

**SGI** Sustainable  
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Indicators

# 2015 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 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, while workers have the right to organize, bargain collectively and strike. Debates on adoption rights legislation for same-sex couples are ongoing, whereas the parliament voted for the right for marriage of same-sex couples in November 2014 after long and controversial discussions.

### 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. The court system is, however, not always effective. It may take considerable time for a case to be handled in the courts.

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 show 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. Two recent security breaches, the shooting of a soldier on ceremonial sentry duty at the Canadian National War Memorial in Ottawa and an attack on military personnel in Saint-Jean-sur-Richelieu, have given new impetus to the government's plans to expand the powers and courtroom anonymity of the Canadian Security Intelligence Service (CSIS), and to introduce new anti-terrorism measures. Given that terrorist threats are real, 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.

The Danish Institute of Human Rights issues an annual report with detailed accounts of the human rights situation in Denmark and recommendations for the government. Some recommendations concern the rights of immigrants and asylum seekers.

## 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/euopar%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).

Web site of Danish Institute of Human Rights: <http://humanrights.dk/> (accessed 19 October 2014).

## 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, the length of preliminary investigations remains a problem.

The chancellor of justice plays an important role in ensuring civil rights. He makes sure that authorities and officials performing public duties do not violate people's constitutional rights and freedoms, and that persons held in detention are not treated in a degrading, cruel or inhumane way. Individuals can bring concerns directly to the chancellor's office or send a letter detailing the issue of concern. The largest number of cases under investigation in 2013 were related to Ministry of Justice or court activities (475 and 151 proceedings respectively). Violations of law or good administrative practices were found in only one court-related case, and in nine cases related to criminal law or the prisons. Generally, the number of citizens' appeals to the chancellor of justice decreased slightly in 2013 compared to 2012, but have declined by 30% compared to 2009.

## Citation:

Chancellor of Justice (2014). 2013 Overview of the Chancellor of Justice Activities. [http://oiguskantsler.ee/sites/default/files/annual\\_report\\_2013.pdf](http://oiguskantsler.ee/sites/default/files/annual_report_2013.pdf) (accessed 02.Nov.2014)

## 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 legislature. In the Economist Intelligence Unit's 2013 Democracy Index, Germany received a steady score of 9.12 out of 10 on the issue of civil liberties. However, 26 countries were awarded (slightly) higher scores.

In view of recent scandals which brought to light that the intelligence services

neglected laws and disregarded national boundaries, it is at least questionable whether state security agencies respect citizens' civil rights as an inalienable prerequisite of a constitutional state. It is, however, difficult to assess the amount of malpractice going on. Even the parliamentary investigation committee – tasked with scrutinizing the conduct of intelligence forces – complained about the government's reluctance to provide all necessary information (FAZ 26.09.2014).

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.

Citation:

<http://www.faz.net/aktuell/politik/wer-wurde-abgehoert-nsa-untersuchungsausschuss-beklagt-schwierige-aufklaerung-13175931.html>

## 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.

The Protected Disclosures Act 2014 came into force in July 2014. This will offer legal protections for workers who report concerns about wrongdoing in the public,

private and non-profit sectors. The law will cover all employees, contractors, agency workers, members of the police force (An Garda Síochána), and members of the Defence Forces.

## 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 of 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 life imprisonment of particularly dangerous criminal offenders without any opportunity for reexamination. This conflicts with the European Convention for the Protection of Human Rights and Fundamental Freedoms. This convention guarantees periodic reviews in which the necessity for continued imprisonment can be evaluated.

Likewise, there have been conflicts between popular votes 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 non-discrimination and the right to a lawful legal procedure.

The ban on the construction of minarets, approved in a popular vote in 2009, represents a particularly problematic decision. The basic claim of proponents was that minarets signify the potential aggression and power claims of Islam, which 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.

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 referenda 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. The recent attempt by the country's strongest political party, the Swiss People's Party, to give Swiss law precedence over international law and treaties must be seen in this context.



## 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 the media have 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.

## Iceland

Score 8

The Icelandic state fully respects and protects civil rights, and courts effectively protect citizens. Where there is evidence of disregard for civil rights, courts rule against the government.

However, there are specific exceptions to this rule. Most importantly, the United Nations Committee on Human Rights (UNCHR) issued a binding opinion in 2007 to the effect that, because of its in-egalitarian nature, the management system of Iceland's fisheries constituted a violation of human rights. It furthermore instructed the government 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. However, the parliament has failed to act on the new constitutional bill.



In 1998, the Supreme Court using the same argumentation ruled that the management system of Iceland's fisheries was unconstitutional. However, the Supreme Court reversed its decision in 2000 under overt political pressure from ministers.

The European Court of Justice has heard several petitions by Icelandic citizens recently that their civil rights have been violated. In almost all of these cases, the European Court of Justice has found in favor of the petitioner, 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.

A potentially serious complication has resulted from parliament's delay to pass a new constitution, which was approved in a non-binding 2012 referendum by 67% of the voters. Unless the constitution is passed, the next parliamentary election will be framed by laws that the majority of the electorate have rejected and the result of which could be challenged on the grounds of legitimacy.

Citation:

Gylfason, Thorvaldur (forthcoming), *Constitution on Ice*, forthcoming in *The Politics of the Icelandic Crisis*, eds. Irma Erlingsdóttir, Valur Ingimundarson, and Philippe Urlfalino. — Also available as CESifo Working Paper 5056, November 2014.

## 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 parliament introduced legislation in November 2012 that replaced plenary guardianship with alternative models of 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 individuals' personal lives. The unsanctioned publication of private e-mails, personal data, internet browsing histories and telephone transcripts have led some to question the efficacy of privacy 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 is pursuing the individual for an unjustifiable violation of an individual's right to privacy, because his downloading of information pertained to private individuals, not public officials. The civil servants responsible for leaving vast amounts of personal data on an unprotected website 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 regarding 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 36 out of a possible 100 in 2013 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%20dokai/TYRIMAI/Vilmorus%20visuomenes%20nuomones%20apklausa\\_Santrauka\\_2012.pdf](http://www.hrmi.lt/uploaded/PDF%20dokai/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 mediation law provides for processing within a maximum of four months, with the aim of speeding up administration procedures. The influence of and the number of complaints to the Ombudsman Office continues to grow, with 507 complaints in 2013, and the rate of favorable rulings or settlements remains high (80.39%). These high figures show both the efficiency and the necessity of this institution. Three EU directives concerning the right to have an interpreter and legal representation for detainees and prisoners, as well as the right to inspect relevant files, are expected to be implemented.

Citation:

<http://www.legilux.public.lu/leg/a/archives/2003/0128/a128.pdf#page=2>

[http://www.ombudsman.lu/doc/doc\\_downloads\\_152.pdf](http://www.ombudsman.lu/doc/doc_downloads_152.pdf)

<http://www.tageblatt.lu/nachrichten/luxemburg/story/26766397>

For further informations: see section D 3.3

## New Zealand

Score 8

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. This bill amended the GCSB Act 2003, which stipulated that the GCSB's role was to conduct foreign, not domestic, surveillance. Prior to and during the 2014 election campaign, the activities of the GCSB came under close scrutiny, especially after it was found to have acted illegally by monitoring the activities of a New Zealand resident, the German-born internet entrepreneur, Kim Dotcom. A review later revealed that a further 80 New Zealanders had been spied on by the agency, a finding that forced the prime minister to assure New Zealanders that there was no mass surveillance of their activities.

Citation:

Amnesty International Aotearoa New Zealand Annual Report 2014 (Auckland: Amnesty International Aotearoa New Zealand 2014).

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).

## Poland

Score 8

State institutions largely respect and protect civil rights. However, 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.

## 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 guaranteed rights.

Within this context, the three elements of concern noted in previous reports remain with regard to civil rights in Portugal.

