

**SGI** Sustainable  
Governance  
Indicators

# 2014 Civil Rights and Political Liberties Report

Civil Rights, Political Liberties, Non-discrimination



## Indicator Civil Rights

**Question** To what extent does the state respect and protect civil rights and how effectively are citizens protected by courts against infringements of their rights?

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

- 10-9 = All state institutions respect and effectively protect civil rights. Citizens are effectively protected by courts against infringements of their rights. Infringements present an extreme exception.
- 8-6 = The state respects and protects rights, with few infringements. Courts provide protection.
- 5-3 = Despite formal protection, frequent infringements of civil rights occur and court protection often proves ineffective.
- 2-1 = State institutions respect civil rights only formally, and civil rights are frequently violated. Court protection is not effective.

### Finland

**Score 10** Civil rights are widely respected and protected in Finland. Since the early 1980s, Finland has received the highest possible rankings on civil rights in annual freedom rankings by Freedom House. The law provides for freedom of speech, which is also respected in practice. Furthermore, Finns enjoy full property rights and freedom of religion, with the government officially recognizing a large number of religious groups. Freedoms of association and assembly are respected in law and practice; workers have the right to organize, bargain collectively and strike. Debates on same-sex marriage and adoption rights legislation are ongoing and polarizing even in electoral campaigns during the review period, although the right to register a partnership for same-sex couples has been legal since 2002.

### Norway

**Score 10** State institutions respect and protect civil rights. Personal liberties are well-protected against abuse by state and non-state actors. People cannot be detained without charge for more than 24 hours. A court decides whether a suspect should be held in prison during an investigation, a question given more serious consideration here than in some other countries. The issue of civil rights receives considerable attention in the media and from intellectuals,

as well as from the government bodies responsible for the protection of civil rights.

Access to the courts is free and easy, and the judiciary system is viewed as fair and efficient. The most difficult recent court case was that of Anders Breivik, who on 22 July 2011 orchestrated domestic acts of terrorism, killing 77 people and causing massive material damage. This incident was regarded as a national trauma, but from a judicial perspective was handled scrupulously and according to due process. There is full freedom of movement and of religion. Respect for civil rights extends to asylum seekers.

Privacy is less protected than in some other countries. All residents are recorded in a compulsory population register with a unique number that is also used in all official and much private business, including banking.

## Canada

### Score 9

The state and the courts in general shows a high degree of respect for civil rights and political liberties in Canada. Of course, there is a trade-off between protecting the rights of individuals from government intrusion and ensuring public safety and security from terrorist threats. Given that these terrorist threats are real, as recently revealed by a terrorist plot to blow up a passenger train, most Canadians feel the government is striking the appropriate balance.

## Denmark

### Score 9

Civil rights are protected by the Danish constitution, including personal liberty (Article 72), inviolability of property (Article 73), inviolability of dwellings (Article 72), freedom of speech (Article 77), freedom of association and freedom of assembly (Article 79).

The authorities and courts normally protect these freedoms.

Denmark ratified the European Convention on Human Rights in 1953. Since 1976, Denmark has had a number of cases at the European Court of Human Rights. Denmark lost some cases, especially concerning freedom of association (Article 11 in the European Convention) and concerning unnecessarily lengthy case proceedings (Article 6 in the European Convention), including the 2009 Christensen v. Denmark Judgment. These cases indicate Denmark could do better when it comes to protection of civil rights.

## Citation:

Henrik Zahle, Dansk forfatningsret 3: Menneskerettigheder. Copenhagen: Cristian Ejlers' Forlag, 2007.  
Institut for menneskerettigheder, "Danske sager,"  
<http://menneskeret.dk/menneskerettigheder/europa,+oplysning+og+rettigheder/europar%C3%A5det/den+europ%C3%A6iske+menneskerettighedsdomstol/danske+sager> (accessed 15 April 2013).  
European Court of Human Rights, "Case of Christensen v. Denmark,"  
<http://menneskeret.dk/files/DoekerPDF/Case%20of%20Christensen%20v.%20Denmark.pdf> (accessed 15 April 2013).

## Estonia

### Score 9

Civil rights are widely respected and government does not interfere in the activities of courts. Equal access to the law and equal treatment by the law are legally guaranteed. However, high state fees for judicial procedures and the length of judicial proceedings have caused concern, as voiced by the citizenry and by the Chancellery of Justice. Government responded to this by substantially lowering state fees for the majority of proceedings as from 1 July 2012. However, the length of preliminary investigations remains a problem.

The Chancellor of Justice plays an important role in ensuring civil rights more broadly. The chancellor makes sure that authorities and officials performing public duties do not violate people's constitutional rights and freedoms, and that persons held in places of detention are not treated in a degrading, cruel or inhumane way. Individuals can bring concerns directly to the Chancellor's office or send a letter with the issue of concern. The largest number of complaints the Chancellery received in 2011 were against judges and the second highest related to the activities of courts (25 and 8 proceedings respectively). The majority of these cases were related to criminal enforcement law and imprisonment law and were initiated on the basis of petitions by prisoners. In the majority of these cases (79%), no substantive proceedings were initiated.

## Citation:

Overview of the Chancellor of Justice Activities 2011. [http://oiguskantsler.ee/sites/default/files/annual\\_report\\_2011\\_.pdf](http://oiguskantsler.ee/sites/default/files/annual_report_2011_.pdf)

## Germany

### Score 9

In general, all state institutions respect individual freedoms and protect civil rights. Civil rights are granted by the Basic Law, and their modification is possible only by a two-thirds legislative majority. Some provisions concerning basic human rights are not alterable at all. The court system works independently and effectively protects individuals against encroachments by the executive and legislative powers. In the Economist Intelligence Unit's 2012 Democracy Index, Germany received a score of 9.12 out of 10 on the

issue of civil liberties. However, 26 countries were awarded (slightly) higher scores.

Recent developments in the collaboration with other states in the war on terror display a worrying trajectory, however. The U.N. Committee against Torture, for example, criticized Germany's opaque involvement in extraordinary renditions, and also recommended that German authorities should eschew information provided by intelligence services that are suspected of using torture or ill-treatment (cf. Amnesty Germany Report 2013). In 2012, the European Court of Human Rights ruled that a violation of human rights had been committed in the case of the abduction and detainment of German citizen Khaled El-Masri by the CIA.

Despite these imperfections, the overall level of protection accorded to civil rights in Germany is high. The significance of civil rights is rooted in the country's particular political history, and the rule of law is given high priority.

## Iceland

### Score 9

The Icelandic state fully respects and protects civil rights, and courts effectively protect citizens. If there is evidence that the state has disregarded civil rights, the courts generally rule against the government.

There are significant exceptions to this general rule, however. Most importantly, perhaps, the United Nations Committee on Human Rights (UNCHR) issued a binding opinion in 2007 to the effect that, because of its inegalitarian nature, Iceland's fisheries-management system constituted a violation of human rights. It furthermore instructed the government of Iceland to change the system and to pay damages to those whose rights had been violated. The government responded by promising to pass a new constitution with a provision declaring the country's natural resources to be the property of the nation. The UNCHR dropped the case, saying that Iceland's promise of a new constitution was sufficient action. However, the parliament has failed to act on the new constitutional bill, thereby creating conditions for renewed complaints to be filed with the UNCHR.

In 1998, the Supreme Court of Iceland also ruled that the fisheries-management system was unconstitutional, the same arguments as were presented by the UNCHR in 2007, but then reversed itself in 2000 under clear political pressure from government ministers. In this case, the courts did not provide the expected protection.

In several instances in recent years, Icelandic citizens have taken complaints about violations of their civic rights to the European Court of Justice, which

has almost invariably ruled in their favor, casting doubt on the ability of Icelandic courts to protect civil rights effectively. Most recently, for example, journalists who had been found guilty of libel in Iceland were declared to be innocent of this charge by the European Court of Justice.

## Ireland

### Score 9

The Irish constitution enshrines the full range of fundamental civil rights associated with a liberal-democratic state. Article 38 establishes the right to a fair trial; Article 40 the rights to life, liberty, property, freedom of expression and equality before the law; Article 41 contains provisions for the protection of the family. In November 2012, the constitution was amended by referendum to strengthen the provisions regarding the rights of the child.

Operating under the common law system inherited from the era of British rule, the Irish courts have been active in discovering “unenumerated” rights implied by these articles. These include the right to bodily integrity, to freedom from torture, inhuman or degrading treatment or punishment, the right to work and earn a livelihood and the right to privacy.

Following the passage of the European Convention on Human Rights Act (2003) by the Irish parliament, the rights interpreted and developed by the European Court of Human Rights are directly enforceable before the Irish courts. The Criminal Justice (Legal Aid) Act 1962 established an extensive system of free legal aid to promote equal access to the law and the courts. Access to free legal aid in certain civil cases was established by the Civil Legal Aid Act (1995).

However, a plaintiff who takes a civil case through the courts and loses is likely to have to meet not only his/her own legal costs but also those of the defendant. The best legal advice is very expensive. These considerations limit the effectiveness of equality of access to justice especially in matters relating to defamation, property disputes and other areas not covered by legal aid.

## New Zealand

### Score 9

Civil and human rights protection is based on the Bill of Rights Act 1990 and the Human Rights Act 1993, which defines the tasks of the Human Rights Commission. The commission actively promotes compliance with civil and human rights by public bodies and in society. Recent activities concern rights within the Treaty of Waitangi and a Human Rights Action Plan 2005 with regard to violence against women and children and maltreatment in prisons

and mental institutions. These have led to various activities, such as the establishment of a high-level taskforce for action on sexual violence, under the chair of the secretary for justice, to advise the government. Amnesty International reports in its Annual Report 2012 that it has met with parliamentary members to discuss progress made with regard to social, economic and cultural rights (e.g., the Marine and Coastal Area (Takutai Moana) Act 2011). New Zealand signed the Optional Protocol to the U.N. Convention on the Rights of the Child on the sale of children, child prostitution and child pornography in September 2011. Against this background, it is worrisome that more than 20% of children in New Zealand live below the poverty line, with children of Maori and Pacific Islander descent being particularly affected.

The powers of the Communications Security Bureau to conduct surveillance on New Zealanders has recently been the subject of scrutiny by civil rights, Internet and legal groups, including the New Zealand Law Society. The Government Communications Security Bureau (GCSB) and the Related Legislation Amendment Bill, which was debated in Parliament in 2013, extended the provisions under which the GCSB could investigate and gather information on residents and citizens. If passed, this bill will amend the GCSB Act 2003, which stipulated that the GCSB's role was to conduct foreign, not domestic, surveillance.

Citation:

Amnesty International Aotearoa New Zealand Annual Report 2012 (Auckland: Amnesty International Aotearoa New Zealand 2012).

Human Rights Act 1993 (Wellington: The Government of New Zealand 2011).

New Zealand Bill of Rights Act 1990 (Wellington: The Government of New Zealand 1994).

## Sweden

### Score 9

Civil rights and legality are core values in Swedish governance. The constitution has a chapter devoted to human rights. Legal security is an essential guideline for the public administration. In all these respects, Sweden earns a top score in this category.

However, the emphasis on efficiency in administrative reform is undermining legal security. This applies for instance to the immigration service and the performance management system used by the police. Also, there were instances in the recent past (e.g., the extradition, in concert with the CIA, of two Egyptian citizens who were forced to return to Egypt where they were immediately arrested and tortured), which raise issues about the extent to which state institutions or actors uphold the basic civil rights codified in the constitution.

Lastly, it is worth noting that organized crime has taken a hold in some metropolitan regions in Sweden. Without a doubt, infringement of individual freedom caused by private actors such as organized crime is a real and growing problem. In response, the national police have made curbing organized crime a priority.

## Switzerland

### Score 9

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

In December 2012, a parliamentary attempt to give the Federal Supreme Court the right to abstain from applying federal law if the federal law was incompatible with the constitution failed. The main argument was that in a semi-direct democracy, the constitutional court should not be authorized to declare federal laws void as a whole. Thus, Switzerland, for different reasons but in a manner similar to the Scandinavian countries, the Netherlands and Great Britain, does not possess a comprehensive judicial power of constitutional review.

In international comparison, the country's record of guaranteeing human rights is outstanding. However, conflicts between human rights and direct democracy have emerged, particularly in recent years. One such concern was represented by the successful 2004 popular initiative for the imprisonment of particularly dangerous criminal offenders without any opportunity for reexamination. This conflicts with the European Convention for the Protection of Human Rights and Fundamental Freedoms. This convention guarantees periodic reviews in which the necessity for continued imprisonment can be evaluated.

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

The ban on the construction of minarets, approved in a popular vote in 2009, represents a particularly problematic decision. The basic claim of proponents was that minarets signify the potential aggression and power claims of Islam, which need to be suppressed as a strategy for keeping the peace. However, it is evident that the popular initiative was clearly aimed against Islam and the Islamization of Europe. Legal scholars tend to argue that the decision violates the freedom of worship and the non-discrimination rule. It is expected that a case against the initiative will be brought to the European Court of Human Rights, and that the measure will in all likelihood be declared null and void. However, the legal process will take several years before the initiative can be repealed. The first attempts to repeal the law failed, since the plaintiffs were not considered to have the proper legal standing to file the suit.

The major underlying problem is the claim by many political actors that the people have an unrestricted right to decide any matter through popular vote. This conflicts with the basic rule of any liberal democracy that there are limitations to the will of the majority, such as human rights standards and protections for minorities. Switzerland's public debate on the limits to majority rule (through popular vote) shows little cognizance of these traditional limitations to majoritarian rule. This has become very obvious in recent debates over the conflicts between international law and Swiss citizens' decision-making rights in popular votes. Although anxiety over the ebbing of popular sovereignty extends beyond conservatives, this latter group in particular feels uneasy with the internationalization of law and some recent interpretations of human rights that have been made by a professional elite with little democratic legitimation and imposed in a top-down manner. In the conservative view, the internationalization of law and international court decisions against the results of Swiss referendums contradict Switzerland's legislative culture, which is characterized by the principle of subsidiarity and guided by the idea that popular decisions have the highest degree of legitimacy.

## Australia

### Score 8

Australia is the only major established democracy which does not have a bill of rights, but civil rights are protected through a significant body of legislation and by the constitution, which contains certain implied rights which are subject to interpretation by the High Court. The Labor government initiated a National Human Rights Consultation to canvass views of the public about the protection of human rights in Australia. The report was presented to the government in September 2009, which responded in April 2010 with the announcement of the Human Rights Framework, which outlined several new

planned measures. These included establishment of a Parliamentary Joint Committee on Human Rights, a new requirement that each bill introduced to Parliament is accompanied by a statement of compatibility with international human rights obligations, the combining of federal anti-discrimination laws into a single act, the creation of an annual non-government Human Rights Forum, and the introduction of a human rights education and training program for Australian government public sector employees. However, as of the end of the review period (15 May 2013), these measures had only partially been implemented.

While Australia's record of protecting human rights is internationally regarded as strong, criticism continues to be voiced about the treatment of the indigenous population and about respecting the civil rights of asylum seekers. Since 1992, Australia has operated a system of mandatory detention for asylum seekers while their cases are processed. While offshore processing ceased in 2008 under the Labor government, and substantial numbers of asylum seekers and refugees have been transferred out of closed immigration detention into the community, offshore processing of asylum seekers in Nauru and Manus Island was reinstated in August 2012.

## Cyprus

### Score 8

The law guarantees and protects the civil rights of all individuals. This applies to migrant groups from other EU and non-EU countries as well as citizens. Since 2008, efforts have been made to address problems related to asylum seekers and economic migrants in order to abide by European and international rules and standards.

Primary concerns in this regard relate to human trafficking, where specific laws creating stricter control of women's employment in night clubs and cabarets do not appear to have addressed the problem sufficiently. The exploitation of migrant workers, who in some cases receive low wages or no social insurance, is also a problem. A number of measures aimed at combating uninsured employment or labor exploitation have been implemented, such as increasing penalties for employers or even for owners of properties rented to undocumented migrants; however, these have largely failed to stop the problem. Language and other barriers limit migrants' access to legal protections when in need, and constrain the efficiency of enforcement. Societal and official complacency can also be blamed. NGO initiatives have sought to provide compensation for existing gaps or omissions in law enforcement official efforts. The economic crisis and pressing needs for work and income may make some groups more vulnerable or unwilling to seek the protection of the law.

## France

### Score 8

In France, even though there is an established tradition of the rule of law and the recognition and protection of civil and fundamental rights, there is too a long history of infringements of those rights. The two main reasons for this are related to the distrust, and often contempt, of government toward the judiciary. This behavior dates back to the French Revolution, and has been further exacerbated by the country's fraught political history; violations have continued to occur up until the 1980s.

The situation has improved in recent history for several reasons. First, governments have had to concede some improvements or make concessions to the judiciary, for example by limiting government intervention in the appointment of magistrates, by limiting government interference in the judicial process, and by strengthening formal guarantees. Second, the public at large, in particular activists and NGOs, has been instrumental in limiting the undue reach of governmental power and thus have stymied unnecessary court intervention, and the media has supported such social movements. Third, France's judicial system now acts in the shadow of international courts which sanction national violations of the rule of law. The European Court of Human Rights and the Court of Justice of the European Union play an incremental but decisive role in this progress.

A more general problem is related to the partial or poor implementation of the rule of law, either because public officials adopt an attitude of benign neglect or because of the difficulty for the poor or immigrants to access the courts. Civil rights areas such as the effective protection of the handicapped, women or foreigners have still to improve.

## Latvia

### Score 8

Civil rights are generally respected and protected. In cases of infringement, courts provide protection. Individuals have equal access to and are accorded equal treatment by the courts. A significant court overload, however, creates difficulties in obtaining timely access to justice.

