been taken at this stage. In the meantime, civil society organisations (CSOs) continue to experience negative consequences of the uncertainty related to their tax status[241] when engaging in 'political activity', even if this activity is only of occasional nature[242]. The fear of loss of tax-exempt status as well as very lengthy processing times for a decision by the tax authorities[243] can have a chilling effect on CSOs' willingness to participate in public debate[244]. This has become especially salient in 2023 and 2024 in relation to the question as to whether non-profit organisations may call for participation in or organise protests in defence of democratic values[245]. A lack of or loss of the tax-exempt status can have negative financial impacts as regards donations[246] and access to other public sources for funding, for which it is often a pre-condition[247]. A letter was sent by over 100 CSOs to the Government on 18 June 2024, reiterating these concerns and the urgent need for

[237] Information received from the German Institute of Human Rights in the context of the country visit to Germany.

[238] Ibid.

[239] 2022 and 2023 Rule of Law Report, Country Chapter on the rule of law situation in Germany, p. 2. The 2023 Rule of Law Report concluded that 'no progress' had been made on the 2022 recommendation addressed in the 2022 Rule of Law Report.

[240] The commitment had first been expressed in the 2021 coalition agreement. Coalition Agreement 2021-2025, p. 117. Information received from the Ministry of Finance in the context of the country visit to Germany.

[241] Contribution from Gesellschaft für Freiheitsrechte as part of Civil Liberties Europe for the 2024 Rule of Law Report, pp. 20-22. European Civic Forum (2024), Civic Space Report 2024 – Germany (Maecenata Foundation), p. 190. Contribution from the German Institute of Human Right as part of ENNHRI for the 2024 Rule of Law Report, p. 2. See also the work of 'Allianz Rechtssicherheit', an alliance of over 200 German NGOs advocating for a reform of the tax code, such as the Allianz Rechtssicherheit's statement of 12 December 2023: Unclear non-profit law endangers civil society freedom.

[242] According to the case law of the Federal Fiscal Court, tax-exempt civil society organisations to engage in political matters if strictly necessary to pursue the activities included in the Fiscal Code. However, in practice this situation leaves significant discretion to individual tax authorities. Contribution from Gesellschaft für Freiheitsrechte as part of Civil Liberties Europe for the 2024 Rule of Law Report, p. 21.

[243] Such as in the case of the Democratic Center in Ludwigsburg, where it took over three years for the tax authorities to decide on a reversal of an initial decision to withdraw the tax-exempt status, which had been taken after the centre had breached the principle of neutrality by taking a clear stance against right-wing extremism. Contribution from Gesellschaft für Freiheitsrechte as part of Civil Liberties Europe for the 2024 Rule of Law Report, p. 21.

[244] Gesellschaft für Freiheitsrechte, Legal opinion: European human rights guarantee the political participation of civil society organisations.

[245] Allianz Rechtssicherheit (2024), Can associations protest against right-wing extremism?

[246] European Civic Forum (2024), Civic Space Report 2024 – Germany (Maecenata Foundation), p. 190.

[247] Contribution from Gesellschaft für Freiheitsrechte as part of Civil Liberties Europe for the 2024 Rule of Law Report, p. 22.

a reform[248]. Beyond a clarification and expansion of the applicable rules regarding political activity, civil society continues to call for an extension of the types of activities that can qualify as 'charitable' under the tax code, in particular as regards the support of fundamental rights, peace and social justice[249]. It should be recalled that, according to European standards, any form of public support for civil society organisations should be governed by clear and objective criteria[250]. Overall, there has been no progress yet on the recommendation made in the previous years.

The overall situation of civic space has seen some deterioration, with certain restrictions related to the right to protest being subject to judicial review. In December 2023, Germany's civic space rating was downgraded from 'open' to 'narrowed'[251] in particular due to restrictions on protests[252]. For example, pre-emptive blanket bans on protests have been issued by municipalities for periods of up to six months, which in many cases were later struck down by administrative courts as being disproportionate[253] and civil society organisations have documented 281 cases of concerns related to protests and individuals taking place between October 2023 and March 2024[254]. Civil society organisations have also raised concerns about the use of pre-emptive detention against protestors[255], and the case of an organisation engaged in acts of civil disobedience being targeted under suspicion of forming or supporting a criminal organisation[256]. Certain techniques used by the police in the context of protests are subject to legal challenge[257]. Restrictions provided for in assembly

[248] Letter of 24 June 2024 by 110 local civil society organisations to the Federal Chancellor.

[249] See Allianz Rechtssicherheit, 'Demands for changing the legal situation', in particular number one and five. Civil society organisations are further affected by the 'reverse burden of proof' in cases where their tax-exempt status is automatically revoked due to being mentioned, even once, in the reports of the intelligence services of the Federal Government or the Länder; however, sources of these reports are generally confidential and therefore limited possibilities to refute such assertions exist.