1) There continue to be reports of police violence and brutality. The latest report by the government department responsible for investigating police brutality, the *Inspecção-Geral da Administração Interna*, indicates a total of 817 complaints in 2012. This number is somewhat lower than in 2011 (913 complaints). The U.S.

Department of State Report on Human Rights Practices in Portugal for 2013 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 U.S. Department of State Report on Human Rights Practices in Portugal for 2011 once again identifying as “credible” reports of “mistreatment and other forms of abuse of prisoners by prison guards.” Moreover, this report also notes the persistence of inadequate facilities and overcrowding in Portuguese prisons. Data from the Directorate-General of Prison Services, published in the *Diário de Notícias*, indicates that on 31 December 2013, the prison system had 14,133 inmates, exceeding its official capacity by 16% (1,966 places). In this regard, overcrowding has worsened as compared to the previous report (in 2011, the excess detention rate was 12%).

3) The legal system continues to allow lengthy pretrial “preventive” detentions without charges being filed. According to the U.S. Department of State Report on Human Rights Practices in Portugal for 2013, 19% of the prison population was in preventive detention of this kind in 2013 – a very slight decrease when compared to the 2011 share (20%).

Citation:

US Department of State, Bureau of Democracy, Human Rights and Labor. “Country Reports on Human Rights Practices for 2013 - Portugal,” available online at: <http://www.state.gov/documents/organization/220531.pdf>

*Diário de Notícias*, “Mais de 14 mil presos nas cadeias portuguesas em 2013,” 17 Jan. 2014, available online at: [http://www.dn.pt/inicio/portugal/interior.aspx?content\\_id=3638113](http://www.dn.pt/inicio/portugal/interior.aspx?content_id=3638113)

## Australia

### Score 7

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 Labor government’s term of office in September 2013, these measures had only partially been implemented. No further action to implement these measures has been or is expected to be taken by the coalition government that took office in September 2013.

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. Offshore processing ceased in 2008 under the Labor government, but was reinstated in August 2012. On election in September 2013, the coalition government instituted a "turn back the boats" policy, whereby vessels containing asylum seekers are intercepted by the Australian navy and prevented from entering Australia.

Citation:

<http://www.amnesty.org.au/news/comments/36221/>

## 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.

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 prejudice 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 involving ethnic minorities, anti-terror legislation – which violates international conventions signed by Chile and goes back to 1984 – is applied.



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.

## Cyprus

Score 7

The law guarantees and protects the civil rights of all individuals. This applies to citizens as well as migrant groups from other EU and non-EU countries. Cyprus needs more cohesive and efficient measures in order to address issues related to asylum seekers and economic migrants, and to enable it to abide by European and international rules and standards.

In 2014, Cyprus was relegated to a Tier 2 status with regard to human trafficking, with a 2010 EU report placing the country in last place among member states on this issue. Policymakers have sought improvements on the issue with a new policy framework and an EU harmonization law (2014). The detention of migrants and asylum seekers, and the exploitation of migrant workers who in some cases receive low wages and no social insurance, remain serious problems. Measures aimed at eliminating labor exploitation and employment outside the social-insurance system, including higher penalties for employers or even for owners of properties rented to undocumented migrants, have proved ineffective. Language and other barriers limit migrants' access to legal protections when in need, and constrain the efficiency of enforcement. Societal and official complacency are also blamed by NGOs and other critics for problems in this area. NGO initiatives seek to provide compensation for existing gaps or omissions in official law-enforcement efforts. During the period under review, crisis-related employment and income pressures have further affected vulnerable groups, dissuading some individuals from seeking legal protections.

Citation:

1. EU report on Human Trafficking, 2013, available at [http://ec.europa.eu/dgs/home-affairs/what-is-new/news/news/2013/docs/20130415\\_thb\\_stats\\_report\\_en.pdf](http://ec.europa.eu/dgs/home-affairs/what-is-new/news/news/2013/docs/20130415_thb_stats_report_en.pdf).

2. USA State Department 2014 Report on Trafficking, Cyprus, <http://www.state.gov/j/tip/rls/tiprpt/countries/2014/226710.htm>

3. Law on the prevention and Combating Human Trafficking and for the Protection of Victims [Περί πρόληψης και καταπολέμησης εμπορίας προσώπων και προστασίας θυμάτων] L.60(I)2014, available in Greek at, [http://www.cylaw.org/nomoi/arith/2014\\_1\\_60.pdf](http://www.cylaw.org/nomoi/arith/2014_1_60.pdf)

4. Amnesty International on Detention of Migrants - Asylum Seekers <http://www.amnesty.org/en/news/cyprus-abusive-detention-migrants-and-asylum-seekers-flouts-eu-law-2014-03-18>

## Czech Republic

Score 7

The government and administration of the Czech Republic respect and protect basic civil rights. As complaints lodged with the European Court of Human Rights and the

Office of the Public Defender of Rights (ombudsman) have indicated, 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 these rights. Most (and a growing number of) complaints address issues of public administration.

## 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. However, Malta's minister of home affairs stated in 2014 that the government would be taking all necessary steps to comply with recent ECHR judgements, and that amendments to Malta's immigration and refugee legislation would enable any detainee to challenge their detention from the initial stages onward. Other amendments are expected to address issues such as the review of detention orders.

## 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 rethink 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 (especially the right to family life), including limiting their appeal rights and access to medical services, and human trafficking in women and girls for sexual exploitation. Recently, the renowned Raad van State was criticized for failing to uphold the rights of asylum seekers in appeals to government decisions. On the other hand, the Dutch government withdrew a bill that would have criminalized illegal aliens allowing authorities to put them all in jail.

Citation:

Human Rights Watch in Nederland (hrw.org., consulted 23 October 2014)

NRC Handelsblad, Rechter bij Raad van State kiezen 'zelden de kant van de vluchteling', dd. 21 October 2014 (nrc.nl., consulted 23 October 2014)

## Slovakia

Score 7

In Slovakia, civil rights are largely respected. However, the integrity of the judiciary and the long duration of court proceedings remain a problem, as do the discrimination against and police mistreatment of the Roma population. This latter issue led to several clashes during the period under review between the government and Public Defender of Rights (Ombudswoman) Jana Dubovcová.

## 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 (ECHR) has issued numerous verdicts against Slovenia for exceeding the “reasonable time” requirement. In July 2014, the ECHR issued a landmark ruling against Slovenia regarding Yugoslav-era foreign-currency deposits. The court ordered Slovenia to find a solution for compensating deposit-holders with unreturned deposits at the defunct Ljubljanska Banka (LB) bank in Sarajevo within a year.

## Spain

### Score 7

Even if no substantial changes were evident in the area of civil rights from mid-2013 to late 2014, the period was characterized in Spain by the controversial drafting of a bill on public safety (Draft Organic Law “de protección de la seguridad ciudadana”) and a change in the criminal code, neither of which had been approved at the end of 2014. The legislature also passed a new regulation of private security (Law 5/2014) with no specific provisions on guarantees to respect civil rights.

Regarding the so-called anti-protest public safety law, some aspects of its first drafting in November 2013 were quite strict. That version was received with strong protests from the opposition and activists who organized street demonstrations against a document they felt was designed to stop the rising tide of protests linked to the government’s unpopular austerity adjustments. On July 2014, a new version of the bill was passed by the Council of Ministers and sent to the Congress, where it remained under discussion through the end of the year. The final document was far tamer than the original draft with a less rigid regulation of fines for taking part in public unauthorized demonstrations (see also “Political Liberties”). Police will also no longer be to enter a private residence if the owner or tenant gives them permission, as was the case with the first draft. Instead, police must produce a search warrant issued by a judge.