Despite improvements, there are ongoing concerns over poor conditions in the country's prisons and detention facilities, and about lengthy pre-trial detention periods.

Following ratification of the U.N. Convention on the Rights of Persons with Disabilities in 2010, the Saeima adopted new legal capacity legislation in November 2012, abolishing plenary guardianship and introducing some

alternatives to guardianship. This strengthened protections for the civil rights of the mentally disabled.

A number of cases have cast a spotlight on the state's inability to prevent unjustifiable interventions into personal life. The unsanctioned publication of private e-mails, personal data, Internet browsing histories and telephone transcripts have led some to question the efficacy of privacy-right protections, and even the state's own ability to safeguard information. In 2013 an indictment was issued against an individual who downloaded data from the State Revenue Service and published a portion of that data in the public interest. The published data on salaries of public servants has since been mandated as openly accessible information. Nevertheless, the state has been pursuing the individual for unjustifiable intervention into personal life based on his downloading of information pertaining to private individuals, not public officials. The civil servants responsible for leaving vast amounts of personal data on an unprotected site on the Internet have not been held accountable.

Citation:

1. Ombudsman of Latvia (2011), Annual Report, Available at: [http://www.tiesibsargs.lv/files/gada\\_zi%C5%86ojumi/ties%C4%ABsarga\\_gada\\_zi%C5%86ojums\\_2011.pdf](http://www.tiesibsargs.lv/files/gada_zi%C5%86ojumi/ties%C4%ABsarga_gada_zi%C5%86ojums_2011.pdf), Last assessed: 21.05.2013.
2. U.S. Department of State (2012), Human Rights Report - Country Report: Latvia, Available at: <http://www.state.gov/documents/organization/204515.pdf>, Last assessed: 21.05.2013
3. Latvian Centre for Human Rights (2011), Anti-discrimination in Latvia: From Legislation to Judicial Practice, Available at: [http://cilvektiesibas.org.lv/site/attachments/29/01/2012/Diskriminacijas\\_noversana\\_Latvija\\_II\\_Screen.pdf](http://cilvektiesibas.org.lv/site/attachments/29/01/2012/Diskriminacijas_noversana_Latvija_II_Screen.pdf), Last assessed: 21.05.2013.
4. Resource Centre for People with Mental Disability "Zelda", Information available at: [www.zelda.org.lv](http://www.zelda.org.lv), Last assessed: 21.05.2013.

## Lithuania

Score 8

It is relatively easy for all residents to gain Lithuanian citizenship, and civil rights are officially protected by the constitution and other legislative provisions. However, there are some problems in the effective protection of citizens' rights. According to the U.S. Department of State, Lithuania's most significant human rights problems include poor prison conditions, intolerance of sexual and ethnic minorities, and the lengthy detention of persons awaiting trial. Additional problems include interference with personal privacy, domestic violence, child abuse, and libel and anti-discrimination laws that limit the freedom of expression. Lithuanian authorities do seek to prosecute or otherwise punish officials who committed abuses, and Lithuanian courts provide legal protection against illegitimate or unjustifiable interventions into personal life. However, the country's score on the Civic Empowerment Index, produced by the Civil Society Institute since 2007, remains low, at 35 out of a possible 100 in 2012 compared to 35.5 in 2010. Lithuanian society shows

only an average interest in public affairs, while the social environment remains unfavorable for civic engagement. The share of the Lithuanian population indicating that they had experienced violations of their rights fell to 18% in 2012, while only 18% overall have taken action to protect themselves, indicating an insufficient degree of awareness of human rights.

Citation:

Country Report on Human Rights Practices for 2011 on Lithuania is available at <http://www.state.gov/j/drl/rls/hrrp/t/humanrightsreport/index.htm#wrapper>

The Index of Civil Power measured by the Civil Society Institute is available at <http://www.civitas.lt/lt/?pid=74&id=78>

Survey on the situation of human rights in Lithuania, [http://www.hrmi.lt/uploaded/PDF%20d%20okai/TYRIMAI/Vilmorus%20visuomenes%20nuomones%20apklausa\\_Santrauka\\_2012.pdf](http://www.hrmi.lt/uploaded/PDF%20d%20okai/TYRIMAI/Vilmorus%20visuomenes%20nuomones%20apklausa_Santrauka_2012.pdf)

## Luxembourg

### Score 8

Civil rights are effectively protected in Luxembourg and all state institutions respect these rights with some exceptions. Four institutions are in charge of civil rights' protections: the Constitutional Court, an advisory board on human rights, the National Commission on Data Protection and a parliamentary ombudsman. However, the judiciary system's overload and subsequently slow case processing has triggered concerns over due process and equitable treatment. The European Court of Human Rights in Strasbourg has reprimanded the country on several occasions as a result of delays in the court system. The influence of and the number of complaints to the Ombudsman Office continues to grow, with close to 1,000 complaints per year, and the rate of favorable rulings or settlements remains high (about 80%). These high figures show both the efficiency and the necessity of this institution.

Citation:

Ombudsman, Rapport 2011/2012, Rapport d'activité du 1er octobre 2011 au 31 décembre 2012: [www.ombudsman.lu/doc/doc\\_accueil\\_143.pdf](http://www.ombudsman.lu/doc/doc_accueil_143.pdf)

see section D 3.3

## Poland

### Score 8

State institutions largely respect and protect civil rights, yet inefficiencies in the Polish court system, including lengthy court proceedings, have stymied efforts to adequately uphold civil rights. The European Court of Human Rights has criticized the Polish government several times for unduly lengthy court proceedings and excessive periods of pre-trial custody. In the aftermath of the 2012 UEFA European Championship, foreign building companies have complained about state institutions' poor payment ethics.

## Portugal

### Score 8

The Portuguese Constitution of 1976 defines broad categories of rights and guarantees for the population in Articles 12–23 and 24–27. This is generally also the case in practice. However, poorer elements of society, as in any country, tend to lack the educational, legal, and other means to take full advantage of these rights.

Within this context, three elements of concern remain largely unchanged.

(1) There continue to be reports of police violence and brutality. The government department responsible for investigating police brutality, the *Inspecção-Geral da Administração Interna*, received 913 complaints in 2011. The US Department of State Report on Human Rights Practices in Portugal considers there to be “credible reports of excessive use of force by police.”

(2) The treatment of prisoners remains another point of concern, with the US Department of State Report on Human Rights Practices in Portugal identifying once again as “credible” reports of “abuse of prisoners by prison guards.” Moreover, this report quotes data from the Directorate General of Prison Services that, in 2011, the prison system was operating at 112% of capacity, clearly indicating overcrowding.

(3) The legal system continues to effect lengthy pretrial “preventive” detentions, without charges being filed. According to the US Department of State Report on Human Rights Practices in Portugal, some 20% of the prison population was in preventive detention of this kind in 2011 – an increase (albeit a very slight one) from 19% in 2009.

Citation:

(1) Ministério da Administração Interna - Inspecção-Geral da Administração Interna. “Relatório de Atividades 2011”.

(2) US Department of State, Bureau of Democracy, Human Rights and Labor. “Country Reports on Human Rights Practices for 2012 - Portugal”

## Austria

### Score 7

The rule of law as well as basic civil rights are guaranteed in Austria, at least for Austrian citizens. For noncitizens (and especially non-EU-citizens), a different conclusion is in order. Austria laws concerning naturalization are extremely strict. Consequently, a huge number (hundreds of thousands) of persons living legally in Austria are excluded from political rights. Some recent cases documented by NGOs have demonstrated that members of the

Austrian police treat noncitizens (especially migrants without a residence permit) in a cruel and violent way.

Right-wing populist parties, especially the Freedom Party of Austria (FPÖ) take advantage of social and economic anxieties to blame migrants and refugees for any kind of negative development, ranging from crime to unemployment. Mainstream political parties have sometimes been reluctant to insist that the guarantees provided by human-rights declarations signed by Austria (such as the Council of Europe's Declaration of Human Rights) cover refugees and migrants, and must be implemented without reservation.

The European Court of Human Rights has been especially critical of the way Austrian courts implement the freedom of speech. There is a tendency within Austria's administration and judiciary to define this freedom in a more restrictive way than the court believes is correct.

With respect to religious freedom, all major denominations enjoy the status of officially recognized religious communities. This status enables access to the public-education system in form of religious instruction in schools, paid for by the government; a privileged way of "taxing" members of religious communities (through the church tax, or Kirchensteuer); and other entitlements. As a consequence of these various financial links and other relationships, there is no clear separation between religious denominations and the state. However, the religious denominations (especially the still-dominant Roman Catholic Church) have resisted identification with any specific political party.

Two groups of Austrians are disadvantaged by this system of officially recognized denominations: members of the small denominations that lack official recognition, and atheists (or agnostics) who may feel that religion as such is privileged in Austria compared with non-religion.

Access to the courts in Austria has become increasingly difficult as a result of legal fees that have reached exorbitantly high levels, particularly in the civil branch of the judiciary system.

While the state does in some cases provide financial assistance by the state, in many cases the fees required for access to the Austrian judicial system constrain or altogether block access for people with limited means. In practice, this has led to a flourishing legal-insurance sector. People who cannot afford to pay for legal insurance policies find the high court fees a significant obstacle to defending their rights in the Austrian court system.

## Belgium

### Score 7

The courts operate independently from political interests, and regularly challenge political decisions. Equally, tension between judges and politicians can be said to have increased in recent years. In most cases, civil rights are well-protected.

Yet issues remain. The judicial system structurally underfunded, which means that many cases face a delay of years before a decision is made. Abnormal delays too sometimes force judges to abandon prosecution. In February 2013, a court fined the Belgian state €10,000 per person over judicial delays, due to the government's decision to appoint too few judges, resulting in unacceptable delays in judgments. In April 2013, Yves Liégeois, the chair of the prosecutor's office, publicly complained of his increasing inability to pursue investigations.

One instance that has also received wide press attention is the case of the so-called Brabant killers, who murdered some 28 people in a series of events in the 1980s. Considering that the number of people killed was far out of proportion with the money collected during the robberies and hold-ups, most analysts have argued that the criminals' main motivation was instead political, and that well-trained paramilitary members were likely involved in the series of crimes. Almost 30 years later, the law of prescription may now threaten any possible identification or even sentencing of the people involved. In February 2013, a new investigation team was assembled, and new proofs of evidence manipulation were revealed. Better funding of the courts in general would arguably have enabled the earlier detection of this manipulation and increased the chances of bringing the case to the courts on time.

Another difficulty involves linguistic issues (e.g., in municipalities around Brussels), as some high jurisdictions are split into Dutch-speaking and French-speaking chambers; a plaintiff may face a negative a priori if a linguistic "opposite" chamber happens to process the case in question.

## Chile

### Score 7

The state and the courts efficiently protect civil rights, but certain specific conflicts (e.g., those related to indigenous groups) have led to human rights violations. In conflicts where ethnic minorities are involved, anti-terror legislation which contradicts international conventions signed by Chile is implemented. Furthermore, some occasional conflicts between civilians and the military or the police are overseen by military courts, whose impartiality is questionable. In general, the enormous income gap between population

groups tends to marginalize the poorest people, who receive less state protection.

## Czech Republic

### Score 7

The Czech government and administration respect and protect basic civil rights. As the complaints lodged with the European Court of Human Rights and the Office of the Public Defender of Rights (Ombudsman) indicate, the main problem is the length of legal proceedings. The relatively high number of complaints compared to other East-Central European countries shows that Czech citizens are increasingly aware of their civil rights and have the resources (financial, cultural and social) to pursue their rights. Some concerns over civil rights in the Czech Republic were raised by a controversial mass amnesty announced by the outgoing President Václav Klaus in January 2013. The processes and people involved in preparing this step remain unclear as those identified have denied that they took any decisions. The prime minister gave approval, claiming that he had no choice in legal terms – a point disputed by the chair of the constitutional court. Thus a step that overturned previous court decisions and reduced the prison population by approximately 28% could be taken without detailed justification and without clarity on the involvement of more than one individual. In February 2013, the left-leaning Senate lodged a constitutional accusation of treason against Václav Klaus with the Constitutional Court. In March 2013 the Constitutional Court dismissed the accusation on the grounds that by that time Klaus was no longer president of the country and the only available penalty – removing him from that position – no longer had any meaning. The new president, Milos Zeman, has undertaken not to implement an arbitrary amnesty in future, but the constitutional power to do so still remains.

## Malta

### Score 7

The state in general respects human rights, and human rights issues have judicial protections. The integration of the European Convention on Human Rights into Maltese law has strengthened protection of human rights, and decisions by the European Court of Human Rights are normally implemented; however, experts have criticized general practices saying that court procedures for the protection of rights are often arcane and convoluted, presenting a situation where such protections appear more a bother than a right. Grey areas within civil rights protections include the right to legal assistance during a police interrogation, and the overall supervision of police activity. Political intervention in police procedures does occur but rarely; allegations of civil rights violations by the police have been raised. A case in

2011 where a suspect died while in police custody, allegedly believed as a result of his treatment during a police interrogation, is still unresolved and in its third round of legal inquiry. Human rights reports have been critical of the treatment of asylum seekers in Malta. Reports state that conditions in detention centers are poor and overcrowded; appellate procedures to challenge the length and legitimacy of detention or to challenge rejected asylum claims do not meet international human rights standards; and that migrants are often arbitrarily detained.

## Netherlands

### Score 7

The Netherlands guarantees and protects individual liberties, and all state institutions respect and – most of the time – effectively protect civil rights. The Netherlands will publicly expose abuses and report them to the UN Human Rights Council of the EU. It cooperates with the monitoring organizations of all international laws and treaties concerning civil liberties signed by the Dutch government. However, on a number of counts, there are developments worthy of concern. The right to privacy of every citizen tops the list of preoccupations. Dutch citizens are more at risk than ever of having their personal data abused or improperly used. In addition, current policies regarding rightful government infringement of civil rights are shifting from legally well-delineated areas like anti-crime and terrorism measures toward less clearly defined areas involving the prevention of risky behavior (in personal health, education, child care, etc.) and travel behavior. There is an urgent need to re-think privacy rights and the broad use of policy instruments within the context of the information revolution. Human Rights Watch criticizes recent Dutch legislation restricting the rights of asylum seekers, including limiting their appeal rights and access to medical services, and the intention to treat illegal residents as criminals.

## Slovakia

### Score 7

In Slovakia, civil rights are largely respected. The Radičová government's reform of the judiciary succeeded in improving the integrity of the judiciary and in shortening the duration of court proceedings. The mistreatment of the Roma population is a persistent problem. In a number of cases, the police has mistreated Roma suspects. Moreover, Roma women have been sterilized without their informed consent. The Fico government's reforms of the pension and health system have raised some concerns about the protection of property rights.

## Slovenia

### Score 7

In Slovenia, civil rights are largely respected. Citizens are effectively protected by courts and by independent institutions like the ombudsman against infringements of their rights. However, some problems exist with regard to the integrity of the judiciary and the duration of court proceedings, which are still unreasonably long, despite efforts by the government to reduce waiting and trial times. The European Court of Human Rights issued numerous verdicts against Slovenia for exceeding the “reasonable time” requirement in 2013. The Court and others have also urged Slovenian authorities to eventually implement all the measures adopted in 2010 to reinstate the legal status of the so-called “erased” – i.e., people from other former Yugoslav republics, who had been living in Slovenia, but did not apply for or were refused Slovenian citizenship when the country became independent in 1991.

## Spain

### Score 7

No substantial changes in the civil rights domain were evident during the 2011 – 2013 period. Spanish state institutions respect and protect civil rights, and rights guaranteed by the constitution and ordinary legislation are enforced, although some infringements may occur in practice. According to the British think tank Demos and the Spanish Ombudsman, cases of occasional mistreatment of immigrants have diminished despite the high unemployment figures, in part as a result of the intense reduction in the inflows of immigrants compared to the preceding years. The systematic delays and the lack of adequate resources (both human and technological) in the Spanish courts are a factor undermining the effective protection of fundamental rights. Moreover, as part of the austerity plans, the Ministry of Justice introduced court fees in 2013 that can worsen the situation, even if these fees do not affect civil rights.

#### Citation:

Jonathan Birdwell, Chris Tryhorn, Sebastien Feve and Natalia Vibla. 2013. Report “Backsliders: Measuring Democracy in the European Union.” London: Demos.

## United Kingdom

### Score 7

In the United Kingdom, civil liberties have long been protected despite the absence of a written constitution and an accompanying bill of rights. The country thus shows that effective protection is possible if support for civil rights is firmly rooted in society and therefore is expected of the government

of the day. However, UK citizens have been afforded additional rights of protection from the European Court of Human Rights (ECHR).

Events of the last decade such as the terrorist attacks have also demonstrated that the balance between state interests and individual rights can be more easily tilted if there are no institutional protections at hand. Various anti-terrorism acts (2000; 2001; 2005; 2006; 2008) have given the British state more and harsher instruments to fight terrorism. For most citizens, these anti-terrorist measures are not an issue, but for the very small minority that they affect, they can be a source of dismay. In the recent high-profile case of Abu Qatada, a Jordanian preacher accused of fomenting Islamic terrorism, the United Kingdom has been very meticulous in respecting due process. The case has now dragged on for several years and been to and from the ECHR. While courts and public pressure have from time to time succeeded in stopping practices like the indefinite detention of non-nationals, the state has usually succeeded in reintroducing them after some time under a different name, for example when replacing “control orders” with “terrorism prevention and investigation measures.” However, it does so under quite intense media scrutiny. The tendency to react harshly in cases where it is considered politically important to do so has been criticized, for example by UNICEF after the 2011 riots when the jailing of minors was considered a breach of the U.N. Convention on the Rights of the Child.