[250] Recommendation CM/Rec(2007)14 of the Committee of Ministers of the Council of Europe on the legal status of non-governmental organisations in Europe, para 58.

[251] Rating given by Civicus, Germany. Ratings are on a five-category scale defined as: open, narrowed, obstructed, repressed, and closed.

[252] CIVICUS Monitor Press Centre – Germany. See also Brot für die Welt (2024), Atlas of civil society; Green Legal Spaces Report (2023), Limitation of political participation rights of the German climate movement.

[253] Since the end of 2022, several cities, including Munich, Aschaffenburg, Nuremberg, and Braunschweig, have imposed bans of long duration on climate protests, leading to fines of up to EUR 3 000 for violations. The Federal Administrative Court has also in the past found blanket bans on protests to be unconstitutional. Contribution from Gesellschaft für Freiheitsrechte a spart of Civil Liberties Europe, p. 22-23. Other instances of blanket protest bans concerned protests related to the situation in the Middle East, several of which were later annulled as disproportionate by local administrative courts. Contribution from the German Institute for Human Rights as part of ENNHRI, p. 9. Franet (2024), Country research - Legal environment and space of civil society organisations in supporting fundamental rights – Germany. For further information, see also European Civic Forum (2024), Civic Space Report 2024, pp. 362-366.

[254] European Civic Forum (2024), Civic Space Report 2024, pp. 362-366.

[255] Contribution from European Civic Forum for the 2024 Rule of Law Report, p. 5, Contribution from the German Institute for Human Rights as part of ENNHRI, p. 9.

[256] As set out in §129 of the Criminal Code. European Civic Forum (2024), Civic Space Report 2024 – Germany (Maecenata Stiftung), p. 191. Contribution from the German institute for Human Rights as part of ENNHRI for the 2024 Rule of Law Report, p. 8. Contribution from Gesellschaft for Freiheitsrechte as part of Civil Liberties Europe for the 2024 Rule of Law Report, pp. 22-23.

[257] For example, in October 2023 a case has been filed with the Berlin administrative court to review the legality of the specific measures used by police, supported by the Gesellschaft für Freiheitsrechte. Contributions from Gesellschaft für Freiheitsrechte as part of Civil Liberties Europe for the 2024 Rule of Law Report, p. 28 and German Institute for Human Rights as part of ENNHRI p. 10 for the 2024 Rule of

laws in some Federal states have also come under scrutiny with a constitutional complaint pending against the assembly law in Nordrhein-Westfalen[258]. As regards access to funding, the draft democracy promotion law aimed at providing more structural Federal funding for civil society organisations engaged in democracy promotion activities, which had been submitted to Parliament in December 2022[259], has so far not advanced further towards adoption and remains at committee stage[260]. Furthermore, the Government has continued work on the preparation of an 'engagement strategy' in close cooperation with civil society organisations, which, following a year-long consultation process from December 2022 to December 2023, is set to be adopted by the Federal Government before the end of 2024, and will provide a framework to facilitate and support voluntary engagement[261].

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[258] Constitutional Court Nordrhein-Westfalen (2023), Constitutional complaints against assembly law NRW registered. Contribution from the German Institute for Human Rights as part of ENNHRI for the 2024 Rule of Law Report, pp. 8-9. European Civic Forum (2024), Civic Space Report 2024 – Germany (Maecenata Stiftung), p. 192.

[259] 2023 Rule of Law Report, Country Chapter on the rule of law situation in Germany, p. 28.

[260] European Civic Forum (2024), Civic Space Report 2024 – Germany (Maecenata Stiftung), p. 196

[261] Information received from the Ministry for Family, Seniors, Women and Youth in the context of the country visit to Germany. See also Ministry for Family, Seniors, Women and Youth, Federal Engagement Strategy.

Annex I: List of sources in alphabetical order*

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Annex II: Country visit to Germany

The Commission services held virtual meetings in February and March 2024 with:

- Allianz Rechtssicherheit
- ARD
- Bündnis Bürgerschaftliches Engagement
- Committee for EU Affairs of the Conference of the Justice Ministers
- Federal Administrative Court
- Federal Bar
- Federal Constitutional Court
- Federal Criminal Police
- Federal Supreme Court
- German Association of Journalists
- German Bar Association
- German Chamber of Industry and Commerce
- German Institute for Human Rights
- German Judges Association
- Gesellschaft für Freiheitsrechte
- Joint Office of the Media Authorities
- Lobbycontrol Germany
- Minister of the Interior
- Ministry of Justice
- Ministry of State for Culture and Media
- Parliament Administration
- Press Council
- Prosecution Service
- Transparency International Germany
- ZDF

* 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