The new law also introduces guarantees and, for example, it makes some timid progress on racial profiling by police when it comes to carrying out street searches i.e., the law prohibits discrimination but does not implement specific measures to prevent profiling as recommended by international human rights bodies such as the UN Special Rapporteur on racism). With the new regulation, police searches must be carried out by a member of the same sex and can only be conducted to prevent or investigate a crime. In addition, police will only be able to ask people to provide identification in order to prevent crimes, not civil infractions. People who fail to supply ID can be taken to a police station only in order to prevent a crime or if that person has already committed a misdemeanor.

Apart from these legal novelties, it can be generally said 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 (for example, concerning illegal immigrants). In addition, 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. A revision of the free attorney assistance system, announced for 2015, will make more difficult to be entitled to this benefit, thus restricting the access to civil rights protection.

Citation:

[www.theguardian.com/world/2013/nov/21/spain-government-strict-anti-protest-laws](http://www.theguardian.com/world/2013/nov/21/spain-government-strict-anti-protest-laws)

Report on Spain (2013) by Mutuma Ruteere, UN Special Rapporteur on racism, racial discrimination, xenophobia and related intolerance. [www.acnur.es/PDF/informe\\_mision\\_relatorespecial\\_racismo\\_2013\\_20130806150757.pdf](http://www.acnur.es/PDF/informe_mision_relatorespecial_racismo_2013_20130806150757.pdf)

## Greece

### Score 6

Civil rights are protected by and included in the constitution (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, 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. There are rare cases of officials failing to uphold the law as far as human rights protection are concerned. Such cases, which have occurred in detention centers for migrants and in prisons, have acquired wide publicity, and have taken a long time to be processed by the courts system. Independent control mechanisms, such as free media, NGOs and social movements, are very sensitive to such violations. Prosecuting authorities have also become more sensitive to these issues, as attested by the wide-ranging investigations against party cadres of the neo-Nazi party Golden Dawn which started in September 2013 and are still going on. 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.

## 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 rare.

A further problem is that some political parties – for example the Northern League

(Lega Nord) and also other parties of the right – 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 – so far 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. After a de-facto moratorium in 2011, later governments, including the current LDP-Komeito coalition, resumed the practice.

## United Kingdom

Score 6

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 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. Governments have also objected to rulings from the ECHR, to the extent that some ministers have advocated a UK withdrawal from the court.

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 files leaked by former NSA subcontractor and system administrator Edward Snowden disclosed

a degree of digital surveillance in the United Kingdom that far exceeded expectations. The Government Communications Headquarters (GCHQ), with its Tempora and publicly less-well-noted MUSCULAR programs, as well as the NSA/GCHQ PRISM joint venture, tracks and evaluates a very large share of national and international electronic communications. But despite the initial media outcry, public opposition to these programs has been relatively mild. Furthermore, British society is well aware of the proactive tradition of its national intelligence services, and criticism tends to be limited outside the context of libertarian pressure groups. The most sustained opposition today comes from communication firms whose servers were hacked by government agents to access private data. Despite public indifference, however, the GCHQ's operations in the United Kingdom, like those of other security agencies in countries also affected by these secret programs, can be seen as infringements of civil rights.

## United States

### Score 6

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. Congress also authorized parts of 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. For example, it has 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. The fatal 2014 shooting of an unarmed black teenager by a police officer in a St. Louis suburb, and the frequently threatening and violent police handling of the resulting demonstrations, drew national attention to an arguably widespread pattern of police violence, militarized methods and discrimination against black citizens. Evidence suggests that black males in particular are frequently subject to arbitrary harassment, searches and physical abuse at the hands of police.



Citation:

“Armed and dangerous; law enforcement in the United States.” (2014, Mar 22). *The Economist*, 410, 14-16.

## Bulgaria

Score 5

The Bulgarian constitution and legislation provide a comprehensive, gradually improving framework guaranteeing civil rights and their protection. In practice, rights are generally respected by state agencies and citizens have legal recourse when infringements of these rights do occur. Bulgarian citizens actively use the administrative-justice process to challenge the actions of state agencies, and the courts regularly side with citizen plaintiffs.

The most frequent and serious rights violations are the overuse of force by law-enforcing government bodies, especially against Roma. There are also sporadic reports of arbitrary court decisions in bankruptcy cases, which undermine the perception that property rights are secure. The length of legal proceedings represents a significant problem.

## 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 Kosor government’s judicial-reform strategy (2011 – 2015) 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. Domestic war-crimes prosecutions remain a weak point within the judicial system, as it moves slowly and displays an institutional bias in favor of ethnic-Croat suspects. 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.

## Hungary

Score 5

The Orbán governments have formally respected civil rights. However, the rule of law has suffered from the government’s politicization of the courts. Moreover, the government has failed to protect Roma and other minorities from harassment and hate speech. The second Orbán government accused former high government officials of criminal wrongdoing, but these cases have largely failed in the courts. For example, in October 2014, the European Court of Human Rights cleared Zsolt Császy, a former leading official of Hungarian National Asset Management, of all charges, and urged the Hungarian government to compensate him. Foreign investors have continued to complain that their rights are not respected.

## Israel

Score 5

The basic law on human dignity and liberty protects the right of each citizen to privacy, property, dignity, life and other basic goods. It 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. Much of the work of protecting civil rights in Israel is done through acts of judicial review, which operate independently from the legislator and the executive branches.

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, primarily due to the conflict between civil rights and other core social values such as religious identity, security and communal rights. Many of Israel's civil rights infractions relate to minority rights such as those accorded non-Jewish citizens (particularly Arab citizens), women's rights and civil protest. In a report issued by the Association for Civil Rights in Israel (ACRI), the group addressed a myriad of civil rights infringements stemming from police misconduct and discriminatory public policy. Civil rights claims are voiced through media pressure, NGO activities, appeals to the Supreme Court, legislative amendments and appeals to government bodies that investigate public complaints.

The Israeli invasion "Protective Edge" in Gaza enhanced the trend of national identification of Israeli-Palestinian Arabs with Palestinians in Gaza. Many in the Jewish-Israeli majority could not accept this. Consequently, one witnessed a growing escalation in racism and violence against the Arab minority, bolstered by several senior government officials.

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>

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Ben Solomon, Ariel: FM Liberman calls for boycott of Israeli Arab businesses who strike for Gaza, 21.07.2014, <http://www.jpost.com/Operation-Protective-Edge/FM-Liberman-calls-for-boycott-of-Israeli-Arab-businesses-who-strike-for-Gaza-368360>

Hasson, Nir and Kubovich, Yaniv: Israel Police's war against Arab protesters, 16.08.2014, Haaretz, <http://www.haaretz.com/news/national/premium-1.610828>

## Romania

**Score 5** Civil rights are guaranteed by the Romanian Constitution and are generally respected in practice. Romania responded to decisions by the European Court of Human Rights by adopting a new Civil Procedure Code, which came into effect in February 2013, and by passing new legislation on the restitution of property seized in communist times in March 2013. However, court protections have continued to suffer as a result of long and unpredictable proceedings. Poor detention conditions in Romania's penitentiaries also remain a problem.

## South Korea

**Score 5** Basic civil rights are protected by the constitution. Despite the establishment of the Human Rights Commission in 2001 and the effective performance of courts in protecting civil rights, human rights groups have criticized and even boycotted these processes for failing to consult civil society. Observers tend to agree that the human and civil rights situation has worsened since 2008. Amnesty International stated that there had been a "dramatic increase in the abuse of national security laws in a politically motivated attempt to silence debate."

The National Security Law remains in place, outlawing activities that could be interpreted as "benefiting or praising" North Korea. The authorities indicted 102 people under the National Security Act in 2013, the highest number in 10 years. Amnesty International's 2013 report on South Korea names the case of Park Jeong-geun, a member of the Socialist Party of 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 was 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 or to be against South Korea's government. 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 and 60 people are still on death row.