## United States

### Score 7

The emphasis on protections from intrusion by the state has been compromised significantly as a result of the anti-terrorism measures following the attacks of 9/11. The Patriot Act, widely reviled by civil liberties advocates, has taken a more balanced approach than is generally recognized, although some surveillance and investigative procedures have opened the way for abuse. The more significant compromises of privacy protections resulted from actions of the Bush administration, notably the ordering of widespread wiretapping and Internet surveillance by the National Security Agency, which was entirely without statutory authority. The Obama administration has not produced a sweeping change to these actions, however. Obama’s intention to close the detention center at Guantanamo Bay and provide trials to detainees in civil courts has been blocked by congressional opposition. Guantanamo Bay remains open, with approximately 166 detainees as of May 2013. Congress has also authorized the National Security Agency’s (NSA) wiretapping program, at least as it pertains to foreign suspects.

The Obama administration has actually pushed anti-terrorism policies into new territory. It has, for example, argued that the president has the right, in limited circumstances, to use drones to attack and kill U.S. citizens without

trial. It has also continued to hold detainees at Guantanamo indefinitely, under the rules of war. Although the U.S. government's strong protections of civil liberties remain in place for most investigative and criminal purposes, the relaxation of established constraints in the case of anti-terrorism investigations may affect thousands of U.S. citizens, who become targets of investigation for one reason or another. Furthermore, it has produced precedents that could lead to the further erosion of established protections.

## Greece

### Score 6

Civil rights are protected by and included in the Constitution of Greece (passed in 1975 and amended in 1986, 2001 and 2008) and the Criminal Code. Judges are tenured and cannot be removed nor transferred by incoming governments. Courts guarantee the protection of life, freedom and property and protect all individuals against illegitimate arrest, exile, terror, torture or unjustifiable intervention into personal life. Greek citizens enjoy equal access to the law and are treated equally by the law.

However, owing to the often contradictory content of a plethora of laws and to the propensity of Greeks to resort to the courts, the courts are unable to handle a constant overflow of cases and in practice provide protection with extensive delays. Lack of digital infrastructure and modern management methods aggravate the situation. In sum, the state protects civil rights, but in practice organizational and infrastructural obstacles stand in the way of comprehensive protection of these rights, which disproportionately harms religious and ethnic minorities and asylum seekers.

## Hungary

### Score value\_6

The Hungarian state largely respects and protects civil rights. However, Roma and other minorities have become frequent targets of harassment and of hate speech. Additionally, the government has failed to end the intimidation of Roma by the (New) Hungarian Guard, the paramilitary force of the extreme-right party, Jobbik. In some cases, the police have used torture against individuals under arrest. The biggest abuse in this respect was in April 2013 when an individual who was allegedly tortured died while under arrest. Moreover, foreign investors have complained that the government has violated their property rights by pressuring them into providing debt relief to households that are carrying a large amount of foreign currency debt and by threatening to renege on local public debt obligations.

## Italy

### Score 6

The legal system includes detailed constitutional provisions and a series of ordinary laws that provide an articulated protection of a broad set of rights. Strongly independent courts serve in principle to guarantee their implementation. In practice, however, inefficiencies in the judicial administration, the heavy backlog of many courts and the consequent length of judicial procedures can make the protection of civil rights (both personal and property) less effective.

The legal protection of the rights of immigrants, especially if they are illegal, is far from satisfactory. Cases of police violence are reported with some frequency. Actions by the security agents of the various authorities (including the state police) sometimes seem to contradict the principles of the rule of law. Forms of racist discrimination against immigrants, foreigners and homosexuals are also not uncommon.

A further problem is that some political parties – for example Northern League or Lega Nord and also some parts of People of Freedom or the Popola della Libertà Party – have an ambiguous stance over civil rights, rule of law and independent courts.

## Japan

### Score 6

Civil and human rights are guaranteed under the Japanese constitution. However, courts are often considered to be overly tolerant of alleged maltreatment by police, prosecutors or prison officials. LDP governments have made little effort to implement institutional reform on this issue. Critics have demanded – as yet unsuccessfully – that independent agencies able to investigate claims of human rights abuse should be created. There is no national- or Diet-level ombudsperson or committee tasked with reviewing complaints. Citizens have no legal ability to take their complaints to a supranational level, while many other countries have already signed the so-called Optional Protocols to the International Covenant on Civil and Political Rights.

Japan has been widely criticized for its harsh prison conditions, and for being one of the few advanced countries still to apply the death penalty. Executions were resumed in early 2012 after a moratorium. Under the new LDP-led government, three executions took place in February 2013.

## Bulgaria

### Score 5

The Bulgarian constitution and legislation provide a comprehensive, gradually improving framework guaranteeing civil rights and their protection. In practice, however, infringements of these rights do occur. The most frequent and serious violations are the overuse of force by law-enforcing government bodies and the insecure protection of property rights by the court system. In general, the extent to which courts in Bulgaria do actually ensure equal access to the law and equal treatment by the law is not very high. The length of legal proceedings represents a significant problem.

#### Citation:

Bulgarian Helsinki Committee 2013: Human Rights in Bulgaria in 2013. Sofia ([http://issuu.com/bghelsinki/docs/2012\\_bhc\\_annual\\_report\\_en](http://issuu.com/bghelsinki/docs/2012_bhc_annual_report_en)).

## Croatia

### Score 5

Civil rights are formally protected by the constitution and other laws. The Ombudsman and specialized ombudspersons play an important role in the protection of human rights. However, the Ombudsman's recommendations are not always followed up carefully. The government's judicial reform strategy (2011 – 2015) has sought to increase the effectiveness of the judicial system. Nevertheless, the need to reduce the backlog of civil, commercial and enforcement cases is still pressing (European Commission 2013). Domestic war crimes prosecutions remain a weak point of the judicial system, which moves slowly and displays an institutional bias in favor of ethnic Croat suspects. In late October 2012 a problematic law was adopted to protect Croatian citizens from Serbian war crimes investigations. The rights of tenants of Serbian ethnicity who were expelled from the country in 1995 remain an open issue as the implementation of housing programs for returning refugees continues at a slow pace.

#### Citation:

European Commission, 2013: 2013: Monitoring Report on Croatia's accession preparations. 26.3.2013, [http://ec.europa.eu/commission\\_2010-2014/fule/docs/news/20130326\\_report\\_final.pdf](http://ec.europa.eu/commission_2010-2014/fule/docs/news/20130326_report_final.pdf)

## Israel

### Score 5

Rules safeguarding civil rights are contained in the basic law on human dignity and liberty, which protects the right of each citizen to privacy, property, dignity, life and other basic goods. This basic law is intended to establish legally binding norms and is procedurally protected from nullification. However, its provisions can be overruled in cases of specific

urgency as stated by the government and the courts. Thus, much of the work of protecting civil rights in Israel is done through acts of judicial review. In this regard, the judicial system in Israel acts in an independent and professional manner.

Nevertheless, there is a gap between the formal guarantees of equal civil rights and the reality of unequal opportunities experienced mainly by the Arab minority.

This evaluation will focus on are generally termed negative civil rights, as opposed to the various positive rights that can be debated in this context (for instance, the right to public housing). Similarly, the issue of human rights in the occupied territories will not be addressed here, since this is a human-rights and not a civil-rights matter, and is too complex to summarize in this short survey. Many of Israel's civil-rights shortcomings relate to minority rights such as those accorded non-Jewish citizens, particularly Arab citizens, women's rights, and regarding civil protest. In a recent report issued by the Association for Civil Rights in Israel (ACRI), the group addressed a myriad of civil rights infractions stemming from police misconduct and discriminatory public policy. In this regard, civil rights in Israel conflict with other core values and public goods such as religion, security and communal rights.

The detailed document also noted the different ways by which some civil-rights claims were ultimately addressed, including through media pressure, NGO activities, appeals to the Supreme Court, legislative amendments, and appeals to government bodies that investigate public complaints.

Citation:

Dahan, Tal, "Situation Report: The State of Human Rights in Israel and the OPT 2012," The Association for Civil Rights in Israel.

<http://www.acri.org.il/en/wp-content/uploads/2012/12/ACRI-Situation-Report-2012-ENG.pdf>

"Basic Law: Human Dignity and Liberty,"

[http://www.knesset.gov.il/laws/special/eng/basic3\\_eng.htm](http://www.knesset.gov.il/laws/special/eng/basic3_eng.htm)

## Romania

### Score 5

Civil rights are guaranteed by the Romanian Constitution and are generally respected in practice. However, the government has been ineffective in countering discrimination in employment and education against a number of vulnerable groups, including members of the LBGT community, adults and children infected with HIV, people with disabilities, and the country's large Roma minority. The respect for property right continues to be undermined by Romania's slow, intricate and corrupt property restitution process. The courts' failure to resolve the ensuing problems compelled a considerable number of former owners to bring action against their government in the European Court of Human Rights (ECHR). The Romanian Government lost

435 cases at the ECHR for breaching Article 1 in Protocol 1 of the Convention on Human Rights on property rights.

## South Korea

### Score 5

Basic civil rights are protected by the constitution. Although courts have been reasonably effective in protecting civil rights, and the Human Rights Commission was established in 2001, recently it has been criticized and even boycotted by human rights groups for failing to consult with civil society. President Lee and his ruling party did not honour the democratic values and international standards of the Human Rights Commission.

Observers tend to agree that the human and civil rights situation has worsened somewhat since 2008. Amnesty International even saw a “dramatic increase in the abuse of national security laws in a politically motivated attempt to silence debate.” According to Amnesty, the number of people questioned on suspicion of violating the National Security Law increased by 96% from 2008 to 2011. The National Security Law remains in place, outlawing activities that could be interpreted as “benefiting or praising” North Korea. Amnesty International’s 2013 report on Korea names the case of Park Jeong-geun, a member of the Socialist Party in South Korea who was sentenced to 10 months in prison in November 2012 for satirically re-tweeting a message from North Korea’s official Twitter account. Another case mentioned in the report is that of Kim Myeong-soo, who was sentenced to six months in prison for selling widely available books online with the “intention of endangering the security of the state.” He was later acquitted.

Other serious issues include the inadequate rights enjoyed by migrant workers, the widespread physical abuse of sex workers, the imprisonment of conscientious objectors, and the continuing use of the National Security Law to detain and imprison individuals believed to be sympathetic to North Korea. An attempt to abolish the death penalty failed in parliament in February 2010 and in the same month the Constitutional Court ruled that the death penalty was constitutional. On a more positive note, a late 1997 moratorium on executions has remained in place. 60 people are still on death row.

#### Citation:

Amnesty International, Report on South Korea 2012, <http://www.amnesty.org/en/region/south-korea/report-2012#page>

Amnesty International, South Korea: The politically motivated onslaught on free speech, <http://www.amnesty.org/en/for-media/press-releases/south-korea-politically-motivated-onslaught-free-speech-2012-11-29>

## Mexico

### Score 4

In principle, Mexico guarantees most civil rights via its legal and constitutional systems. The Supreme Court is effective, reliable and increasingly assertive. The administration of the courts is quite centralized. The Supreme Court regulates the lower courts, which has raised standards across the system. An awareness of rights issues is slowly penetrating the rest of society but progress is slower at municipal level. However there are some states and municipalities that are still effectively governed by a single party and things in some municipalities have not changed much since authoritarian days.

Furthermore, in practice the Mexican military and other security forces are notorious for breaching human rights and the courts do not provide adequate protection. Police corruption is a problem, and it is not rare for police officers to extort money from members of the public. It has been quite difficult to effectively hold the military to account on abuses, though the Mexican Commission on Human Rights has tried to do so.

## Turkey

### Score 3

While Article 10 of the constitution guarantees equality before the law and Article 12 concedes a citizen's fundamental rights and freedoms, concerns over shortcomings in judicial proceedings remain, such as limited access of the defense to prosecution files, lengthy pre-trial detentions and excessively long and catch-all indictments. In April 2013, parliament adopted a fourth judicial reform package. It removes for example limitations on cases involving torture being conducted by police or public servants. Some detainees were recently released. Moreover, there has been a reduction in torture and ill-treatment of individuals in detention. However, the rights of the defense, lengthy pre-trial detention and excessively long and catch-all indictments continue to be concerns, which have led to enhanced public scrutiny of the legitimacy of trials, including high-profile trials over alleged activities of the clandestine "Ergenekon" group, the alleged secularist military coup dubbed "Operation Sledgehammer" and alleged membership in the Group of Communities in Kurdistan (KCK). The Kurdish issue still remains an important challenge, in particular. In 2012, more than 2,800 individuals were arrested on charges of allegedly supporting (Kurdish) terrorism.

Judicial trials should be finalized within an appropriate timeframe. Evidence acquired through illegal means is now not allowed to be used in trials.

Although Article 17 of the constitution concedes the personal inviolability, material and spiritual entity of an individual, there are still allegations of the excessive use of force on individuals. In this context, the government has pursued efforts to combat torture and ill-treatment by law enforcement officials.

The number of new applications from Turkish citizens to the European Court of Human Rights rose for the sixth consecutive year. In September 2012, 16,641 applications were pending; most concern the right to a fair trial, the protection of property rights and freedom of expression.

Citation:

European Commission, Turkey - 2012 Progress Report, SWD(2012) 336, Brussels 10.10.2012.

## Indicator

## Political Liberties

## Question

### To what extent does the state concede and protect political liberties?

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

- 10-9 = All state institutions concede and effectively protect political liberties.
- 8-6 = All state institutions for the most part concede and protect political liberties. There are only few infringements.
- 5-3 = State institutions concede political liberties but infringements occur regularly in practice.
- 2-1 = Political liberties are unsatisfactory codified and frequently violated.

### Estonia

## Score 10

Political liberties are an important part of Estonia's constitution and they are widely respected in society. Nine political parties, which cover the entire spectrum of mainstream political ideologies, are registered and active. The Estonian Trade Union Confederation (EAKL), which is comprised of 20 branch unions, represents employees' interests in collective bargaining agreements and protects employees' rights in employment relations. It also consults employers on developing a sustainable labor market and participates in policymaking. In recent years, Estonia has witnessed several massive strikes (e.g., by teachers, medical workers, transport workers) that professional associations organized in order to demand higher pay. In 2011 – 2012, there were also political protests and online campaigns against the current government and his neglect of public concerns, including those regarding the controversial Anti-Counterfeit Trade Agreement (ACTA).

There is no state church in Estonia, but religious freedom is guaranteed via 10 religious associations in the country.

### Finland

## Score 10

Political liberties are effectively protected in Finland, and Finland has for decades now received the highest scores concerning political rights and civil liberties in Freedom House surveys. Finnish law provides for freedom of speech, and this freedom is upheld in practice. Finns also enjoy freedom of religion, and freedoms of association and assembly are upheld in law and in practice. Workers have the right to organize, bargain collectively and strike; a

large majority of workers belong to trade unions. Nevertheless, the share of membership in trade unions has been of late decreasing. Women enjoy equal rights and liberties in Finland. The criminal code covers ethnic agitation; human trafficking is a criminal offense. The constitution guarantees the indigenous Saami population (less than 1% of the population) cultural autonomy and the right to pursue their traditional livelihoods.

Citation:  
<http://findikaattori.fi/en/36>

## Greece

Score 10

Political liberties are well protected by the constitution, including the right to vote, to think and speak freely, to assemble and demonstrate, to organize in collectives such as unions and associations and to submit petitions requiring a timely response by the competent authorities. In the period under review, protests against the austerity measures accompanying the bailout of Greece by the Troika were recurrent and the exercise of political liberties was completely unrestrained. The staging of political demonstrations at times took place on a weekly, if not daily, basis. Protests involved sit-ins and occupations of public buildings, such as state universities and central headquarters of ministries. The police intervened only when protesters threatened to storm the Greek parliament or the Prime Minister's Office. In short, state institutions concede and effectively protect political liberties.

## Iceland

Score 10

The 1944 constitution contains provisions protecting the freedom of the press, as well the freedoms of organization and assembly. The constitutional bill that won support of 67% of the electorate in 2012, but which was not passed by parliament in 2013, expanded and updated human-rights provisions in several ways intended to expand individual rights and liberties.

## Netherlands

Score 10

All the usual political liberties (of assembly, association, movement, religion, speech, press, thought, unreasonable searches/seizures and suffrage) are guaranteed by the constitution. The Netherlands is a signatory to all pertinent major international treaties (Universal Declaration of Human Rights, International Covenant on Civil and Political Rights, European Convention on Human Rights). All relevant ranking institutions, like The Economist's Intelligence Unit Democracy Index and the Freedom House ranking of

political liberties, consistently list the Netherlands as one of the leading countries in the world in this area.

## New Zealand

Score 10

The Bill of Rights Act 1990 guarantees unlimited political rights to think, speak, assemble, organize and petition without interference. Those who believe that their rights have been infringed upon can file a suit before the High Court. In addition, the New Zealand Council of Civil Liberties is an active, non-governmental organization that promotes these liberties. Freedom House assesses the situation of political rights in New Zealand as excellent. Despite being widely accepted as an important feature of New Zealand's constitutional arrangements, the provisions of the Bill of Rights are not supreme law; that is, they have never been entrenched. During 2012 and 2013, a constitutional advisory panel appointed by the government sought the public's view on whether the Bill of Rights should be expanded to include additional rights and be entrenched.

Citation:

<http://www.freedomhouse.org/report/freedom-world/2013/new-zealand-0> (accessed April 4, 2013).

New Zealand Council for Civil Liberties, <http://nzcl.org.nz/> (accessed April 4, 2013).

Constitutional Advisory Panel, 'New Zealand's Constitution: The Conversation So Far', Ministry of Justice, Wellington, September 2012.