Citation:

Amnesty International, Report on South Korea 2013, <http://www.amnestyusa.org/research/reports/annual-report-south-korea-2013>

"2013 was a poor year for South Korean democracy", Globalpost, Jan 17, 2014

## 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. It is becoming increasingly legitimate over time. 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 also a very serious problem, and it is not rare for police officers to extort money from members of the public. In this regard, the partial infiltration of the police forces by organized crime has increased the problem. It has been quite difficult to effectively hold the military to account for abuses, though the Mexican Commission on Human Rights has intensified efforts to do so.

## Turkey

Score 3

While Article 10 of the constitution guarantees equality before the law, and Article 12 enshrines fundamental rights and freedoms, concerns over shortcomings in judicial proceedings remain, including limited access by defense attorneys to prosecution files, lengthy pre-trial detentions, and excessively long and catch-all indictments. This relates especially to numerous cases involving Kurdish activists, journalists, union members, students, military officers, and policy and security personal being tried for alleged violations of the Anti-Terror Law. Many such cases are considered by domestic and foreign observers to be partly or even fully politically motivated.

In 2014, the parliament passed a bill requiring that investigation, detention and custody decisions be based on “concrete evidence,” and reducing the maximum period of pre-trial detention from 10 to five years. Of course, this is still far beyond EU standards. Although Article 17 of the constitution grants individual personal inviolability, there are still allegations of the excessive use of force on individuals. This remains a problem in places of detention and overcrowded prisons. The government has sought to crack down on torture and ill-treatment of individuals in detention by law-enforcement officials, in part through a 2013 judicial-reform package. Some detainees were released after the passage of this measure.

Individual were granted the right to apply to the Constitutional Court through constitutional amendments in 2010. Such applications have been accepted by the

court since September 2012. Article 148 of the constitution states that anyone who believes his or her human or citizens' rights, as set forth in the European Convention on Human Rights (ECHR), have been infringed by a public authority has a right to apply to the Constitutional Court after exhausting other administrative and judicial remedies. Constitutional Court applications cost approximately €90. Individual applications must be filed within 30 days after the notification of the final proceeding that exhausts other legal remedies. In the first quarter of 2014, a total of 4,471 applications were submitted and 2,457 judgments rendered.

After the individual application right to the Constitutional Court was granted in 2012, the number of new applications from Turkish citizens to the European Court of Human Rights (ECtHR) for ECHR violations dropped from 18,000 to 11,000 in 2013, according to the Ministry of Justice. More than 10,400 applications were pending before the European court as of July 2014. With an Action Plan on Prevention of ECHR Violations issued on 1 March 2014, the government aims to further improve the situation as well as Turkey's ECtHR statistics.

Citation:

European Commission, Turkey Progress Report, October 2014, [http://ec.europa.eu/enlargement/pdf/key\\_documents/2014/20141008-turkey-progress-report\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2014/20141008-turkey-progress-report_en.pdf) (accessed 5 November 2014)

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The Ombudsman Institution (2014) 'The Chief Ombudsman Annual Press Conference', [http://www.ombudsman.gov.tr/en/content\\_detail-322-779-the-chief-ombudsman-annual-press-conference.html](http://www.ombudsman.gov.tr/en/content_detail-322-779-the-chief-ombudsman-annual-press-conference.html) (accessed 10 December 2014)

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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. Civil society groups organize open forums to discuss important social and political issues. One such forum, the Arvamusfestival (Festival of Opinion Culture), has been held annually since August 2013. In 2014, over 4,000 people attended the two-day festival. There is no state church in Estonia, but religious freedom is guaranteed through the presence of 10 religious associations in the country.

### Finland

Score 10

Political liberties are effectively protected in Finland and Finland has for decades received the highest scores concerning political 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, freedom of association and assembly and 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 decreasing. Women enjoy equal rights and liberties in Finland. The criminal code covers ethnic agitation and human trafficking. The constitution guarantees the indigenous Saami population, which comprise less than 1% of the population, cultural autonomy and the right to pursue their traditional livelihoods.

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

## 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. Meanwhile, in practice, the serious protection of privacy rights are increasingly subject to political attention and public debate. The Expert Body on the Protection of Privacy Data (College Bescherming Persoonsgegevens) lists a growing number of deliberate or unintended infringements of the constitutional right to privacy.

## 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 but recommended that consultation on these issues should be carried on.

Citation:  
<http://freedomhouse.org/report/freedom-world/2014/new-zealand-0#.VDPwjFekzQ8> (accessed October 9, 2014).  
New Zealand Council for Civil Liberties, <http://nzcccl.org.nz/> (accessed October 9, 2014).  
Constitutional Advisory Panel, 2013. New Zealand's Constitution. A Report on a Conversation, [http://www.ourconstitution.org.nz/store/doc/FR\\_Full\\_Report.pdf](http://www.ourconstitution.org.nz/store/doc/FR_Full_Report.pdf) (accessed November 11, 2014).

## 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.



## 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.

The existence of an apparently very small in number but internationally well-connected network of radical Islamists represents a new challenge to political liberties in Austria. Some Austrian citizens have been recruited to fight for the "Islamic State" militia, for example. This has resulted in a debate about the limits of political liberties, but has not yet led to any significant legal action being taken.

## Czech Republic

Score 9

Political and civil liberties are respected and their observance is supervised by the Constitutional Court, the Supreme Administrative Court and the Public Defender of Rights (ombudsman). In association with its accession to the European Union, the Czech Republic strengthened the protection of all legal entities against (illegal) interference by public administrative bodies, including the passing of new administrative rules to improve citizens' rights vis-à-vis the state. Delays in judicial proceedings constitute one persistent obstacle for Czech citizens. From January 2014, the ombudsman's office initiated a program to increase the effectiveness of its activities (funded by the European Social Fund, Human Resources and Employment Operational Program).

## 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.

In 2014, Freedom House 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 reports from Amnesty International have 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. The latest report from 2013 criticizes some individual cases of denied asylum.

#### Citation:

Freedom House, "Freedom in the World 2014 - Denmark," <http://www.freedomhouse.org/report/freedom-world/2014/denmark-0#.VEaMPeSEi70> (accessed 21 October 2014).

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

Amnesty International Annual Report: Denmark 2013, <http://www.amnestyusa.org/research/reports/annual-report-denmark-2013?page=2> (accessed 21 October 2014).

## 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; recently, the increasing and active role of the Constitutional Council in striking down laws which could jeopardize said liberties has been crucial. 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 resolved 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 (i.e., Basic Law). Political pluralism is generally guaranteed, with the exception of laws restricting political forces clearly denying the democratic order. However, these exceptions are applied in a very restrictive way so that even extreme parties like the far-right Nationaldemokratische Partei (NDP) have full freedom to operate. 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 where 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).

## Greece

### Score 9

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 other areas - the right to worship, for example - are affected by the impediments on proselytism and the establishment of places of worship, for some.

## Iceland

- Score 9 The 1944 constitution contains provisions protecting the freedom of the press as well as freedoms of organization and assembly. The constitutional bill that won the support of 67% of voters in a 2012 referendum, but which has not been ratified by parliament, aims to revise and broaden individual rights and liberties.

## 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. In October 2014, the government confirmed that it had accepted the constitutional convention's recommendation that a referendum on removing the offence of blasphemy from the constitution should be held.

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.

Citation:

It is proposed to remove the prohibition on blasphemy from the constitution.

## 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 have been 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.

There is a growing concern that right-wing activism is increasing and that this might actually be supported by ruling politicians. Several senior LDP politicians have been linked to ultra-rightwing groups, for instance, by photos showing them with leaders of such groups. Some observers speak of a right-wing campaign involving so-called hate crimes. In autumn 2014, for instance, the author of the incriminated Asahi article on the Korean “comfort women issue” (wartime forced prostitution) received severe threats, as did family members and the university that employs him on a temporary basis.

Citation:

Justin McCurry, Japan’s ruling party under fire over links to far-right extremists, *The Guardian*, 13 October 2014, <http://www.theguardian.com/world/2014/oct/13/japan-ruling-party-far-right-extremists-liberal-democratic>

## Latvia

Score 9

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

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 between 2011 and 2013, Riga City Council decisions limiting the freedom of assembly have been overturned by the court.

## Lithuania

Score 9

Lithuanian institutions generally respect the freedoms of assembly and association. In 2014, Lithuania obtained the score of one (with one being the best) from Freedom House 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 on the basis of 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. Another gay-pride parade was allowed to be held in the center of Vilnius in 2013. 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 2014 freedom rating of Lithuania by the Freedom House is available at <http://www.freedomhouse.org/report/freedom-world/2014/lithuania-0#.VC7oKfmSxzU>.

## 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. Initially, the coalition intended to include a question in the June 2015 referendum relating to the funding of the churches, introducing a church-tax system in Luxembourg. In January 2015, however, the government concluded an agreement with the various religious communities in Luxembourg that enabled this issue to be removed from the referendum.

Citation:

<http://www.lessentiel.lu/de/news/luxemburg/story/19528954>

<http://www.wort.lu/en/politics/foreigner-voting-rights-referendum-questions-drafted-543c025bb9b39887080772de>

<http://www.wort.lu/en/politics/church-and-state-religion-is-private-says-luxembourg-pm-54128b3eb9b3988708063816>

## 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 made it more difficult for citizens to organize demonstrations, and rendered it almost impossible to organize two demonstrations in the same place at the same time. Moreover, the amendments complicated spontaneous gatherings by extending the minimum time that must elapse between registration and the event itself. In a number of cases, municipalities have banned controversial demonstrations by invoking concerns over “public safety.”

## 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 rights 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 review, however, the police’s treatment of protestors during the large demonstrations against the political elites in 2012 – 2013 raised concerns about potential infringements of the right to assembly; all protestors prosecuted and sentenced in 2013 were subsequently found not guilty in September 2014.



## 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.

## United States

**Score 9** 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. In contrast with most developed democracies, the right to freedom of speech has even invalidated laws proscribing hate speech.

In one significant limitation to 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). In the protests following the fatal 2014 police shooting of an unarmed black teenager in a St. Louis suburb, a military-style police response effectively threatened and sought to intimidate protestors – although the objective was mainly to prevent crowd violence rather than to silence the protest.

## 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 tensions 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 created tension when some candidate mayors chose (quite provocatively) to use French regardless. Some Flemish local politicians in the greater metropolitan area surrounding Brussels also push for limitations in the use of French in the business and private/cultural spheres as well, which in principle runs against constitutional liberties.

## 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 (including explicitly politically), to hold religious beliefs and to petition the government. In February 2013, civic protests actually led to the resignation of the government, and later the whole second half of the year was dominated by active civic protests, including the occupation of several schools by students. These events clearly reaffirmed the rights of Bulgarians to assemble and speak freely, even though there were some police infringements of rights and intimidation attempts. The freedom of expression has suffered from the declining independence of the traditional media, but has been strengthened by the opportunities provided by Internet.

## Canada

Score 8 There were very few major concerns expressed about infringements of Canadians' political liberties over the 2011 – 2014 period, with the exception of bill C-309, passed in 2013, which 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 be deemed under the new law to have committed an indictable criminal offense and be jailed for up to five years.

Seeking to improve the stability and efficacy of First Nations governments, the federal government passed the First Nations Elections Act in 2014. This act provides

a new opt-in election system for individual First Nations, which differs from the regime created under the Indian Act by providing for longer terms of office for chiefs and councilors, among other provisions, while creating the opportunity to withdraw from the Indian Act regime.

Citation:

Parliament of Canada, Bill C-9 “First Nations Elections Act”, posted at <http://www.parl.gc.ca/HousePublications/Publication.aspx?Language=E&Mode=1&DocId=6540209>

## 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 comparatively less use of the freedom of assembly. Freedom of speech is somewhat restricted by the fact that Slovak media face the strong threat of being sued for libel by politicians or other public figures unhappy with their reporting.

## Spain

Score 8

In general, Spanish institutions effectively protect political liberties and infringements can be detected (for example, the press freedom of radical ideologies) only occasionally. 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).

These liberties are for the most part respected by the administration, monitored by the media or public organs such as the ombudsperson, and guaranteed by the ordinary courts or, ultimately, the Constitutional Court. However, the period under consideration was characterized by the controversial drafting of a bill on public

safety (Draft Organic Law “de protección de la seguridad ciudadana” not yet approved at the end of 2014). The first draft of this new piece of legislation, dated in 2013, introduced several measures potentially affecting political liberties such as hard sanctions to those who insult or publish images of police officers and fines of up to €600,000 for interrupting public events or protesting in unauthorized demonstrations outside the parliament (see also “Civil Rights”). On June 2014, the UN Special Rapporteur on the right to freedom of assembly, published a report refuting the arguments brought by the government that the draft law on public safety (and the connected changes in the Criminal Code) reinforced the rights to freedom of expression and peaceful assembly. The final bill sent to the legislature was less strict and, for example, the actual fines applied will depend on how much people are able to pay. The government says the law is not meant to gag citizens but to protect their liberties and security.

Citation:

[http://elpais.com/elpais/2014/05/28/inenglish/1401272039\\_980140.html](http://elpais.com/elpais/2014/05/28/inenglish/1401272039_980140.html)

Report (2013) by Maina Kiai, UN Special Rapporteur on the rights to freedom of peaceful assembly and association  
[www.rightsinternationalspain.org/uploads/publicacion/7f6fd669354e3bd6c12f2443f4514dabdccea73.pdf](http://www.rightsinternationalspain.org/uploads/publicacion/7f6fd669354e3bd6c12f2443f4514dabdccea73.pdf)

## 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. Though political messages considering or calling for the United Kingdom’s withdrawal from the European Court of Human Rights (sometimes wrongly conflated with antagonism to “Europe”) do not really reflect illiberal sentiments, they could nevertheless be interpreted as such.

## Chile

- Score 7** In general, political rights are protected by the constitution and legislation, and are enforced by government policy and practice. Nevertheless, police interventions have sometimes crossed the line from guaranteeing law and order into repression – especially during the more intense period of the student movement and protests by Chile’s indigenous people. 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, containing an obligation to outline the purpose of an assembly, and limiting spaces available for public assemblies. 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 protection of 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, new channels and means of expression made available by new media have enlarged traditional channels of petitioning, of 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.

Strong professional associations, trade unions and other groups have comparatively good access to authorities and government officials. In contrast, others such as immigrant groups often need the assistance of NGOs or other third parties to put forward their demands.

The 2010 use of the law on telecommunications data retention to access communications content instead of metadata, following the amendment of Article 17 of the constitution, allowed interference with the secrecy of communications in

specific cases. This, along with police seizures of personal computers during crime investigations, is an issue of concern, as it can be considered a breach of the secrecy of communications.

Parliamentarians' handling and disclosure of personal data related to banking operations or other matters has also interfered with the right to privacy, while incorrectly exposing individuals and legal entities to accusations of having breached the laws.

The high incidence of libel/defamation cases filed by politicians and other figures against media organizations or even individuals continues to threaten scrutiny of those in public life. However, the decriminalization of libel (2003) and courts' compliance with the ECHR case law act as a protective shield for free expression.

Political parties' nominations and appointments to various bodies and public-service posts represent a serious threat to political liberties and rights. Appointments based on clientelistic partisan relations negatively affect individuals who lack party affiliation, and harm meritocracy.

Thus, though liberties are in principle protected, flaws do exist, due in part to persistent "ambient" pressures on citizens to accept a clientelistic role within the system, and the need to remind parliamentarians and other officials to abstain from practices that harm fundamental rights.