## Sweden

Score 10

Political liberties and human rights are written into the constitution. Sweden is a highly institutionalized advanced democracy. As such, it upholds all political liberties.

## United States

Score 10

The United States generally has a strong record of protecting political liberties. The protections cover all of the recognized political freedoms of speech, association, voting, and pursuit of public office, and extend even to extreme groups such as neo-Nazis. Religious freedoms are protected even for religious fringe groups. Moreover, First Amendment rights provide robust protection for severe (and even inaccurate or irresponsible) criticism of public figures – such as the popular conspiracy theory that President Obama was not born in the United States (and thus is not legitimately eligible to be president). In contrast with most developed democracies, the right of freedom of speech has even invalidated laws proscribing hate speech.

In one significant limitation of political rights, convicted felons are barred from voting in nearly all states, although usually not permanently. Additionally, while the government allows protest demonstrations for all kinds of causes, even when they may become disruptive or disorderly, local police have sometimes confined demonstrators to locations far removed from the target events (e.g., G-8, G-20, or WTO meetings) – arguably an infringement of freedoms of speech and assembly. But these episodes have been irregular and fairly marginal, and are connected with genuine risks of property damage, disruption of international meetings, and the like.

## Austria

### Score 9

As human rights, civil and political liberties are guaranteed effectively by the Austrian constitution. The Austrian standard of recognition accorded to such liberties and rights is very high. For religious liberties, Austria has developed a special system of official recognition. Officially recognized religious denominations, which include all major Christian denominations, Islam, Judaism and Buddhism, enjoy specific privileges such as the right to provide religious instruction in public schools.

The freedom of speech is sometimes seen as constrained by Austrian courts' interpretation of libel. The European Court of Human Rights (ECHR) has overturned decisions by Austrian courts in numerous cases, as the Strasbourg court considers the Austrian interpretation as too narrow. The judicial system has in consequence adapted to the rulings of the ECHR.

The only legalized limitation to political freedom concerns any activity linked to National Socialism. As a consequence of Austria's past, the Austrian system does not allow political activities based on the doctrine of National Socialism, including Holocaust denial. While the principle itself is widely supported, its interpretation in practice sometimes leads to controversy.

## Czech Republic

### Score 9

In the Czech Republic, political liberties are well respected and protected. The difficult area in Czech politics relates to the racist extreme right. The Workers' Party (Dělnická strana, DS) was declared illegal in February 2010 for its racist ideology but renamed itself the Workers' Party of Social Justice (Dělnická strana sociální spravedlnosti) and continued operating with the same program. It, and other racist groups, comes into conflict with the police when trying to stage demonstrations aimed at intimidating inhabitants in predominantly Roma parts of north Bohemian towns. Demonstrations have

also been banned for the neo-Nazi group, National Resistance, which has not secured legal registration as a political party. In May 2013, the newly elected President Zeman was criticized for opposing the promotion of Martin C. Putna, a gay Catholic intellectual and well-known Zeman critic, to a professorship at the Charles University in Prague.

## Denmark

### Score 9

The Danish constitution protects the political rights and liberties, including freedom of speech, freedom of association and freedom of assembly. Elections are free. The government is accountable to the elected parliament.

Freedom House in 2012 gave Denmark top scores for civil liberties and political rights. Problems in Denmark mostly concern ethnic tensions, especially involving the country's Muslim population, and alleged abuse by the police.

The latest human rights report from Amnesty International has critical remarks concerning the treatment of refugees and asylum-seekers. Some asylum-seekers in Denmark were returned to their home countries, contrary to the recommendations of the United Nations High Commissioner for Refugees (UNHCR). This practice stopped after a decision against Denmark by the European Court of Human Rights in 2011, and the current left-of-center government has had a more liberal immigration policy since October 2011.

#### Citation:

Freedom House, "Freedom in the World 2012 - Denmark," <http://www.freedomhouse.org/report/freedom-world/2012/denmark> (accessed 15 April 2013).

Amnesty International, "The state of the world's human rights - Denmark," <http://www.amnesty.org/en/region/denmark/report-2012> (accessed 14 April 2013).

## France

### Score 9

Political liberties are well-protected in France. This situation can be explained by several factors. The fact that these liberties are considered as the heritage of the French Revolution sets them in a quasi-sacred position; protections were granted and solidified by the highest administrative court during the Third and Fourth Republics; and recently (and crucially) the increasing and active role of the Constitutional Council in striking down laws which could jeopardize said liberties has been important. The expansion of the court's powers stemmed from its 1971 decision to protect the right of association from governmental intervention.

A controversial and still not fully solved issue is related to the interpretation of the separation of religious and public life (laïcité). The ban of religious signs and symbols from public places is, in theory, applicable to all religious affiliations but concerns mainly the Islamic community. Currently, an ongoing debate has focused on the possibility of expressing religious beliefs or to practice religion in the workplace. President Hollande has indicated that legislation on these issues might be considered soon, following contradictory decisions by the highest private courts which authorized (for some) and banned (for others) a kindergarten assistant to wear the Islamic headscarf in school. However, due to the present political and social climate, it is doubtful that the President will be able to stick to his commitment.

## Germany

### Score 9

Due to Germany's historical experience with National Socialism, political liberties are highly protected by the country's constitution, or Basic Law. Political pluralism is in general guaranteed, with the exception of laws restricting the far left and far right. The freedom of expression is protected by the constitution (Art. 5), although there are exceptions for hate speech and Nazi propaganda such as Holocaust denial. Except in cases when individuals are deemed to be actively seeking to overturn the democratic order, the right to assemble peacefully is guaranteed (Basic Law, Art. 8) and is not infringed upon. The freedoms to associate and organize (Basic Law, Art. 9), as well as academic freedom, are generally respected. Non-governmental organizations operate freely. Every person has the right to address requests and complaints to the competent authorities and to the legislature (Basic Law, Art. 17). Freedom of belief is protected by the constitution (Basic Law, Art. 4).

## Ireland

### Score 9

Freedom of speech, freedom of assembly, and the right to form unions and associations without religious, political or class discrimination are enshrined in the Irish constitution. These rights have been protected and upheld by the Irish courts over the years, subject only to restrictions regarding sedition, blasphemy and breaches of the peace. The present coalition government is committed to removing the provision relating to blasphemy from the constitution.

Sinn Féin, the political wing of the formerly illegal Irish Republican Army, has become increasingly involved in mainstream Irish politics. Its share of the vote at general elections grew from 1.6% in 1992 to 9.9% in 2011, while the

number of seats it occupies in parliament grew from none to 14. No political group is presently excluded from access to the airwaves or the print media.

## Italy

### Score 9

The protection of the complete array of political liberties is enshrined in the constitution and guaranteed by an independent judiciary. During the period of observation, no significant cases of infringement were attested. The right to worship is fully guaranteed to all religious groups and an increasing number of minority groups have been able to use the opportunities offered by agreements with the state to facilitate its implementation. However, some practical problems connected with the freedom of worship, like enjoying the special fiscal treatments guaranteed to religious groups or building places of worship, have not fully disappeared. These problems have been more relevant for Islamic groups, to some extent because of political fears and hostility, but also because of their more uncertain legal status.

## Japan

### Score 9

Freedoms of speech and of the press, as well as the freedoms of assembly and association, are guaranteed under Article 21 of the constitution. Reported abuses are quite rare, though it has often been claimed that the police and prosecutors are more lenient toward vocal right-wing groups than toward left-wing activists.

## Latvia

### Score 9

Political liberties are effectively protected and upheld. The rights to speak, think, assemble, organize, worship and petition without government interference or restraints is recognized and protected. However, new challenges to the freedoms of speech, assembly and organization are evolving.

The freedom of assembly is regularly tested by organizations applying to the Riga City Council for permits. In most instances, permits are granted without fail. Sensitive political issues, however, have led the city council to deny permits. There is a right of appeal to the court, as well as a rapid consideration schedule to ensure timeliness of decisions. In all cases during 2011 – 2013, Riga City Council decisions limiting the freedom of assembly have been overturned by the court.

The freedom to organize is currently being tested in a case in which a political party's request to change its name and program was denied. The official electoral registry ruled that the changes to the party program constituted promotion of unconstitutional activities. The ruling is currently under appeal.

The freedoms of speech and petition are at the center of a case in which citizens, having collected the required 10,000 signatures for the initiation of a referendum, were denied the opportunity to have their petition enter the second signature-gathering phase. In this case, the Central Election Commission argued that the content of the petition was unconstitutional and therefore could not move forward. The case is under review by the Supreme Court.

## Lithuania

### Score 9

Lithuanian institutions generally respect the freedoms of assembly and association. Lithuania obtained the score of one (with zero being most free, and 100 being least free) from the Freedom House in 2013 on the issue of political rights and civil freedoms. Lithuanian political parties operate freely, with the Communist Party being the only banned grouping. Non-governmental organizations may register without serious obstacle, and human-rights groups operate without restrictions. In 2010, an appeals court ruled that Lithuania's first gay-pride parade could go ahead given the right to peaceful assembly. This parade (a controversial issue in this majority Roman-Catholic country), was initially banned by a lower court due to concerns over potential violence. The freedom of religion is also largely upheld in practice, but certain government benefits are granted only to traditional religious communities. Workers may form and join trade unions, strike, and engage in collective bargaining, but slightly less than 10% of the country's workforce is unionized. The Lithuanian Supreme Court has ruled that the right to strike can be used only after other measures provided for in the Labor Code have been exhausted.

#### Citation:

The 2013 freedom rating of Lithuania by the Freedom House is available at <http://www.freedomhouse.org/report/freedom-world/2013/lithuania>.

## Luxembourg

### Score 9

No infringements of a citizen's right to speak, assemble, organize, worship or petition occurred during the period. Some court cases have dealt with xenophobic and racist speech, especially online.

Anticlerical forces in the country have demanded the separation of church and state, and criticize state subsidies for churches, particularly the Catholic Church, which is the dominant faith in Luxembourg. As a reaction to this, the 2009 government program promised the creation of so-called houses of secularism, following the Belgian model. The extension of public funding to other denominations such as Islam is upcoming; Protestant and Jewish organizations already benefit from public funding.

## Norway

### Score 9

Political liberties are protected in the constitution and in law, although the constitution does not strongly articulate explicit protections for minority rights. The right to free expression was strengthened through a constitutional amendment in 2004. Norway has ratified all international conventions on human and civil rights. The European Convention on Human Rights is incorporated into national law. The right to free worship is ensured. The Lutheran church still enjoys a privileged status, but its actual political influence is limited. Its status as a state church was reformed in 2012, increasing its autonomy of decision-making and introducing various forms of “democratization” in church affairs. Political liberties are respected by state institutions.

## Poland

### Score 9

In Poland, political liberties are largely protected. However, controversial amendments to the Law on Public Assembly in 2012 have made it more difficult for citizens to organize demonstrations, and almost impossible to organize two demonstrations in the same place at the same time. Moreover, the amendments complicate spontaneous gatherings by extending the minimum time that must lapse between the registering of a demonstration and the event itself. In a number of cases municipalities have banned controversial demonstrations by invoking concerns over “public safety.” The police were widely criticized for the handling of a large, left-wing demonstration in Warsaw in November 2011. President Komorowski’s legal action against blogger Robert Frycz, who runs an anti-Komorowski website, has raised concerns about the president’s respect for freedom of opinion.

## Portugal

**Score 9** Under the regime that ruled Portugal until 1974, there were virtually no political liberties. The basic goal of the political transition was to achieve and to guarantee political liberties. Portugal has been successful in this regard, and there are widely agreed upon political liberties. The basic legislation in the constitution, and subsequent regular legislation, guarantees these political liberties. They function reasonably well.

## Slovenia

**Score 9** In Slovenia, political liberties are constitutionally protected and guaranteed and are respected by government institutions. The right to assembly and association, for instance, is guaranteed in Article 42 of the Slovenian Constitution and can only be restricted in special cases. The fact that Slovenia has more civil society organizations per capita than most other countries testifies to the protection of the freedom of association. Infringements on political liberties are rare. In the period under analysis, however, the police treatment of protestors during the large demonstrations against the political elites at the end of 2012 and beginning of 2013 raised concerns about the guarantee of the right to assembly.

## Spain

**Score 9** The 1978 Spanish Constitution frames the political liberties that must be respected by state institutions. Fundamental rights and public freedoms (included in Section 1, Chapter 2, Part I of the constitution) receive special protection against infringements. The political liberties especially protected against government (or even private) interference or violation include: (1) the freedoms of ideology, religion and worship on the part of individuals and communities, along with the guarantee that no one may be compelled to make statements regarding his or her ideology, religion or beliefs (Article 16); (2) the right to freely express and spread thoughts, ideas and opinions through words, in writing or by any other means of reproduction, without any form of prior censorship (Article 20); (3) the right to peaceful unarmed assembly, with no need to notify local authorities in advance unless demonstrations are being held in public places, and no need of prior authorization (Article 21); the right of association (Article 22) with some restrictions for the members of the armed forces or the police; the right to freely join a trade union (Article 28); and the right to individual and collective petition (Article 29).

In general, all these liberties are respected by the administration, monitored by the media and public organs such as the Ombudsman, guaranteed by the ordinary courts or, ultimately, the Constitutional Court. However, during the period under consideration, some controversial issues have arisen from occasional infringements affecting, for example, the press freedom of radical ideologies (e.g., the European Court of Human Rights condemned Spain in October 2012 for not having investigated the alleged tortures suffered by the former editor of Egunkaria, a Basque newspaper with a political position similar to that supported by the terrorist group ETA).

Citation:

Source(SpanishConstitution):

[www.tribunalconstitucional.es/es/constitucion/Paginas/ConstitucionIngles.aspx](http://www.tribunalconstitucional.es/es/constitucion/Paginas/ConstitucionIngles.aspx)

## Switzerland

### Score 9

Switzerland is in many ways a role model for the exercise and protection of political liberties. However, the adoption of the ban on construction of new minarets represents a severe violation of the right to worship, even if this in practice means little for the free practice of any religion. Before the November 2009 decision, there were only four minarets in Switzerland.

Infringements of this kind are limited in number. In the period under review, there was no popular vote and no federal bill or law having a negative impact on civil liberties.

## Australia

### Score 8

Political liberty is strongly protected by the courts. However, political liberties are not unfettered. As in other Western countries, a major challenge to political liberty has come from anti-terrorist legislation. The Anti-Terrorism Act 2005 allows for a variety of measures, including detention for up to 14 days, and restrictions on the movement, activities and contact of persons subject to “control orders,” whether or not those persons have been accused or convicted of any offense. In addition, the legislation makes any act of sedition illegal, such as urging the overthrow of the government by violence or force, and outlaws any organization that advocates the use of violence or force for that end. One of the main criticisms of the legislation is that it lacks sufficient judicial oversight. Some also regard the design and administration of defamation laws as hampering political liberties, as they in practice act to protect governments, companies and powerful people from scrutiny.

## Belgium

### Score 8

Belgium is a mature democracy in which political rights are generally well-protected. Weaknesses in the system began to appear as a result of tension between the Dutch-speaking (Flanders) and French-speaking (Wallonia, Brussels and capital periphery) communities. To reinforce the usage of Dutch in Flanders, the Flemish regional government voted a law that, in effect, largely bans the usage of French for political communication in Flemish territory, even in cities where a large majority of the population is French-speaking. This creates tension when some candidate mayors chose (quite provocatively) to use French regardless. Such candidates won local elections by a large margin, but the Flemish region never agreed to confirm their victory because of the violation of language laws. This Flemish regional policy also complicates the practical operation of French-speaking local associations (e.g., libraries, leisure organizations and so on).

## Bulgaria

### Score 8

Political liberties are guaranteed in Bulgaria by the constitution and relevant laws. Bulgarians enjoy the freedom to express themselves, to assemble and organize themselves in various forms of organization including explicitly political, to hold religious beliefs and to petition. The February 2013 mass demonstrations that led to the breakdown of the GERB government testify to the freedom of assembly. The freedom of expression has suffered from the declining independence of traditional media, but has been strengthened by the possibilities of the internet. The tough stance of the GERB government against “anti-democratic” Muslim preachers and several attacks on Muslim temples by extreme nationalists and islamophobes have raised concerns over religious rights.

Citation:

Bulgarian Helsinki Committee 2013: Human Rights in Bulgaria in 2013. Sofia ([http://issuu.com/bghelsinki/docs/2012\\_bhc\\_annual\\_report\\_en](http://issuu.com/bghelsinki/docs/2012_bhc_annual_report_en)).

## Canada

### Score 8

There were very few major concerns expressed about infringements of Canadians’ political liberties over the May 2011 – May 2013 period. One very recent exception was legislation passed in June 2013. Bill C-309 makes it a crime punishable by a 10-year prison term to incite a riot while wearing a mask or any face covering, including face paint. Someone who merely participates in a riot or in an “unlawful” assembly with their face covered can,

under the new law, be deemed to have committed an indictable criminal offense and jailed for up to five years. On the provincial level, there were outcries after the government of Quebec passed an emergency law in May 2012 restricting demonstrations and shutting some universities in an effort to end three months of protests against tuition-fee increases. The city of Montreal passed its own ordinance making it illegal for protesters to wear masks during demonstrations.

## Slovakia

### Score 8

In Slovakia, political rights are largely respected. Citizens can freely join independent political and civic groups. The Ministry of Interior has registered over 35,000 such associations and over 60 political parties. Slovak citizens have traditionally made less use of the freedom of assembly. Since the end of 2010, however, collective protests and strikes have become more frequent. In 2012, some court decisions on the freedom of speech raised controversies about the protection of political liberties. In two prominent cases – one about a book by investigative journalist Tom Nicholson on the “Gorilla Affair,” the other about Zuzana Piussi’s critical documentary (The Disease of the Third Power) about the shortcomings of Slovakia’s judiciary – courts put the protection of privacy over the freedom of speech. However, both cases were eventually settled in favor of the freedom of speech.