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>
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>
3. On House of Representatives work, <http://cyprus-mail.com/2014/05/03/our-view-fall-of-grace-for-ethics-report-on-financial-meltdown/>

## Israel

### Score 7

Israel's lack of a constitution means that the guarantee of political rights is confided to the basic laws. Thus, they are not constitutional as such. For these and other reasons, the responsibility to protect political liberties still lies with the Israeli parliament. Parliamentary activity, however, has not been conducive to this task. Several pieces of proposed legislation appear to undermine aspects of democracy and due process. A law passed in March 2011 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 for an economic, cultural or academic boycott on Israel or the West Bank

settlements. However, many problematic proposals 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.

In 2013, Arab Israelis held 12 out of 120 seats in the Knesset, even though they constitute some 20% of the population. 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." Prime Minister Netanyahu refrained from presenting the new Jewish state bill proposal for a Knesset vote before the elections in March 2015. Nevertheless, the draft bill, which codifies Israel as an exclusively Jewish state, caused a lot of criticism in Israel and abroad. Scholars as well as politicians have warned that the bill will damage the country. Former President Shimon Peres emphasized that this legislation will erode the democratic principles of the State of Israel and current President Reuven Rivlin criticized the hierarchical approach to place Jewishness before democracy. Though such measures have been rejected to date, they have intensified Arab Israelis' political marginalization. Human rights reports have also criticized municipal authorities and the police for violating the freedom to demonstrate, especially following the social justice protests of 2011 and the anti-war protest during operation "Protective Edge" during the summer of 2014. Nonetheless, demonstrations are widely permitted and common.

Citation:

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

"Freedom in the world 2013," Freedomhouse website:

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

"Israel 2014", Freedomhouse website:

<http://www.freedomhouse.org/report/freedom-world/2014/israel-0#.VEOZwCueWro>.

"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>

Newman, Marissa, "Peres reviles 'Jewish state' bill as political ploy", Times of Israel, 27.11.2014,

<http://www.timesofisrael.com/peres-reviles-jewish-state-bill-as-political-ploy/#ixzz3KMzB3rFZ>

Newman, Marissa, "Rivlin comes out against Netanyahu's 'Jewish state' bill", 25.11.2014, Times of Israel,

<http://www.timesofisrael.com/president-comes-out-against-netanyahus-jewish-state-bill/>

## 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. However, a commission charged with reforming the judicial system was established in 2013. This commission has already presented its second report, but a clear timeline and prioritization of measures still need to be announced. The judiciary has also criticized the commission's proposals to reform the commission for the administration of justice, alleging that the reforms would weaken the commission by reducing its functions and powers.

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

Freedom in the World 2013 Malta

COM (2014) 419 Final COUNCIL RECOMMENDATION on Malta's 2014 National Reform Programme

Judiciary criticizes proposals for reform of commission for the administration of justice Times of Malta 1/10/13

Justice Reform Commission makes 450 proposals Times of Malta 2/12/13

## Romania

### Score 7

The Romanian state largely concedes and protects the right to speak, think and assemble without any government interference or restraint. Infringements of this right occur, but have been rare. The activists protesting against the Roşia Montană gold-mine project received fines for violating Law No. 60/1991 on the organization of public gatherings. What led to these penalties was a discretionary interpretation (subsequently upheld by the court) that the law itself encourages. The law asks prospective organizers to declare their intentions in advance, and stipulates a concept of responsibility that remains largely undefined. One of the more egregious applications of the law – the imposition of a large fine on a university student holding a bullhorn at one of the protests – led to the creation of solidarity fund to assist activists in their disputes with the state. Despite such infringements on political liberties, the period under review witnessed an increase in the number of protests in which Romanians have effectively pressured the government to reverse unpopular political decisions. In the case of the Roşia Montană project, the government eventually backed down and put the project on hold. Similarly, a lower-chamber vote to pass a number of very problematic amendments to the Criminal Code (including decriminalizing conflict of interest) triggered widespread media criticism and protests. As a result, Prime Minister Ponta declared that he would recall the law, which was eventually declared unconstitutional by the Romanian Constitutional Court (CCR).

## Hungary

### Score 5

Up until the 2014 parliamentary elections, the Orbán governments largely respected the freedom of expression and the right to assembly. However, strong doubts

regarding the government's respect for political liberties were raised by the September 2014 raid on Ökotárs (Eco-partner), a prominent NGO sponsored by the Norwegian Civil Fund. As a result, human-rights activists and their organizations (TASZ, Helsinki Committee and the likes) have become much more engaged in public debates. More and more people have turned to them for advice and protection, and the opposition media have devoted more attention than ever before to the protection of political liberties. In April 2014, the European Court of Human Rights decided that the 2011 legislation on the registration of and public support for religious communities violated religious freedoms by depriving many smaller faith communities of the title of church.

## Mexico

**Score 5** Civil liberties are largely respected 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 politically motivated corruption or other misconduct charges. For example, it is ironic that the head of the teachers' union was more vulnerable to arrest than ordinary teachers. However, in the regions most affected by drug crime, it is far from clear that ordinary people can say largely what they want. The potential physical threat may lead to considerable problematic self-censoring, even though state agencies are not responsible for this.

## 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, and freedom of association and assembly are respected in principle. Yet, recent illiberal trends raised big concerns. In November 2013 the government filed a claim with the Constitutional Court to dissolve the United Progressive Party (UPP), accusing it of pro-North Korean activities. The request to ban the UPP is the first in the history of the Constitutional Court, established in 1988. If ruled unconstitutional, the UPP will become the first political party to be forcefully dissolved since 1958, when the Progressive Party led by Cho Bong-am was dissolved. Cho had been a strong challenger to the incumbent President Syngman Rhee and had been arrested on charges of espionage and violating the National Security Act. This unprecedented move followed a prosecution investigation into UPP lawmaker Lee Seok-ki in August 2013 on charges of treason. In February 2014, Lee Seok-Ki was found guilty of plotting an armed uprising in support of North Korea in the event of a war on the Korean Peninsula and was sentenced to 12 years in prison.

Labor unions are allowed to operate in the private sector, but remain restricted in the

public sector. Labor-union members are frequently imprisoned and fined for organizing “illegal strikes” or for “obstruction of business.” In December 2013, in search of railway unionists, the police raided the headquarters of the Korean Confederation of Trade Unions (KCTU) without a search warrant. It was the first time authorities had been sent into the KCTU since it was legalized in 1999. In October 2013 the government announced that the Korean Teachers and Education Workers Union’s (KTU) legal status was being revoked, accusing it of violating the clause of the teachers’ union law, which bans dismissed and retired teachers from their union membership. Since then a court battle continues over the KTU’s legal status.

Businesses also sue labor unions for compensation for “lost profits” during strikes. Civil servants are also limited in their political freedom. Another issue is the very opaque and vague election law that limits political activities 180 days before elections.

Citation:

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>

“Railway strike threatens to become labor-government war”, The Korea Herald, Dec 24, 2014

Jamie Doucette and Se-Woong Koo, Distorting Democracy: Politics by Public Security in Contemporary South Korea, The Asia-Pacific Journal, Vol. 11, Issue 48, No. 4, December 2, 2013, Updated February 20, 2014.

## Turkey

### Score 4

Whereas the freedoms of thought, conscience and religion are generally respected, official violations of the freedoms of expression and assembly occur, particularly in cases of criticism of the ruling government and its policies. Although bans on social media imposed by the government in early 2014 were subsequently lifted by the Constitutional Court, September 2014 legal provisions limiting the free use of the Internet, presented as necessary for “national security and protection of the public order,” have raised additional concerns. Moreover, a comprehensive security-reform process, as yet ongoing as of the time of writing, would allow preemptive bans on any potentially violent assembly, would allow the legal use of violence as a countermeasure by security forces, and would expand the investigatory competences of the national intelligence services and security forces, thus curtailing personal and civil rights. A parliamentary Security and Intelligence Commission, formed in November 2014 with the task of monitoring intelligence activities and financial crimes, is intended to ensure the legitimacy of decisions and actions in this area.

Civil-society organizations have reported restrictions regarding their freedom of assembly, with fines sometimes imposed. Concepts such as “general morality,” “Turkish family structure,” “national security,” and “public order” were widely used, and allowed too large a margin of discretion to authorities, hindering the practical respect accorded freedom of association. LGBTI associations were asked to close on

grounds of “general morality.” Court cases regarding the closure of five associations dealing with human rights, and Kurdish issues in particular, are pending. Moreover, legislative and bureaucratic obstacles have hindered civil-society organizations’ financial sustainability. There have been complaints of discrimination against associations applying for public-benefit status and for permission to raise funds.

The ongoing Turkish-Kurdish “solution process” – which was pushed forward in June 2014 when the Turkish parliament adopted a law to “bring a stronger legal foundation to the settlement process” – is a positive and promising step toward the concession and protection of political rights. Political campaigning in languages other than Turkish by political parties and candidates during local and parliamentary elections was legalized in 2013 and implemented in the March 2014 local elections. Although languages other than Turkish – notably, Kurdish and its dialects – were not yet legalized for public services, there were positive developments regarding the use of mother tongues and a steady and welcome normalization of the use of Kurdish in public. Using non-Turkish letters, such as the X, Q and W used in Kurdish, was permitted.

Citation:

European Commission, Turkey Progress Report, October 2014, [http://ec.europa.eu/enlargement/pdf/key\\_documents/2014/20141008-turkey-progress-report\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2014/20141008-turkey-progress-report_en.pdf) (accessed 5 November 2014)

Freedom House, Q & A: Turkey’s Twitter Ban, 21 March 2014, <https://freedomhouse.org/blog/q-and-a-turkey-twitter-ban#.VFzWjDSsWSo>.

Hakan Polattan, Development of Minority Rights in Turkey, 2013, [http://essay.utwente.nl/63556/1/Bachelor\\_thesis\\_final\\_version.pdf](http://essay.utwente.nl/63556/1/Bachelor_thesis_final_version.pdf) (accessed 5 November 2014)

Turkey blocks Twitter, after Erdoğan vowed ‘eradication’, Hürriyet DailyNews, 20 March 2014, <http://www.hurriyetdailynews.com/turkey-blocks-twitter-after-Erdogan-vowed-eradication.aspx?PageID=238&NID=63884&NewsCatID=338> (accessed 5 November 2014)

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. In 2014, the government committed to holding a referendum on a constitutional amendment legalizing same-sex marriages.

## 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). A recent expert report (Holtmaat, 2012) criticized Dutch anti-discrimination sanctions as “ineffective,” and not “dissuasive” or “proportionate.” In 2013, the U.N. Human Rights Commission got involved in contentious political debates about the discriminatory character of “Black Pete” in traditional St. Nicholas day celebrations.

In other respects, Dutch legislation 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 2012 on measures to combat discrimination, European Network of Legal Experts in the Non-Discrimination Field.

Zwarte Piet heeft zijn glans verloren (trouw.nl, consulted 5 November 2014)

## 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.

Daycare 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, it occurs in some areas of Norwegian society, though very few discrimination 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 Obama administration has made progress with regard to gender equality. 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.

The federal government has not actively pushed affirmative-action policies – such as preferential treatment for disadvantaged groups – since the Clinton administration. The U.S. Supreme Court has imposed restrictions on state university practices that favored black or Hispanic students in admissions, while upholding state policies that barred race or ethnicity as considerations in admission. In general, liberals and conservatives disagree about whether the persistence of unfavorable outcomes for blacks in educational achievement, employment status, income, incarceration and other areas is a consequence of ongoing discrimination despite existing legal protections.

The period of the Obama administration has been one of extraordinarily rapid progress in the rights accorded to homosexuals. Laws prohibiting homosexual activity have been ruled unconstitutional. Most jurisdictions now prohibit employment discrimination against homosexuals. Same-sex marriage, along with associated rights (such as spousal benefits under pension and insurance policies), has been advanced through a cascade of state- and federal-court decisions, legislative enactments and referenda. Although many states still bar same-sex marriage, it appears that resistance to it is in virtual collapse.

## 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 case in point is the gender-based pay gap. The lack of affordable childcare in Canada forces many women to drop out of the labor force or reduce their working hours during child-rearing years. This has a serious effect on women's earnings levels. Full-time employed women in Canada earn on average 19% less than men; for women between 25 and 44 with at least one child, the pay gap is 29%, significantly higher than the OECD average (2010 data).

As so often, the experiences of Canada's aboriginal population pose the greatest concern. A 2014 report by the U.N. Special Rapporteur on the Rights of Indigenous Peoples concluded that Canada faces a continuing crisis when it comes to the situation of indigenous peoples: "The well-being gap between aboriginal and non-aboriginal people in Canada has not narrowed over the last several years, treaty and aboriginal claims remain persistently unresolved, indigenous women and girls remain vulnerable to abuse, and overall there appear to be high levels of distrust among indigenous peoples towards government at both the federal and provincial levels." In 2014, Canada was the only U.N. member country to object to the adoption of a document reestablishing protections for the rights of indigenous people, including the U.N. Declaration on the Rights of Indigenous Peoples.

#### Citation:

UN Human Rights Council, Report of the Special Rapporteur on the rights of indigenous peoples, James Anaya (2014), posted at [http://www.ohchr.org/Documents/Issues/IPeoples/SR/A.HRC.27.52.Add.2-MissionCanada\\_AUV.pdf](http://www.ohchr.org/Documents/Issues/IPeoples/SR/A.HRC.27.52.Add.2-MissionCanada_AUV.pdf)

OECD (2012), Closing the Gap - Canada, posted at <http://www.oecd.org/canada/Closing%20The%20Gender%20Gap%20-%20Canada%20FINAL.pdf>

## 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 through specific anti-discrimination laws, 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 make provision for proactive measures, but also for sanctions if these standards are violated by employers or others. Disabled persons are given guarantees against unlawful dismissal and quotas for entrance in higher-education institutions.

The Office of the Ombudsman supervises enforcement of the law combatting and other forms of discrimination. The latest report published online on this issue dates from the year 2010. Recourse to the courts – a costly and often lengthy procedure – is also an option.

Critics have pointed out gaps and weaknesses in the implementation of anti-discrimination laws, including the insufficient provision of information to affected groups, a lack of or non-enforcement of sanctions, and limited resources available to supervising bodies.

Citation:

1. <http://www.stop-discrimination.org.cy/en/>
2. Migrants and the Right to equal Treatment, a Workshop Report 2013, [http://picum.org/picum.org/uploads/publication/Migrants and the Right to Equal Treatment in Cyprus.pdf](http://picum.org/picum.org/uploads/publication/Migrants%20and%20the%20Right%20to%20Equal%20Treatment%20in%20Cyprus.pdf).
3. A Study on Sex Orientation Job Discrimination, [http://world.einnews.com/article/217266071/yWY5eqqHvg\\_kG09l](http://world.einnews.com/article/217266071/yWY5eqqHvg_kG09l).

## 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, effectively 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 for that person. While a universal law, the incidence of couples where both adults claim social assistance is highest among immigrants with a background from low-income countries, and hence this rule de facto targeted this group. The same can be said about the “start-aid” (roughly half of ordinary social assistance) offered to immigrants which have been residing in the country 7 out of the latest 8 years. While formally treating all immigrants equally (as required by EU regulations) the scheme targeted in particular immigrants from low-income countries with a low employment rate. The scheme was abolished in 2012, but the opposition has announced a re-introduction of a modified version of the scheme.

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 more far-reaching change. At the moment asylum policy is under pressure due to a large influx of asylum seekers from the Middle East.

Citation:

Freedom House, *Freedom in the World 2014 - Denmark*, <http://www.freedomhouse.org/report/freedom-world/2014/denmark-0#.VEa2JOSEi70> (accessed 21 October 2014).