## United Kingdom

### Score 8

Without a written constitution and the protection it affords, citizens of the United Kingdom have no fundamental rights in the sense of enjoying special protection against the powers of the executive and Parliament. Citizens’ rights in the United Kingdom can thus be said to be residual and negative in nature: citizens can do anything not expressly prohibited by law, but there are no positive rights to assert against the government unless the government concedes them. In practice, UK citizens enjoy considerable freedoms, although the police have recently acquired powers to constrain protests. Even so, demonstrations do take place.

Since disputes about political liberties always arise over contested issues, this means that UK citizens have little recourse within the political system, especially when compared to continental European political systems. The Human Rights Act of 1998 (HRA) represented an attempt to create a “higher law” to which all other laws must conform. It offers individual and minority rights, and empowers judges to hold the executive to account and review acts of Parliament. But its effectiveness is constrained by the fact that the

government can temporarily annul the HRA if it considers this necessary for the benefit of the country, and it remains contested, especially in the context of the United Kingdom's continued commitment to European integration.

## Chile

Score  
value\_6

In general, political rights are protected by the constitution and legislation, and are enforced by government policy and practice. Nevertheless, police interventions sometimes crossed the line between the guarantee of law and order and repression – especially during the more intense period of the student movement in 2011 – 2012. Furthermore, the biased media landscape limits equal access to information and the opportunity to communicate different political opinions and versions of conflict situations.

## Croatia

Score 7

In Croatia, political liberties are largely respected. There are laws that guarantee the freedom of assembly and the freedom of association. However, the Law on Public Assembly is more restrictive than in France or the United States, especially regarding the obligation to outline the purpose of the assembly and the limiting of spaces available for public assemblies (Gardašević 2011). In practice, legislation is sometimes implemented in a restrictive manner.

Citation:

Gardašević, Đorđe, 2011: Pravo na javno okupljanje u hrvatskom i komparativnom pravu, Zbornik radova Pravnog fakulteta u Splitu, 48 (3): 487-519.

## Cyprus

Score 7

Political liberties and the protection of all fundamental human rights are enshrined in the constitution and protected by relevant laws. Political, trade unions, environmental and other NGOs and groups flourish in Cyprus. In addition, the Internet has provided political liberties and in particular free expression with new channels and new means of expression in recent years, in addition to the traditional channels of petitioning, demonstrations and rallies. Rare cases of official interference with the exercise of these rights and liberties have been properly addressed by courts. Non-Greek Orthodox and non-Christians have their respective places of worship, and are not subject to interference by the authorities.

Some groups and associations, including strong professional associations and trade unions, have comparatively more direct access to authorities and official channels of communication. Inversely, immigrant groups have limited opportunities for such access, and their demands are formulated mostly through NGOs.

Recently, the use of the law on telecommunications data retention to access communications content instead of metadata raised concern. Previously, Article 17 of the constitution was amended in June 2010 to allow breaching of the secrecy of communications in specific cases. However, police practices of seizing personal computers when investigating suspected offences is considered to be in breach of the secrecy of communications.

Politicians and other actors sometimes accuse the media and individuals of libel or defamation in such a way as to risk undermining scrutiny of public life. In this area, courts apply principles established by European Court of Human Rights (ECHR) case law, which acts as a protective shield for free expression.

The way in which political parties' clientelist relations affect nominations and appointments to various bodies and within the public service, which to a certain extent excludes those who lack party affiliations, represents an indirect interference with political liberties. Party clientelism and pressure cannot be underestimated in this respect.

In the period under review, incidents of interference and favoritism were made public through errors in the transmission of emails and faxes emanating from the governing party and the presidential palace. Specific cases involving the main political parties were also revealed by newspapers.

Thus, even though liberties are in principle protected, there is an increasing level of "ambient" psychological pressure on citizens to join political parties in order to avoid marginalization.

Citation:

1. Decision by the Supreme Court on cases of retention /access to telecommunications data, report available at [http://www.edri.org/edriagram/number 9.3/data-retention-un-lawful-cyprus](http://www.edri.org/edriagram/number%209.3/data-retention-un-lawful-cyprus)

2. On the sixth amendment of the Constitution (art. 17), see the report on Citizens' Rights to Information, available at, <http://www.europarl.europa.eu/committees/fr/studiesdownload.html?languageDocument=EN&file=75131>

## Hungary

Score 7

In Hungary, the freedom of expression, assembly rights and other political liberties are largely protected. The fact that racist and anti-Semitic forces have benefited from these protections has become a controversial issue. In

April 2013, for instance, a Budapest court annulled the ban on an anti-Semitic motorcycle parade that was actually imposed by Prime Minister Orbán in an attempt to counter critics of his government's ambiguous policy toward extreme-right groups. Infringements on political liberties by state institutions have been rare, but have occurred. In a number of cases, the police have tolerated right-wing attacks on demonstrators from the left, for instance, in March 2013 when soccer hooligans posing as security guards twice attacked demonstrators at Fidesz party headquarters. Legislation passed in 2011 over the registration and public support of religious communities, which has privileged the Catholic Church and, to a minor extent, other "historical" churches, has raised concerns over the freedom of religion.

## Israel

### Score 7

Israel's lack of a constitution means that the guarantee of political rights and liberties does not have a status superior to the remainder of the legal framework. Thus, although many of these rights were given the status of basic laws in the 1990s, they are not constitutional in nature.

A major issue here concerns Israel's Arab population and the recognition of its ethno-political minority rights. In 2013, Arab Israelis held 12 out of 120 seats in the Knesset, but constituted some 20% of the population overall. Voices on the political right have increasingly called for the imposition of a loyalty oath, and have insisted that Arab public officials publicly support Israel's status as "a Jewish Zionist and democratic country." Though such measures have been rejected to date, they have intensified Arab Israelis' political marginalization. This overall climate affects Arab trust in parliament and government, resulting partially in low numbers of Arab Knesset members and other public officials.

For these and other reasons, the responsibility to protect political liberties lies with the Israeli parliament. However, as has been pointed out in detailed reports on the state of human rights in Israel, parliamentary activity has not been conducive to this task. Several pieces of legislation drafted during the period under review appeared to undermine aspects of democracy and due process. Among these was a law passed in March 2011 that requires the state to fine or withdraw funds from local authorities and other state-funded groups that hold events marking Al-Nakba (the 1948 displacement of the Palestinian population) on Israeli independence day, that support armed resistance or "racism" against Israel, or that desecrate the state flag or national symbols. Another controversial measure is the so-called Boycott Law, which exposes Israeli individuals and groups to civil lawsuits if they

advocate an economic, cultural or academic boycott of the state of Israel or West Bank settlements.

However, many of the problematic proposals made during the period under review did not win parliamentary passage, or were eventually softened in part due to public opposition. Similar proposals have in the past been ruled unconstitutional by the judiciary.

Human-rights reports have also criticized municipal authorities and the police for violating the freedom to demonstrate, especially after the wave of protests in summer 2011.

Citation:

Yishai, Yael, *Civil Society in Israel*, Carmel, Jerusalem, 2003.

Israel

"Freedom in the world 2013," Freedom house .

<http://www.freedomhouse.org/sites/default/files/FIW%202013%20Booklet.pdf>

"Project Democracy: The Arab minority," The association for civil rights in Israel (October 2010).

<http://democracy-project.org.il/he/wp-content/uploads/2010/08/democracy-minorities.pdf>

## Malta

### Score 7

The constitution of Malta and its chapter on fundamental human rights provide for a broad range of political and civil liberties. The incorporation of the European Convention on Human Rights into the Maltese constitution as well as membership in the European Union has also enhanced political liberties in Malta. Maltese citizens have the right to take a case before the European Court of Human Rights (ECHR), and several individuals have done so with success. However, a traditionally clientelistic approach to politics sometimes hinders the political liberties of individuals, forcing them to refrain from associating with political parties, non-government organizations and/or trade unions for fear of being discriminated against by the government in office. Excessive delays in the deciding of court cases and the costs of such delays often deters people from seeking legal solutions, essentially allowing governmental actors to discriminate with impunity; which in the end continues the cycle of curtailing political liberties.

Citation:

Migrant Integration Policy Index. <http://www.mipex.eu/malta>

Freedom in the World 2013 Malta

## Romania

### Score 7

The Romanian state concedes and protects right to speak, think, and assemble against any government interference or restraint. However, certain legal prohibitions against “defamation of the country” could potentially impinge on these rights. For instance, in July 2012 the ruling Social Liberal Union (USL) coalition filed a criminal suit against President Băsescu and 14 other Democratic Liberal Party (Partidul Democrat-Liberal, PD-L) leaders for undermining the national economy by criticizing the government’s policies abroad. The inclusion of insult and libel in the Penal Code, as well as a controversial Constitutional Court decision in 2013 that prevents the decriminalization of speech offenses in Romania, constitute potential threats to the freedom of speech.

## Mexico

### Score 6

There is not much of a problem with civil liberties at the national level. Ordinary people can in practice say largely what they want and dissident opinions can be expressed without fear. There is more of a problem among political actors whose bending of rules can make them vulnerable to arrest on corruption or other misconduct charges. It is ironic that, for example, the head of the teachers’ union was more vulnerable to arrest than ordinary teachers.

## South Korea

### Score 5

Political liberties are protected by the constitution, but infringements do take place. Freedom of opinion and of the press are constitutionally guaranteed, but recent illiberal trends give cause for concern. Freedom of association and assembly are respected in principle. However, South Korea has not signed four of the basic conventions of the International Labor Organization, including two on the freedom of assembly. The Lee government has repeatedly denied certain groups of employees – most recently migrant workers – the right to form unions. It is very difficult to call a strike that would be legal by official definitions. Demonstrations also require approval, which can be hard to come by. Indeed, demonstrations are often declared to be illegal when they disrupt traffic or business. On a positive note, Seoul’s Administrative Court ruled that the planned deportation of the president of the Migrants’ Trade Union was a violation of South Korean and international human rights laws.

Labor unions are allowed to operate in the private sector, but remain restricted in the public sector. However, labor-union members are frequently imprisoned and fined for organizing “illegal strikes” or for “obstruction of business.” Businesses also sue labor unions for compensation for “lost profits” during strikes. Civil servants are also limited in their political freedom. Another issue already discussed above is the very opaque and vague election law that limits political activities 180 days before elections.

Citation:

Amnesty International, 2011, Amnesty International welcomes court ruling in favour of Trade Union activist in South Korea, <http://www.amnesty.org/en/library/asset/ASA25/012/2011/en/8305df65-3221-4208-a003-3e9778c7abe0/asa250122011en.html>

Amnesty International, Report on South Korea 2012, <http://www.amnesty.org/en/region/south-korea/report-2012#page>

Freedom House, Freedom of the World, South Korea Report 2012, <http://www.freedomhouse.org/report/freedom-world/2012/south-korea>

## Turkey

### Score 5

There has been limited progress during the review period to better securing fundamental rights. Although several legal measures have been formulated, repeated violations of the freedoms of expression, assembly and association occur. Equally, there has been limited progress with regard to better securing rights over freedoms of thought, conscience and religion. The law dealing with the protection of family and the prevention of violence against women can be considered one improvement in terms of discrimination issues. Collective action by trade unions, however, still faces many restrictions. Children, the disabled and the elderly still need more support in terms of preventive and rehabilitative care. The ongoing Turkish-Kurdish peace process is a positive and promising step toward the protection of political rights.

While the fourth judicial reform package has allowed the government to introduce an alternative form of public service for conscientious objectors, the package fell short in terms of addressing freedoms of thought and expression. As a result, the ban on certain websites (such as those seen as insulting state founder Atatürk or Islam) and general Internet censorship (such as pornographic websites) continues. In one particular case, pianist Fazil Say was accused of having allegedly insulted Muslim values and received a ten-month suspended jail sentence in April 2013; this verdict was criticized both domestically and abroad.

Administrative restrictions on the freedom of assembly still persist. Strict requirements for demonstrations still exist for specific events, such as on May Day or the Kurdish Newroz festivities in southeast Anatolia.

Allegations of excessive use of force in places of detention or overcrowded prisons remain a problem. In addition, the quantity and quality of juvenile prisons is insufficient.

During the review period, the government adopted several important Laws concerning the protection of families, the prevention of violence against women, the creation of an ombudsman office and a national human rights institution.

Citation:

European Commission, Turkey 2012 Progress Report, [http://ec.europa.eu/enlargement/pdf/key\\_documents/2012/package/tr\\_report\\_2012\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2012/package/tr_report_2012_en.pdf).

US State Department, Turkey 2012 Human Rights Report, <http://www.state.gov/documents/organization/204558.pdf>.

## Indicator

## Non-discrimination

## Question

### How effectively does the state protect against different forms of discrimination?

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

- 10-9 = State institutions effectively protect against and actively prevent discrimination. Cases of discrimination are extremely rare.
- 8-6 = State anti-discrimination protections are moderately successful. Few cases of discrimination are observed.
- 5-3 = State anti-discrimination efforts show limited success. Many cases of discrimination can be observed.
- 2-1 = The state does not offer effective protection against discrimination. Discrimination is widespread in the public sector and in society.

### Ireland

## Score 9

There are strong anti-discrimination laws on the Irish statute books. The Employment Equality Act, 1998 and the Equal Status Act, 2000 outlaw discrimination on grounds of gender, marital status, family status, age, intellectual or physical disability, race, sexual orientation, religious belief or membership in the Traveller community in employment, vocational training, advertising, collective agreements, the provision of goods and services, and other opportunities to which the public generally has access. The Equality Authority is an independent body set up under the Employment Equality Act, 1998 to monitor discrimination. An independent equality tribunal was established under the same act to offer an accessible and impartial forum to remedy unlawful discrimination. These agencies have been active in recent years and successful in prosecuting cases on behalf of parties who felt they had been discriminated against.

The Civil Partnership and Certain Rights and Obligations of Cohabitants Act was passed in 2010. The act sets out the rights and obligations that civil partners have towards each other. These are broadly the same as the rights and obligations of married couples. On registration of a civil partnership, civil partners are treated in the same way as spouses under the tax and social welfare codes. However, the act does not change the law on issues relating to children, such as guardianship, adoption, custody, access or maintenance. The Convention on the Constitution has recommended the introduction of same-sex marriages, which would have to be passed by a referendum. In 2012, a referendum was passed to amend the constitution to explicitly recognize the rights of children and generally provide enhanced protection to children.

## Netherlands

### Score 9

The Netherlands is party to all the important international agreements against discrimination. A non-discrimination clause addressing religion, life philosophy, political convictions, race, sex and “any other grounds for discrimination” is contained in Article 1 of the Dutch constitution. An individual can invoke Article 1 in relation to acts carried out by the government, private institutions or another individual. The constitutional framework has been specified by several acts that also refer to the EC Directives on equal treatment. In total there is a high degree of protection even though the definition of indirect discrimination that is provided by the European Commission has not been adopted by the Dutch legislator, and many regulations avoid the term “discrimination” and prefer “distinction” (with less negative connotations in a religiously and culturally diverse society like The Netherlands). In other respects the Dutch legislator has gone beyond what is required by EU directives. In terms of policy, the Dutch government does not pursue affirmative action to tackle inequality and facilitate non-discrimination. Generally, the government relies on “soft law” measures as a preferred policy instrument.

#### Citation:

R. Holtmaat, Country Report The Netherlands 2011 on measures to combat discrimination, European Network of Legal Experts in the Non-Discrimination Field.

## New Zealand

### Score 9

Anti-discrimination legislation is outlined in a number of acts, including the New Zealand Bill of Rights Act 1990, the Privacy Act 1993, and the Human Rights Amendment Act 2011 (establishing the position of a full-time disability rights commissioner within the Human Rights Commission). Even more important, the Human Rights Commission actively promotes anti-discrimination measures such as, in recent times, discrimination against Maori and women. Cases of discrimination are rare, but they do occur. Maori are disproportionately represented in the prison population, which may point to problems of discrimination as has been highlighted by the United Nations Human Rights Committee. A lasting problem is the extent to which the Treaty of Waitangi as the basis of the relationship between Maori and the state is embedded in the general legal order. The complexities of this problem have been highlighted in the controversy over the ownership of the country’s foreshore and seabed, with many Maori groups claiming that Maori have a rightful claim to the title, based on the Treaty of Waitangi.

## Citation:

Foreshore and Seabed Act 2004 (Wellington: The Government of New Zealand 2011).

Human Rights Amendment Bill 2011 (Wellington: The Government of New Zealand 2011).

Human Rights and the Treaty of Waitangi: Draft for Discussion (Auckland: Human Rights Commission 2010).

New Zealand Bill of Rights Act 1990 (Wellington: The Government of New Zealand 1994).

Privacy Act 1993 (Wellington: The Government of New Zealand 2013).

## Norway

### Score 9

Equality of opportunity and equality before the law are firmly established in Norway. There is an ombudsperson for civil rights. The Sami minority living in the north of the country has some limited self-rule. Some contention exists over the use of natural resources in the Sami areas in the north, and legal issues over entitlements to land and water resources in these areas remain unresolved.

Men and women have essentially identical educational levels. Women's labor-force participation rate is comparatively high. There is some evidence of gender discrimination in wages, as women earn on average just 84.7% of what men earn. However, once specifics such as the number of hours worked, occupation, education and experience are taken into consideration, it is difficult to observe significant differences between the earnings of men and women. This finding does not per se imply that there is no gender discrimination whatsoever in the labor market (e.g., men may be more readily hired in high-paying occupations). On the other hand, affirmative action in favor of women has been used extensively in the labor market, particularly within the public sector. Even so, the labor market remains by international comparison strongly segregated by gender and occupation.

Day-care services are widespread and heavily subsidized. To a large extent, the supply of child-care services is today adequate to meet parents' demand. In 2006, a law went into effect introducing affirmative action in the selection of board members for publicly listed companies. Under this regulation, at least 40% of board members must be women. This goal was achieved in two years with surprisingly little difficulty.

Some discrimination against non-Western immigrants seems to persist. In some areas of the economy, immigrants find it comparatively harder to find work, while earning lower wages and showing substantially higher unemployment rates than native Norwegians. Although discrimination against immigrants (including in the labor market) is illegal, in practice very few cases are prosecuted.

## Sweden

### Score 9

Sweden still ranks as one of the most egalitarian societies in the world. Discrimination based on any feature, be it gender, race, sexual preferences or ethnicity, is not tolerated.

That said, it is clear that there are still differences between salaries for men and women doing the same job, and between immigrants and Swedes in the labor market. These are spheres of society where public regulation is only effective when complaints are filed with public authorities. There are two ombudsmen dealing exclusively with discrimination issues; one for gender issues and one for other forms of discrimination. In terms of ethnicity, Sweden is an increasingly heterogeneous society. Integration policies are highly contested in the public debate. A Discrimination Ombudsman and a minister of integration and gender equality devote their political activities to anti-discrimination. However, during the period of review, ethnic segmentation in several suburbs of the metropolitan areas in Sweden increased. This societal fracturing remains an unsolved political challenge in contemporary Sweden.

## United States

### Score 9

The U.S. federal and state governments have enacted many laws prohibiting discrimination. At the federal level, enforcement is centered in a Civil Rights Division of the Justice Department and an independent Equal Employment Opportunity Commission. While the origins of these policies are found in the Civil Rights Movement of the 1960s, the framework of protection has been extended from racial minorities to women, the aged and disabled, and in some state and local contexts, homosexuals.

The federal government has not aggressively pushed affirmative action policies – such as preferential treatment for disadvantaged groups – since the Clinton administration. And despite being the first black president, President Obama has not made civil rights a major focus of his administration. Many of Obama's priorities – including health care and economic stimulus– benefit racial minorities disproportionately, however. Nevertheless, the Congressional Black Caucus has severely criticized his perceived lack of attention to racial issues. With regard to gender equality, the Obama administration has made progress. In addition, the Lilly Ledbetter Fair Pay Act amends the Civil Rights Act of 1964. The new act states that the 180-day statute of limitations for filing an equal-pay lawsuit regarding pay discrimination resets with each new paycheck affected by that discriminatory action.

## Canada

### Score 8

Canada's Charter of Rights and Freedoms was enacted in 1982, with the aim of preventing all types of overt discrimination based on gender, physical ability, ethnic origin, social status, political view or religion. Groups believing they suffer from the effects of discrimination continue to emerge. Basing their claims on the Charter of Rights and Freedoms, some have taken their cases to the courts, often winning. The Canadian government has established policies such as employment equity and pay equity to protect and promote the rights of disadvantaged groups (often called equity groups) such as women, visible minorities, aboriginals, and persons with disabilities. These positive discrimination measures are controversial and their effectiveness is a subject of debate. A recent CBC poll revealed that many Canadians still experience discrimination in Canada despite the measures taken by the state to prevent such behavior.

As so often, the experiences of Canada's aboriginal population pose the greatest concern. According to a recent Amnesty International Report, three mandatory United Nations reviews conducted in 2012 all found "very serious human rights challenges facing Indigenous peoples" in Canada. In 2013, Human Rights Watch released a report documenting the failure of the Royal Canadian Mounted Police (RCMP) in British Columbia to protect indigenous women and girls from violence, as well as abusive police behavior against these groups including the excessive use of force, and physical and sexual assault.

#### Citation:

Amnesty International (2012) "Matching International Commitments with National Action: A Human Rights Agenda for Canada." <http://www.amnesty.ca/sites/default/files/canadaaihra19december12.pdf>

Human Rights Watch (2013) "Those Who Take Us Away: Abusive Policing and Failures in Protection of Indigenous Women and Girls in Northern British Columbia," report <http://www.hrw.org/reports/2013/02/13/those-who-take-us-away-0>

CBC poll on discrimination <http://www.cbc.ca/news/canada/story/2010/03/15/discrimination-poll-2010.html>

## Cyprus

### Score 8

An extensive body of laws and measures aiming at protecting the rights of various groups are effectively implemented and serve to dissuade discrimination. The Constitution protects human rights, with Article 18 guaranteeing equality of all and non-discrimination. It explicitly prohibits discrimination based on factors such as gender, race or religion, while specific laws proactively protect the rights of minority groups in various ways.

Gender equality is promoted, and specific laws against discrimination have been updated since EU accession; these provide for equal treatment in employment and occupations, for measures combating racism and other forms of discrimination, and for measures protecting persons with disabilities. The laws contain proactive measures, but also provide for sanctions if their provisions are violated by employers or others. Disabled persons are provided with guarantees against unlawful dismissal and specific quotas for entrance in higher education institutions, among other measures.

The Office of the Ombudsman is responsible for overseeing enforcement of the law combating racism and other forms of discrimination; however, recourse to the courts – a costly and longer procedure – is also an option in cases of suspected discrimination. However, the last report issued by the Office of the Ombudsman on the matter was released in 2010.

Critics have pointed out gaps and weaknesses in the implementation of anti-discrimination laws, including the insufficient provision of information to affected groups, the lack of available sanctions, and the limited resources at the disposal of bodies overseeing the area.

Citation:

1. <http://www.stop-discrimination.org.cy/en/>
2. Trimikliniotis, N., Demetriou, C. 'Evaluating Anti-discrimination Law in the Republic of Cyprus - A critical Reflection', in *The Cyprus Review*, vol. 20, no. 2, 2008, available at [http://www.prio.no/Global/upload/Cyprus/Publications/4\\_TRIMIKL\\_DEMETRI\\_OU.pdf](http://www.prio.no/Global/upload/Cyprus/Publications/4_TRIMIKL_DEMETRI_OU.pdf)
3. Report of the anti-discriminatory body for 2010, available at [http://www.ombudsman.gov.cy/Ombudsman/ombudsman.nsf/annualrpt\\_en/annua\\_lrpt\\_en?OpenDocument](http://www.ombudsman.gov.cy/Ombudsman/ombudsman.nsf/annualrpt_en/annua_lrpt_en?OpenDocument).

## Denmark

### Score 8

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

Discrimination can take various forms and can be perceived differently depending on position, history and social context. A key issue is the extent of discrimination in the labor market. Denmark is a country with high labor force participation for both men and women, and therefore labor market participation should be seen in this perspective.

Gender-based discrimination in the labor market relates primarily to wages, but also, more generally, to hiring and career options. Childcare is a

particular point in this context. Rules dealing with child leave have been expanded to extend the right (and duty) of fathers to take paternity leave. Since 2006, all employers have been required to contribute to a paternity fund which finances paternity leave, which prevents such costs disproportionately falling on employers with a high number of female employees. A commission (Lønkommissionen) was appointed in 2008 to analyze, among other things, the issue of gender-based wage discrimination in the labor market. The commission report released in 2010 concluded that about two-thirds of the observed average gender wage difference could be explained by individual differences and sectoral employment, but the analysis did not conclude there was “equal wage for equal work”.

Frequently cases of discrimination in the labor market are reported in the press, with examples of persons having difficulties in finding a job due to ethnic identifiers, such as the person’s name. Different treatments and options in the labor market can have several causes, and there is no thorough academic analysis that has attempted to separate these causes and evaluate the extent of discrimination in the labor market.

Indirect discrimination can appear in various forms. A notable area is in terms of rules and regulations, which, on the one hand, are general and apply to all citizens, but on the other hand, target particular groups. One example is the requirement (introduced 2007, and abolished 2012) that for couples to qualify for social assistance they had to have worked at least 450 hours over the year (originally the law stipulated 300 hours). Otherwise the state assumed that one member of the couple wasn’t actively interested in work and the right to social assistance was lost. While a universal law, the incidence of couples where both people claim social assistance is highest among immigrants with a background from poorer countries, and hence this rule de facto targeted this group.

Immigration laws were tightened after the liberal-conservative government came to power in 2001. One particular controversial law was the tightening of rules for family reunification. To bring a spouse to Denmark it is required that both persons in the couple are at least 24 years old, in addition to a number of other requirements; there is also an economic test. This rule has several motivations. One is to prevent arranged marriages, in particular involving very young girls. Another is to restrict family reunification in particular, and thus immigration in general. While the political support for this rule was related to Denmark’s immigration issues, the rule also affects Danish citizens. There are many examples of Danes being unable to bring their spouse into the country, and also of young couples settling in southern Sweden and commuting to work in Denmark. A European Court of Justice (ECJ) ruling in 2008 against a somewhat similar Irish law subsequently put pressure on the Danish legislation.

The current Social Democratic-led government has lessened the strict anti-immigration policy. Immigration laws concerning family reunification and permanent residency were made less restrictive in May and June 2012. Human rights groups welcomed the changes, but some critics had hoped for a more far-reaching change.

Citation:

Freedom House, Freedom in the World 2013 - Denmark, <http://www.freedomhouse.org/report/freedom-world/2013/denmark> (accessed 17 April 2013).

United States Department of State, Country Reports on Human Rights Practices for 2011 - Denmark, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper> (accessed 17 April 2013).

## Finland

Score 8

Rights of ethnic and religious minorities are as a rule well-protected in Finland, and the criminal code covers ethnic agitation as well as penalizes anyone who threatens a racial, national, ethnic or religious group. The rights of the Swedish-speaking minority in Finland are widely respected and Finnish and Swedish are the two national languages of Finland. Reforms set for the regional administrative apparatus, which are still pending, do however violate some of the rights of the Swedish-speaking population, and sentiments held by certain segments of the population, primarily represented by the True Finns party, have lately turned hostile toward those who speak Swedish. The Aland Islands, whose inhabitants speak Swedish, have maintained for historical reasons an extensive autonomy and a parliament of their own, as well as one permanent seat in the national legislature. All in all, Finland has often been seen as a forerunner concerning its efforts to put forth an effective minority protection policy. Cases of discrimination are rare. However, ethnic minorities and asylum seekers report occasional police discrimination, and Finland has on occasion been found in violation of Article 6 of the European Convention on Human Rights and Fundamental Freedoms. Roma individuals, who make up a very small part of the population, are widely marginalized. However, several court sentences and fines against members of parliament from the True Finns party dealing with discrimination issues over ethnic origin and sexual orientation attracted media attention.

## Germany

Score 8

Germany's Basic Law (Art. 3 sec.3) states that every person, irrespective of parentage, sex, race, language, ethnic origin, disability, faith, or religious or political belief is equally important and has the same rights. The General Equal Treatment Act of 2006 added age and sexual orientation to that enumeration of categories. The Federal Anti-Discrimination Agency (FADA) monitors compliance with legal antidiscrimination norms and principles,

supports persons who have experienced discrimination, mediates settlements, informs the public about infringements, and commissions research on the subject of discrimination.

Nevertheless, discrimination remains a problem in various spheres of society. For example, there is widespread agreement that women should be better represented in the business sector's higher management positions, but political parties disagree on the proposed use of obligatory quotas.

The Federal Constitutional Court decided in June 2013 that treating same-sex and opposite-sex marriages differently from a taxation perspective was unconstitutional. Regulator changes reflecting this ruling were adopted within weeks by parliament.

In an October 2012 ruling, the Higher Administrative Court of Rhineland-Palatinate sent an important signal against police discrimination by prohibiting the practice of racial profiling by the federal police.

These examples indicate that legislators and administrations sometimes need a push from the courts to fight existing discrimination in a more uncompromising way.

## Iceland

### Score 8

Iceland's constitution states that every person should enjoy equal human rights regardless of gender, religion, opinion, national origin, race, color, property, birth or other status. More specific provisions are to be found in the Penal Code, the Administrative Procedure Act and the Equality Act. The Supreme Court can rule and has ruled based on those acts and the constitution. The Equality Act states that genders should be accorded equal rights in all areas of society, and that discrimination in terms of pay, hiring and employment is against the law. The Center for Gender Equality monitors adherence to this law, and is obliged to refer all major cases to the courts.

Although equal rights are guaranteed by law, the reality is that discrimination occasionally occurs in Iceland, especially against women, disabled persons and foreigners. In the 2012 presidential elections, blind and physically disabled voters were denied the right to have an assistant of their own choice to help them vote at polling stations. Instead, they had to vote with help from public officials working at the polling stations. Following complaints from an organization representing the handicapped (Öryrkjabandalagið), changes were made in the electoral laws that allowed blind people or those unable to use their hands to choose their own voting assistants, who were

subsequently sworn to secrecy. This change was implemented for the first time in the 2013 parliamentary elections.

The state's failure to abide by the binding opinion of the United Nations Human Rights Committee that the discriminatory element of Iceland's fisheries-management system must be removed signals a less-than-full commitment to effective nondiscrimination.

Citation:

The Penal Code (Almenn hegningarlög no. 19/1940).

The Administrative Procedure Act (Stjórnsýslulög no. 40/1993).

The Gender Equality Act (Lög um jafna stöðu og jafnan rétt kvenna og karla no. 10/2008).

Act on changes on the Act on Parliamentary Elections (Lög um breytingu á lögum um kosningar til Alþingis nr. 24/2000 og lögum um kosningar til sveitarstjórna nr. 5/1998 (aðstoð við kosningu). Lög nr. 111 16. október 2012.

## Luxembourg

### Score 8

The Migrant Integration Policy Index (MIPEX) gives Luxembourg a score of 48 on its anti-discrimination policies. The two EU anti-discrimination directives (2000/43 and 2000/78) have been transposed after years of debate with the act of 28 November 2006, establishing a Center of Equal Treatment (Centre pour l'égalité de traitement, CET) which opened in October 2008. The act includes the EU definitions of discrimination, but sometimes the wording is different, such as: "political views or religion" versus "la religion et les convictions." Other bodies such as the Ombuds Council for the Right of the Child (Ombuds-comité fir d'Rechter vum Kand, law of 22 July 2002) have existed since January 2003; the Ombudsman Office was established by law on 22 August 2003 and began operations in May 2004.

The subject of migration is often debated. Considering that most migration is essentially European (90%) and of the Christian faith, migration issues have caused fewer conflicts on ethnic concerns than in neighboring countries. After the country adopted the U.N. Convention on the Rights of Persons with Disabilities, in addition to an action plan in 2011, complaints on discrimination on the grounds of physical or mental disability have increased. This has highlighted the need for Luxembourg to more actively push inclusion policies.

Citation:

Act of 29 November 2006: <http://www.legilux.public.lu/leg/a/archives/2006/0207/a207.pdf>

<http://www.ork.lu/PDFs/Rapport2012.pdf>

Ombudsman Rapport 2011/2012. Rapport d'activité du 1er octobre 2011 au 31 décembre 2012:

[http://www.ombudsman.lu/doc/doc\\_accueil\\_143.pdf.pdf](http://www.ombudsman.lu/doc/doc_accueil_143.pdf.pdf)

Migrant Integration Policy Index. British Council et Migration Policy Group, 2011 :

<http://www.mipex.eu/play/map.php>

<http://www.cet.lu>

## Poland

### Score 8

A comprehensive Anti-Discrimination Act in line with EU directives has been in effect only since the beginning of 2011. The implementation of the Act on Equal Treatment largely rests with the Commissioner for Citizens' Rights (Rzecznik Praw Obywatelskich) originally established in 1987. Its effectiveness of the office has suffered as while it has assumed more responsibilities, the expansion has not included a corresponding increase in resources. Other measures against discrimination have engendered controversy. Despite Prime Minister Tusk's promise to establish gender quotas in supervisory boards in October 2012, none have been introduced at the time of writing. Fierce debate preceded the eventual signing of the Council of Europe's convention to reduce domestic violence, as well as over the legal status of same-sex partnerships. Three government draft bills on civil partnerships were brought before parliament but were rejected in January 2013.

## Portugal

### Score 8

State policies seek to redress discrimination, and cases of overt discrimination are rare. Nevertheless, areas of concern remain:

- Discrimination against women in wages, with the gender pay gap increasing over recent years, from an unadjusted gender pay gap of 8.4% in 2006 to 12.5% in 2011. While this is below the EU average, the trend in Portugal contrasts with the decrease at EU level (17.7% in 2006 to 16.2% in 2011).

- Legal sanctioning of racial discrimination: in 2013, the Portuguese government evaluated its existing legislation on racial discrimination and found it lacking in terms of the actual sanctioning of discrimination, with only seven condemnations for discrimination since 2005. The government noted a study that indicated that more than three in four people who felt discriminated against did not press charges, as the overwhelming majority felt that nothing would result from a formal complaint. Moreover, the government also noted a 2012 report by the UN Committee on the Elimination of Racial Discrimination (CERD) that found Portugal to have a "subtle racism" that discriminates against people of African origin and causes inequality in access to education, public services and employment. This led the government to propose new legislation on racial discrimination in April 2013, which doubled the maximum fines for racial discrimination to €4,850 (for individuals) and €9,700 (for companies).

## Switzerland

### Score 8

In Switzerland, constitutional law and a consociational political system ensure the autonomy, freedom from discrimination, and rights to political participation of Swiss linguistic, ethnic and religious minorities. Article 8 of the country's constitution states: "Nobody shall suffer discrimination, particularly on grounds of origin, race, sex, age, language, social position, lifestyle, philosophical or political convictions, or because of a corporal or mental disability. Men and women have equal rights."

Nonetheless, a number of problems with regard to discrimination exist. The sheer size of the foreign population and its contribution to the wealth of the nation brings up the question of whether withholding political rights such as voting from this population might be regarded as an indefensible variety of discrimination. However, Switzerland's conception of non-citizen voting rights is similar to that of other Western democracies, and undoubtedly protects the civil and human rights of foreigners without any discrimination. The Swiss People's Party, the strongest party in the country, and one represented in the government, has repeatedly resorted to openly xenophobic or even racist discourse. While all legal gender discrimination has been eliminated, there is still considerable economic and social discrimination against women with regard to labor-market opportunities (particularly given the lack of adequate family policies), wage equality and equal career opportunities.

## United Kingdom

### Score 8

Over the last 15 years, measures to combat discrimination have entered the political agenda and the statute books. Starting with the Race Relations Act 2000, all public authorities have been obliged to promote race equality and tackle discrimination. In 2006, this was extended to cover gender and disability discrimination as well. The Equality Act 2010 has added further areas, such as age, gender identity, pregnancy and maternity, and religion or belief to that list. Political pressure is being exerted to extend that list further by adding "caste" in order to fight discrimination still common in the Asian community. The legal framework is therefore very robust in countering discrimination and has had a significant impact on social attitudes. But while the state has made a serious attempt to end discrimination and abolish inequalities by reacting to a number of scandals in, for example, the police force with its alleged "institutionalized racism," negative attitudes towards minorities still surface occasionally. Relatively minor incidents on the football field become headline news and the mainstream view is very strongly anti-discriminatory, to the extent that even populist political parties appealing to indigenous groups have to be very careful to avoid any hint of overt racism or

other forms of discrimination. Economic difficulties and rising unemployment have contributed to concerns about the impact of immigration, on which right-wing political forces and the right-wing press try to capitalize. In the aftermath of the 2011 London riots, racial and social prejudices have been on the rise again. There is still a massive imbalance in the national DNA database (40% of the black male population is registered, but only 13% of Asian males and 9% of Caucasian males), and anti-terrorism laws enforce racial profiling.

## Australia

### Score 7

Australia has developed a substantial body of anti-discrimination legislation, covering sex, race, ethnicity, marital status, pregnancy and disability. The body charged with overseeing this legislation, the Australian Human Rights Commission, is a statutory authority. Following on from the National Human Rights Consultation, Gillard's Labor government has moved toward replacing existing anti-discrimination legislation with a single integrated act. However, as of the end of the review period, this legislation had not been put to Parliament. In part, this reflects opposition from business groups, who have argued the changes go beyond simply consolidating the previously separate laws, but rather shift the burden of proof to the person accused of discrimination and potentially restrict "offensive" speech. The government is separately planning on amending existing legislation to prohibit discrimination on the basis of sexual orientation, though this likewise had not been implemented as of the end of the review period.

## Belgium

### Score 7

As in most countries, discrimination exists in practice. Belgian citizens of foreign origin, for example, perform significantly worse in employment levels and educational achievements. A significant percentage of the Belgian population openly expresses racist speech or feelings. While it is difficult to provide equal opportunities to the disabled (in this Belgium performs less well than most northern European countries), Belgium also falls below the European average with regard to acts of violence against ethnic minorities. Yet state institutions have taken a proactive stance in such matters. Gay marriage has been legal for more than 10 years without significant social upheaval, mass demonstrations or violence. In 1993, the Belgian parliament founded a government agency called the Center for Equal Opportunities and Opposition to Racism. The center is easily accessible to the public, and its many activities are publically visible, yet the organization nonetheless came under criticism in 2010 by a liberal member of parliament.

## Estonia

### Score 7

Discrimination is prohibited by law and corresponding governmental institutions are established to ensure non-discrimination. Besides the Chancellor of Justice, the Gender Equality and Equal Treatment Commissioner (GEETC) acts as an independent and impartial expert to monitor the situation. Legally, the rules are set by the Gender Equality Act (2004) and Equal Treatment Act (2009). The GEETC received 90 complaints of discrimination in 2011, and in 23 of those cases discrimination was proved.

Despite well-established institutional and legal structures, social outcomes of non-discrimination policy are not very good. As mentioned above, the gender pay gap in Estonia is the largest in the European Union. Also, women compose only 22% of the national parliament, and they are underrepresented in municipality councils and higher executive positions. Since 2011, there has been only one female minister in the government. Various enforcement measures (as having 50% of women in the business company boards) have been refused and the mainstream outlook is to focus on awareness building.

The gender problem is also reflected in statistics of cases filed to the GEETC. Of all cases concerning discrimination, 50% were made on the basis of gender, 9% on the basis of ethnicity, 6% on the basis of sexual orientation and 2 % on the basis of disability. Concerning the disabled, the government has taken various measures to facilitate employment, education and social involvement of disabled people. Yet their employment rate still remains marginal.

Same sex marriage has been hotly debated in recent years, sparked by government plans to legalize it. However, political parties and the public stand quite divided on the issue.

## Italy

### Score 7

At the legal level, anti-discrimination norms exist and are sufficiently developed. Their implementation is sometimes not equally satisfactory. This happens in particular in the field of physical and mental abilities, of gender or for some cases of ethnic minorities (the Roma, for instance). Italy has a very inclusive model for integrating physically and mentally disabled persons, which is suffering – in some regions – from a lack in financial resources.

In the public administration there is an increasing effort by the Department for Equal Opportunities to monitor the impact of gender discrimination on a regular basis. The department's 2012 report used data from 2011 to indicate – with some exceptions – significant progresses in gender representation in the higher levels of state administration. The percentage of women among the top ranks of the central administration reached 46%. Levels are lower in universities and independent authorities. The situation of gender representation in the business sector is generally less satisfactory.

The structural challenge to religious non-discrimination in Italy is the large majority of the Roman Catholic Church: atheism or other beliefs can cause issues in this atmosphere. There is a kind of national consensus that being Roman Catholic is the only valid faith. It is nearly impossible to discuss social topics in a non-religious manner, especially in moral or ethical debates.

Discrimination is a reality in the everyday life of women, people with different sexual orientations and immigrants.

## Latvia

### Score 7

In 2011, Latvia concluded its transposition of EU anti-discrimination directives. Anti-discrimination legal provisions are scattered among more than 30 pieces of legislation, with policy responsibilities dispersed among a significant number of state institutions. No single entity takes the lead in designing and implementing anti-discrimination policy. Individuals complaining of discrimination typically approach the Ombudsman, which received 72 complaints in 2011, and 106 in 2012. The State Labor Inspectorate meted out six administrative fines for discrimination based on age and sex during the review period.

The Ombudsman has focused on discrimination in the labor force on the basis of age and sex, on hate speech, and on issues of equal access to education and health services.

Discrimination on the basis of sexual orientation is poorly regulated in Latvia, being mentioned only in the context of the Labor Law. The Ombudsman's efforts to draw public attention to the issue of same-sex partnerships have been fraught with controversy due to intense polarization of views within Latvian society.

#### Citation:

1. European Network of Legal Experts in the Non-discrimination Field (2011), Report on Measures to Combat Discrimination, Available at: [http://www.non-discrimination.net/content/media/2011-LV-Country%20Report%20LN\\_final.pdf](http://www.non-discrimination.net/content/media/2011-LV-Country%20Report%20LN_final.pdf), Last assessed: 18.05.2013
2. The European Network of Legal Experts, Country report - Main Legislation, Available at: <http://www.non-discrimination.net/content/main-legislation-10>, Last assessed: 18.05.2013

3. Latvian Centre for Human Rights (2011), Anti-discrimination in Latvia: From Legislation to Judicial Practice, Available at (in Latvian): [http://cilvektiesibas.org.lv/site/attachments/29/01/2012/Diskriminacijas\\_noversa\\_na\\_Latvija\\_II\\_Screen.pdf](http://cilvektiesibas.org.lv/site/attachments/29/01/2012/Diskriminacijas_noversa_na_Latvija_II_Screen.pdf), Last assessed: 21.05.2013.

4. Ombudsman of Latvia (2011), Annual Report, Available at (in Latvian): [http://www.tiesibsargs.lv/files/gada\\_zi%C5%86jumi/ties%C4%ABsarga\\_gada\\_zi%C5%86jums\\_2011.pdf](http://www.tiesibsargs.lv/files/gada_zi%C5%86jumi/ties%C4%ABsarga_gada_zi%C5%86jums_2011.pdf), Last assessed: 21.05.2013.

5. Ombudsman of Latvia (2012), Report on the Conference Regarding Progress Evaluation of 2012, Available at (in Latvian): [http://www.tiesibsargs.lv/files/2012\\_gada\\_konferences\\_materi%C4%81li/runa\\_j\\_jansons\\_2012\\_tiesibsarga\\_konferences\\_preses\\_konference\\_12122012.pdf](http://www.tiesibsargs.lv/files/2012_gada_konferences_materi%C4%81li/runa_j_jansons_2012_tiesibsarga_konferences_preses_konference_12122012.pdf), Last assessed: 21.05.2013

## Lithuania

### Score 7

Lithuania legislation is largely consonant with European non-discrimination standards. The country's Criminal Code regulates racially motivated and xenophobic incidents and discriminatory acts. The number of criminal acts deemed to be inciting hatred increased in 2011 compared to 2010. A number of state institutions are tasked with preventing various forms of discrimination, but their activities lack coordination. Furthermore, NGOs implement activities aimed at strengthening the participation and representation of specific vulnerable groups (i.e., the small Roma population or members of the LGBT (lesbian, gay, bisexual, and transgender) community). Some awareness-raising campaigns have sought to prevent racial discrimination and promote tolerance, but these have been fragmented.

The impact that criminal cases, special representation measures and awareness-raising campaigns have had on the elimination of discrimination is unclear, due to limited information. Lithuania's human rights organizations, particularly the Lithuanian Center for Human Rights, claim that a lack of attention from state institutions, disproportionate budget cuts during the financial and economic crisis, and policy-implementation failures have undermined anti-discrimination and anti-racism efforts.

Some cases of discrimination or racist activities were observed during the period under review, including a resurgence of neo-Nazi activities (e.g., a public march held in 2012) that was emphasized by the United Nations Committee on the Elimination of Racial Discrimination. Despite the adoption of anti-domestic-violence legislation, spousal and child abuse both remain problems, as illustrated by a woman's death in 2013. According to Eurobarometer surveys, a lack of public support remains a challenge to effectively combating discrimination in Lithuania.

#### Citation:

Report on racism and related discriminatory practices in Lithuania can be found at [http://cms.horus.be/files/99935/MediaArchive/publications/shadow%20report%202010-11/ENAR%20Shadow%20Report\\_Lithuania\\_2011\\_FINAL\\_CONFIRMED.pdf](http://cms.horus.be/files/99935/MediaArchive/publications/shadow%20report%202010-11/ENAR%20Shadow%20Report_Lithuania_2011_FINAL_CONFIRMED.pdf)

Information on Lithuania by the Committee on the Elimination of Racial Discrimination is available at <http://www2.ohchr.org/english/bodies/cerd/followup-procedure.htm>  
 Also see Freedom House Report on Lithuania in 2013 at <http://www.freedomhouse.org/report/freedom-world/2013/lithuania>

## Slovenia

### Score 7

Slovenian law guarantees equal rights to all citizens and protects against discrimination based on prescribed criteria. There are also various forms of positive discrimination, including a gender quota in electoral law and special voting rights for the officially recognized national minorities as well as for the Roma population. Despite the legal framework, foreign workers and women are paid somewhat less for the same work than Slovenian and male workers (Brezigar 2012), and there have been cases of social discrimination towards same-sex couples. Amnesty International (2012) and others have criticized the government for not doing enough to counter discrimination toward the Roma.

#### Citation:

Amnesty International Report 2012. Slovenia. Available at [http://www.amnesty.de/jahresbericht/2012/slowenien?destination=suche%3D112%26topic%3D%26node\\_type%3D%26from\\_month%3D0%26from\\_year%3D%26to\\_month%3D0%26to\\_year%3D%26search2\\_x%3D12%26search2\\_y%3D8%26sort\\_type%3Ddesc%26page\\_limit%3D50%26form\\_id%3Dai\\_search\\_form](http://www.amnesty.de/jahresbericht/2012/slowenien?destination=suche%3D112%26topic%3D%26node_type%3D%26from_month%3D0%26from_year%3D%26to_month%3D0%26to_year%3D%26search2_x%3D12%26search2_y%3D8%26sort_type%3Ddesc%26page_limit%3D50%26form_id%3Dai_search_form)

Brezigar, Sara, 2012: Do third country nationals in Slovenia face prejudice and discrimination? *Dve domovini (Two Homelands: migration studies)*, no. 35, pp. 149-161.

## Spain

### Score 7

Since the enactment of the Spanish Constitution in 1978, all discrimination on account of birth, race, sex, religion, opinion or any other personal or social condition or circumstance are forbidden. Spain is also party to all important international and European treaties relevant to counteracting marginalization. And, finally, all individuals, whether national citizens or foreign ones, can invoke a special fast procedure in the courts asking the state to protect them against any form of discrimination. As a result of all this, cases of explicit discrimination are extremely rare. Of course, this does not mean that occasional public discrimination and, above all, indirect social discrimination are never observed, particularly because of prejudices against women, the elderly, persons with disabilities, or ethnic minorities (such as the Roma individuals and some non-Western immigrants).

Concerning religion, some tensions have emerged related to the customs of certain Muslims (for example, women wearing the burqa veil are not allowed access to public buildings in some municipalities). Coexistence between

communities speaking different languages is as a rule peaceful and does not lead to overt discrimination or conflicts of rights despite the complaints made by some Spanish-speaking families regarding the exclusive use of the Catalan language in the regional education system and equivalent criticism by Catalan- or Basque-speaking citizens with regard to the primacy of Castilian Spanish in the central administration.

In recent years, and particularly under Prime Minister Rodríguez Zapatero who was in office until December 2011, the Spanish government has been very active in fighting discrimination against women or homosexuals. Policies on pay equity, equality in political representation, gender violence and the same-sex marriage law (whose constitutionality was discussed by the Popular Party or Partido Popular, PP) have been maintained by the current conservative government. The Ministry of Health, Social Services and Equality, the Ombudsman and other regional agencies are active in monitoring discrimination. However, there are still wage differences between men and women and few women on the boards of companies.

## Austria

### Score 6

Austrian law bars discrimination based on gender, religion, race, age or sexual orientation. In practice, despite the institutionalization of an anti-discrimination policy, discrimination is evident within Austrian society. This includes indirect discrimination directed against women, who are still underrepresented especially at the level of management in the business sector; discrimination against dark-skinned persons, in some cases by the police; and gays and lesbians, whose position has improved, but still features structural disadvantages. Particularly with reference to sexual orientation, Austrian policies retain a rather conservative orientation, limiting the legal institution of marriage to heterosexual partnerships. Although legal substitutes exist for gays and lesbians, the bureaucratic reality makes life for heterosexual partners considerably easier.

## Bulgaria

### Score 6

The Bulgarian constitution and various EU directives guarantee protection against discrimination. In 2004, a specific Protection Against Discrimination Act was adopted. In accordance with its prescriptions, a Commission for Protection against Discrimination was created with the goal of promoting government policy in this area, and citizens were given access to judicial

protection of their rights against discrimination. In practice, however, episodes of discrimination against the Roma minority in Bulgaria and their marginalization have remained a major issue.

## Czech Republic

### Score 6

The Czech legal system guarantees equal access to work, education and social services before the law. Under pressure of a substantial fine from the European Union, an anti-discrimination law was passed in 2009, but in the weakest workable form for complainants. After three years of operation, the Czech Helsinki Committee undertook a survey among the 86 district courts to see what effect the law had had. The courts reported having dealt with 28 cases, only 15 of which were still in progress, while none of the remainder had finished successfully for the complainant. Support enabling marginalized groups to overcome their initial disadvantages has also been insufficient. This especially applies to the Roma minority, who are among the most vulnerable groups in the labor market. The ratio of Roma pupils in special schools dedicated to those with learning disabilities is about 30% – i.e., significantly higher than the proportion of Roma in the Czech Republic. Such educational streaming means that many Roma children have poor chances for progress to higher education and good work opportunities. Thanks to EU funds, new projects have been launched, intended to lead to improvements of Roma and other disadvantaged groups' inclusion in society and the labor market. However, rising housing prices and changes to benefit rules leave low-income Roma families unable to find and maintain satisfactory accommodation and this has increased territorial segregation, widening the social gap and creating excluded localities. This has intensified social tensions between socially excluded communities and the majority population in several municipalities, which resulted in waves of civil unrest in a number of small towns, notably in northern Bohemia. However, the discrimination against the Roma has remained a peripheral issue in national political discourse, playing no significant role in the presidential election campaigns.

#### Citation:

Council of Europe, Commissioner for Human Rights, 2013: Report by Nils Muižnieks Following his visit to the Czech Republic from 12 to 15 November 2012. CommDH(2013)1, Strasbourg (<https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstranetImage=2324044&SecMode=1&DocId=2037440&Usage=2>)

Czech Helsinki Committee, 2012: Report on Human Rights Conditions in the Czech Republic in 2011. Prague ([http://helcom.cz/wp-content/uploads/2013/04/ZLP\\_2011\\_ENG.pdf](http://helcom.cz/wp-content/uploads/2013/04/ZLP_2011_ENG.pdf))

## France

### Score 6

In principle, any discrimination such as those based on gender, race, ethnic origin or religion is banned by the constitution and by fundamental law. Beyond the recognition of the right of non-discrimination, however, institutional monitoring, judicial support and policy measures to ensure such rights are less than adequate.

France's legal basis for non-discrimination is solid. The controversial recognition of "marriage for all," or recognizing the right of gays and lesbians to legally marry, is a point in case. Courts tend not only to apply but also to extend these rights. Many policy measures, particularly financial incentives or subsidies, attempt to compensate for different instances of discrimination, in particular gender, age or migration background. However, the situation is often contradictory in many cases. For instance, while immigrants face challenges in getting residence permits, illegal immigrants have free access to health care and their children can be legally registered at school. A key contention concerns the integration of so-called second-generation immigrants. Despite many policy measures, a large number of these young French (they are all citizens) feel like foreigners in their country. The failure to provide quality schooling then a proper job is one of the most dramatic dimensions of what is called invisible discrimination. One serious handicap in dealing with this situation is enshrined in the French republican tradition, which emphasizes strict equality and excludes in principle any sort of discrimination, even positive discrimination.

Institutionally, a recent development is the creation during the review period (29 March 2011) of a new body named the Defender of Rights, which replaces several specialized agencies. In addition to national organizations, many regional or sectoral ad hoc institutions that address discrimination cases have been established.

## Chile

### Score 5

In general terms, political rights are protected by legislature and government bodies. Major failings can be seen in the case of the Mapuche indigenous conflict in the southern regions of Chile, which has intensified significantly during the last two years, as the Mapuche are not constitutionally recognized as a distinctive identity or ethnic minority with collective rights. Despite official denials, some Mapuche captives claim to be political prisoners. There have been important endeavors to lessen discrimination, but there are still inequalities in different domains like labor rights, access to health care and

family law (including the official acceptance of same sex unions and, to a certain degree, civil unions).

As far as gender is concerned, in Chile only 14.2% of deputies and 13.2% of senators are women. These averages are much lower than the continental (Americas: 24.44% and 22.6%) and Argentinian (37.4% and 38.9%) values. In the realm of social security, health care insurance is twice as expensive for women as for men because of maternity costs. A lot of social, political, economic and legal aspects lead (directly and indirectly) to gender and ethnic discrimination.

## Croatia

Score 5

Although discrimination has been prohibited by several different legislative acts for some time, the new Anti-discrimination Act (ADA), which entered into force in 2009, was an important step. The new act prohibits discrimination in 10 areas of social life and distinguishes 17 different forms of discrimination. It has enabled new forms of redress in the courts in discrimination cases. The Ombudsman institutions have a large role in combating discrimination, and the Office of the Public Ombudsman has the role of a central anti-discrimination body under the ADA. However, although discrimination is prohibited by the law, the legislation is not fully implemented, and certain vulnerable groups still experience widespread discrimination. In particular, the Roma encounter discrimination in almost all areas of life and especially in education and employment. Also, although Croatia has a good legal framework governing minority rights, Croatian citizens of Serbian ethnicity continue to experience discrimination. According to the Ombudsman's office, the most frequent discrimination is based on ethnicity (31% of cases). It is followed by discrimination based on gender, social status, origin and disability.

## Hungary

Score  
value\_6

Hungary has a comprehensive legal framework against discrimination. During Hungary's EU presidency in the first half of 2011, the country played a key, and broadly praised, role in the development and adoption of the EU's new Roma strategy. In practice, however, state anti-discrimination efforts have shown only limited success. According to estimates, about half of all Roma children in Hungary are still segregated from other pupils and receive substandard education. In many cases, court rulings against segregation are not enforced. Other groups have suffered from discrimination as well. The growing anti-Semitism in Hungary led the World Jewish Congress to convene

its 2013 annual congress in Budapest. The discrimination of women in employment opportunities, career paths and pay is illustrated by the small number of women who participate in Hungarian politics.

## Israel

### Score 5

Israel's main venue for dealing with cases of discrimination is the court system, particularly the Supreme Court (Bagatz). The period under review saw the Supreme Court address cases dealing with discrimination against women and minorities in professional, public and state spheres. The country has long-standing institutional mechanisms intended to promote equality, such as the Authority for the Advancement of the Status of Women in the Prime Minister's Office, the Equal Employment Opportunities Commission in the Ministry of Trade and Industry, and more. However, solutions given to various problems of non-discrimination tend to be ad hoc. Attempts have been made to pass a basic law on the issue of equality to join that on human dignity and liberty. However, these have been blocked by political opponents. There is no anti-discrimination law per se. The struggle against discrimination is usually fought through Israel's media and by vigorous NGO activity seeking to enforce existing provisions through the legal system.

These efforts have achieved some substantial victories with respect to freedom and equality. For example, the government has opened shelters for women victims of trafficking, and a 2006 law mandates prison terms of up to 20 years for perpetrators of this crime. In addition, nonbiological same-sex parents have been made eligible for guardianship rights, and openly gay Israelis are today permitted to serve in the armed forces.

However, trafficking of women for prostitution has become an increasing problem in recent years. Both the United Nations and the U.S. State Department have identified Israel as a top destination for trafficked women.

Following Israel's annexation of East Jerusalem in 1967, Arab residents were issued Israeli identity cards and given the option of obtaining Israeli citizenship, though most choose not to seek citizenship for political reasons. These non-citizens have many of the same rights as Israeli citizens, except the right to vote in national elections. They can vote in municipal as well as Palestinian Authority elections, and remain eligible to apply for Israeli citizenship. However, Israeli law strips non-citizens of their Jerusalem residency if they stay outside the city for more than three months.

A 2003 law denies citizenship and residency status to Palestinian residents of the West Bank or Gaza who are married to Israeli citizens. This measure affects about 15,000 couples and has been criticized as blatantly

discriminatory. In March 2011, the Knesset passed a law allowing the courts to revoke the citizenship of any Israeli convicted of spying, treason or aiding the enemy. A number of civil rights groups and the Shin Bet security service criticized the legislation as unnecessary and overly broad.

Citation:

"Back to Basics: Israel's Arab Minority and the Israeli-Palestinian conflict," Middle East Report N°119– 14 March 2012,

<http://www.crisisgroup.org/en/regions/middle-east-north-africa/israel-palestine/119-back-to-basics-israels-arab-minority-and-the-israeli-palestinian-conflict.aspx>

"Equal employment for women," Women's lobby in Israel website 5.3.2013 (Hebrew)

"Israel: 2013," Freedom house website.

<http://www.freedomhouse.org/report/freedom-world/2013/israel>

"Selected verdicts of Tmura center," Tmura website (Hebrew)

## Japan

### Score 5

Women still face some discrimination, particularly in the labor market. The wage differential as compared to men has not significantly decreased in recent years, and the recent recession has not helped in this respect. The country's share of female parliamentarians is very low by the standards of other advanced countries. In highly publicized strategic-policy statements made in spring 2013, Prime Minister Abe called women "Japan's most underused resource," but as of the time of writing, the government had taken no concrete steps to improve labor-market gender dynamics.

The three million descendants of the so-called burakumin, an outcast group during the feudal period, still face informal social discrimination, though it is difficult for the government to counter this. Korean and Chinese minorities with permanent resident status also face some social discrimination, as do more recent Brazilian and Philippine immigrants. Naturalization rules were eased somewhat in recent years; as a result, of the roughly 600,000 ethnic Koreans in the country, close to 10,000 are being granted citizenship per year. Menial workers with foreign passports from the Philippines, the Middle East and elsewhere frequently complain of mistreatment and abuses.

Japan continues to have a rather serious human-trafficking problem with respect to menial labor and the sex trade, in some cases affecting underage individuals. The treatment of refugees and asylum seekers is frequently the subject of criticism, as the processes are not transparent and can be lengthy. In some cases, refugees have committed suicide before completing the process.

## Malta

### Score 5

The chapter on fundamental human rights in the Maltese constitution forbids discrimination on the basis of race, color, gender or politics. Other laws forbid discrimination on the basis of physical disability or handicap. Although there is one legal provision which discriminates positively in the employment of handicapped persons, known as the 2% law, which establishes that 2% of those employed in an enterprise should be persons with a disability, little progress has been made. In Malta, it is the civil courts and the Constitutional Court that do most to protect against discrimination. For example it was the courts, through their interpretation of the gender provision in the constitution that have extended protections to transgender citizens. Nonetheless, there are no laws which recognize gender identity changes or allow for same-sex marriages or civil unions. Both these issues however were important during the election campaign; the Labor Party, in government at the time of writing, has promised to address these issues. In 2004, the government founded the Commission for the Promotion of Equality for Men and Women and in 2007 its remit was extended to cover the promotion of equal treatment irrespective of racial or ethnic origin. The commission is an autonomous body with a legal head separate from government, though its members are appointed by the prime minister. The government also supports a National Commission Persons with Disability, founded in 2000.

Women are generally underrepresented in the social, economic and political life of Malta, and the government has yet to establish a consensus over positive discrimination measures to potentially address this problem. Despite constitutional provisions, discrimination on grounds of politics remains a serious problem, as ministers or politicians generally favor applicants from their electoral district for public appointments and promotions. Aggrieved ordinary citizens may take their case to the Constitutional Court, the Employment Commission or the Ombudsman Office, while public servants may in addition to these institutions bring a case before the Public Service Commission. Nevertheless, allegations of discrimination on political grounds remain unacceptably high.

EU nationals living in Malta have also complained of discrimination with regards to the levying of higher tariffs for water, electricity and public transport.

#### Citation:

Carabott, S. Expats Petition against Malta Discrimination. Times of Malta 12/04/13

Ellul, T. REPORT ON MEASURES TO COMBAT DISCRIMINATION Directives 2000/43/EC and 2000/78/EC

COUNTRY REPORT 2011 MALTA

## Mexico

### Score 5

There is little overt racial discrimination in Mexico but definite overlap between race and class. White-skinned Mexicans are over-represented among the wealthy and powerful. Social discrimination varies by region. In the capital district there is growing awareness of issues of sex and gender, but that is not the case in the poorest regions in the country where there remains a degree of social authoritarianism. The higher courts are aware of these gender issues and are becoming increasingly assertive in these regards. However, while there is more awareness of discrimination issues that there once was, there is less attention paid to issues of indigenous rights and other forms of social disadvantage. Business groups have been particularly slow to promote Mexicans of visibly mixed race. Considered as a challenge to social hierarchism, the Zapatista movement, which advocated for indigenous rights, was essentially a failure.

## Romania

### Score 5

In response to EU directives, the National Council for Combating Discrimination (CNCD) published in March 2013 a draft proposing amendments to Romania's Anti-Discrimination Law. Most of the CNCD cases contain instances of human rights violations against the Roma. Yet, the recent amendment introducing statutory limitations of six months for cases impairs the effectiveness of the argumentation of the discrimination cases before the court. Law 137/2000, while relatively comprehensive in the field of anti-discrimination, does not include disability as a protected criterion and does not articulate a definition of segregation. In addition, the Civil Code entrenches the prohibition of same-sex partnership and marriage as well as the non-recognition of such marriages in cases when they have been registered abroad. Moreover, transgender persons cannot invoke any legal protection since the legislation offers no remedies against acts infringing on their rights. The ethnic Hungarian community still expresses concerns about linguistic and education rights. In February 2013 tensions between Hungarians and Romanians in Transylvania escalated when Romanian officials banned the Székely flag from the roofs of office buildings.

## Slovakia

### Score 5

Slovakia has fairly sophisticated anti-discrimination legislation. In practice, however, discrimination, especially against women and Roma, is rarely the subject of legal enforcement. To highlight its break with the nationalist and

racist discourse of the first Fico government, the Radičová government established a separate Ministry for Human Rights, Ethnic Minorities and Gender Equality, led by a vice prime minister, and moved the Office of the Plenipotentiary for Roma Communities to the Prime Minister's Office (PMO). As mandated by the European Commission, it also passed in January 2012 a National Strategy for the Integration of Roma which would last until 2020. A package of changes to help Roma children integrate into the education system and alleviate poverty in their communities fell victim to the 2012 change in government. The manifesto of the Fico government did not contain a single word on the Roma issue. According to Prime Minister Fico, the Roma issue is a "European," not a Slovak problem. The new Fico government changed the institutional framework for anti-discrimination policy, with the effect of somewhat lowering its political weight, but, contrary to the first Fico government, largely refrained from engaging in anti-Hungarian rhetoric.

## South Korea

### Score 5

Women remain underrepresented in almost all important fields in Korea. The wage gap between men and women is on average 38%, the biggest such gap in the OECD. The unequal treatment of Korean women is reflected in various UNDP data studies. While South Korea ranked 12th in the UNDP's 2013 Human Development Index, it ranks only 27th in the Gender Inequality Index. Discrimination against gays and lesbians remains pervasive. Discrimination against irregular workers and migrant workers is also frequent. In addition to discrimination at the workplace, many migrant workers have to submit to an HIV test in order to get a work visa. Discrimination against the disabled has improved, although barrier-free entrances to buildings and public transportation services remain rare. The government has tried to address discrimination based on gender and other characteristics, but with little effect. The establishment of the National Human Rights Commission was an important step, but this organization is not part of the executive branch, and has no direct enforcement authority. The enactment of the Disability Discrimination Act in April 2008 constituted another important step toward better protection against discrimination. According to official data from the NHRC, in 2011, a total of 1,802 complaints about discrimination were filed; 874 were filed because of discrimination over disability.

#### Citation:

UNDP, Human Development Report 2013, <http://www.undp.org/content/dam/undp/library/corporate/HDR/2013GlobalHDR/English/HDR2013%20Report%20English.pdf>

OECD, Gender Brief, March 2010, <http://www.oecd.org/dataoecd/23/31/44720649.pdf>

The National Human Rights Commission of Korea, Annual Report 2011, [http://www.humanrights.go.kr/english/publications/publications01\\_view.jsp](http://www.humanrights.go.kr/english/publications/publications01_view.jsp)

## Greece

### Score 4

Protection against discrimination on the basis of race has been regulated since 1979, while protection against gender discrimination is regulated by the New Family Law passed in 1983. The European Union's legislative acts also provide protection from gender discrimination.

However, legislation against discrimination has rarely been implemented. In the period under review the Greek state was unable to contain, let alone roll back, the outbursts of racial violence which periodically spread through neighborhoods of Athens with a high concentration of migrants from South Asia and Sub-Saharan Africa.

In February 2013 Nils Muižnieks, the Council of Europe Commissioner for Human Rights, stated that "between October 2011 and December 2012 more than 200 racist attacks were recorded in Greece by the racist violence recording network headed by UNHCR and the National Commission for Human Rights." Under pressure, in May 2013 the Ministry of Justice submitted a new anti-discrimination law to public deliberation, but the Prime Minister's Office (PMO) had reservations whether new legislation was necessary. Eventually four different parties submitted to parliament a draft bill on anti-discrimination and the issue was still pending in June 2013.

#### Citation:

Family relations are regulated through law 1329/1982, while anti-discrimination legislation is found in law 927/1079 (amended in 2001 to facilitate the intervention of prosecuting authorities against trespassers). European Union law, naturally also applicable in Greece, regulates gender discrimination. See, for instance, the Gender Directive, officially known as Council Directive 2004/113/EC of 13 December 2004. For a summary of Muižnieks' conclusions, as presented to the Council of Europe, see the document "Racist violence a real threat to democracy in Greece" available at [http://www.coe.int/t/commissioner/News/2013/130201Greece\\_en.asp](http://www.coe.int/t/commissioner/News/2013/130201Greece_en.asp) [accessed on 07.05.2013].

## Turkey

### Score 4

While Article 10 of the constitution guarantees equality before the law, irrespective of language, race, sex, political opinion or religion, the political reality in Turkey differs significantly from constitutional claims.

Religious communities from non-Sunni Muslim backgrounds have reported discrimination in the practicing of their faith. Problems stem mainly from a lack of legal guidance and personnel to address issues of discrimination, whether when dealing with property rights or fundraising, to the training of clergy or access to residence permits for foreign clergy. The Council of Europe's 2010 Venice Commission recommendations have yet to be implemented. While the Turkish state promotes one main faith (Sunni Islam),

there is no religious education in public schools for Alevis, which constitute the second largest religious community in Turkey. In this context, the 2007 judgment of the European Court for Human Rights on religious culture and ethics classes (Case of Hasan and Eylem Zengin v. Turkey, Application 1448/04) has yet to be implemented. Alevi students who do not attend compulsory Sunni religious courses are often subject to discrimination. Investigations against the Group of Communities in Kurdistan (KCK) continued during the review period, and some 10,000 individuals were arrested as of the beginning of 2013. Despite the recent memorandum of understanding between the government and Abdullah Öcalan, the former leader of the Kurdistan Workers' Party (PKK), these detentions undermine efforts in finding a political solution to the Kurdish issue.

In March 2012, parliament adopted a law on the protection of family and prevention of violence against women, which aims to protect married women and those in relationships outside marriage from violence. The Ministry for Family and Social Policies adopted a national action plan to combat violence against women (2012 – 2015).

Lesbian, gay, bisexual and transgender (LGBT) individuals still suffer discrimination (for example in access to jobs and housing) and there have been reports of ill-treatment, cases of sexual assault as well as shortcomings in the prosecution of crimes against LGBT individuals in 2011 and 2012. Specific anti-discrimination legislation that deals especially with sexual orientation is still lacking.

In July 2011, a directorate general for services for disabled people and the elderly was established under the Ministry of Family and Social Policies. Disabled persons still experience difficulties getting jobs, an education or receiving adequate health care as well as other social and public services. Turkey still has not established a national monitoring mechanism to implement the U.N. Convention on the Rights of Disabled Persons.

Citation:

European Commission, Turkey - 2012 Progress Report, SWD(2012) 336, Brussels 10.10.2012.

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