United States Department of State, *Country Reports on Human Rights Practices for 2013 - Denmark*, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/#wrapper> (accessed 21 October 2014).

## Estonia

### Score 8

Discrimination is prohibited by law, and several governmental institutions have been 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 period under review witnessed important progress toward better protection of the rights of disabled persons and sexual minorities. First, in October 2014, after long debate, the national parliament approved amendments to the Act on Cohabitation allowing same-sex couples to register their cohabitation. Second, an employment-policy reform aiming to support disabled people's access to the labor market is under way.

Gender equality remains a concern. This is reflected in the cases filed with the GEETC. Out of all cases concerning discrimination, about 50% were made on the basis of gender. This figure has not changed substantially in recent years. The gender-based pay gap in Estonia remains the European Union's largest, and women comprise only 22% of the national parliament. However, the number of female ministers in the government was increased from one to six in 2014, reaching close to 50%.

## Finland

Score 8 Rights of ethnic and religious minorities are as a rule well protected in Finland, and the criminal code discriminates against anyone who incites violence on racial, national, ethnic or religious grounds. The rights of the Swedish-speaking minority in Finland are widely respected, with Swedish also recognized as an official language. However, reforms to public administration at the local level, which are still pending, would violate some of the rights of the Swedish-speaking population. Meanwhile, certain segments of the population, primarily represented by the True Finns Party, have turned hostile toward the Swedish-speaking population of Finland. The Åland Islands, whose inhabitants speak Swedish, have historically maintained extensive autonomy and a home-rule parliament as well as one permanent seat in the national legislature. 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 rather 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 small proportion of the population, are widely marginalized. The True Finns Party encourage discrimination of ethnic minorities and asylum seekers.

## 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, religious belief or political conviction is equally important and has the same rights. The General Equal Treatment Act of 2006 added age and sexual orientation to that enumeration of protected categories. The Federal Anti-Discrimination Agency (FADA) monitors compliance with legal anti-discrimination 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 upper management, but political parties disagree on the proposed use of obligatory quotas. In its coalition agreement, the Grand Coalition agreed to introduce a gender quota to increase the number of women on corporate supervisory boards and the cabinet has initiated a law obliging a 30% share on the boards of large companies.

The Federal Constitutional Court decided in June 2013 that treating same-sex and opposite-sex marriages differently from a taxation perspective was unconstitutional.

Regulatory changes reflecting this ruling were adopted within weeks by the parliament. In an October 2012 ruling, the Higher Administrative Court of Rhineland-Palatinate delivered an important signal against police discrimination by prohibiting the federal police from engaging in racial profiling. These examples indicate that legislators and administrations sometimes need a push from the courts to fight existing discrimination in a more uncompromising way.

## 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:

Ombudsman Rapport 2013. Rapport d'activité 2013

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

[http://www.mipex.eu/sites/default/files/downloads/mipex\\_iii\\_de.pdf](http://www.mipex.eu/sites/default/files/downloads/mipex_iii_de.pdf)

For further informations: <http://cet.lu/en/>

## 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), which was originally established in 1987. This body's effectiveness has suffered as it has assumed more responsibilities, as the expansion has not included a corresponding increase in resources. In December 2013, the Council of Ministers adopted the first government program to tackle the problem of discrimination in general, focusing on six areas including anti-discrimination, equal

treatment on the labor market, the prevention of violence (including domestic violence) and an increase in support for victims, equal treatment in education, equal treatment in the health system, and equality of access to goods and services. An amendment that took force 1 September 2014 enabled the organization of ethics classes for pupils declining to attend religion-instruction classes, as had been demanded by the European Court of Human Rights since 2010. However, conservative legislators within the governing coalition successfully continued to block the ratification of the Council of Europe's Convention on Preventing and Combating Violence Against Women.

## 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, with the result that incidents of discrimination are rapidly and loudly condemned.

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 became more visibly prevalent. 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 sometimes entail racial profiling, but these phenomena are motivated primarily by security concerns, not explicit discrimination.

## 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 moved toward replacing existing anti-discrimination legislation with a single integrated Act that additionally incorporated prohibitions on discrimination on the basis of sexual orientation. However, no changes to legislation were ultimately made during the Gillard government’s term in office and the new coalition government has shown no interest in implementing the changes. Indeed, in November 2013, the Attorney General announced a plan to amend part of Australia’s racial discrimination laws by repealing section 18C of the Racial Discrimination Act 1975, which makes it unlawful for someone to do an act that is reasonably likely to “offend, insult, humiliate or intimidate” someone because of their race or ethnicity. However, in response to widespread opposition to the proposal, it was abandoned in August 2014.

## 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, though rarely through mainstream media outlets.

While it is difficult to provide equal opportunities to the disabled (in this respect 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, including legal support for persons subject to discrimination, are publicly visible.

## Iceland

### Score 7

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 migrants. 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 the Organization for the Disabled in Iceland (Öryrkjabandalagið), changes to electoral laws that now allow blind or otherwise physically disabled individuals to independently nominate their own assistant, who would be sworn to secrecy. This change was in effect for the 2013 parliamentary elections.

The government's non-compliance with the binding opinion of the United Nations Human Rights Committee, which ruled that the management system of Iceland's fisheries was discriminatory, signals a less-than-full commitment to non-discrimination.

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 sveitarstjórnna nr. 5/1998 (aðstoð við kosningu). Lög nr. 111 16. október 2012.

## 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 gains made 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.

With regard to immigrants and especially illegal immigrants, discrimination is widespread. Whereas immigrants generally enjoy access to the health care system, their rights in other areas – labor relations in particular – are not well protected.

Italy's constitution and the political reality grants considerable political autonomy and cultural rights to regions with non-italian or non-mainland minorities and majorities such as Val d'Aosta, Trentino and South Tyrol, Sardinia, Sicily but also to ancient ethnic groups such as the Alberesh, which originated in Albania.

## 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. In 2011, the Ombudsman received 72 complaints, which increased to 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, cases of hate speech, and on issues of equal access to education and health services.

Due to Latvia's ethnic make-up, discrimination based on ethnic origin is often cited in the media. The legal framework has been deemed non-discriminatory and official complaints are rare. However, public rhetoric on issues of citizenship, loyalty, language of instruction in education and use of language in public life can be inflammatory and be perceived as discriminatory.

Discrimination on the basis of sexual orientation is poorly regulated. It is only mentioned in the context of 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\\_noversona\\_Latvija\\_II\\_Screen.pdf](http://cilvektiesibas.org.lv/site/attachments/29/01/2012/Diskriminacijas_noversona_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%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.
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
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## 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. In 2013, Lithuania made it possible to conduct investigations into and prosecute domestic-violence offences without the victim's consent, and simplified the procedure for legal gender recognition based on the submission of medical proof of gender-reassignment surgery.

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 have been observed in recent years, 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 remain problems, as illustrated by a woman's death in 2013 (due to a lack of response from the police emergency-response center). According to Eurobarometer surveys, combating discrimination effectively in Lithuania remains difficult due to a lack of public support.

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 2014 at <http://www.freedomhouse.org/report/freedom-world/2014/lithuania-0#.VC7oKfmSxzU>

## Portugal

Score 7

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

1) Discrimination against women with regard to wages continues, with the gender pay gap increasing over recent years from an unadjusted gender gap of 8.4% in 2006 to 12.5% in 2011 and 15.7% in 2012, the latest year for which Eurostat data is available. While this is below the EU average, Portugal's trend of an increasing pay gap contrasts with the relative stability in the EU as a whole.

2) Racial discrimination: the 2013 U.S. Department of State Report on Human Rights Practices notes patterns of institutional and societal discrimination, notably against the Roma people. It also notes that filing a complaint of racial discrimination is a "lengthy and complicated" procedure, and it cited a European Commission

against Racism and Intolerance report saying that the “complaints system against police officers concerning racist or racially discriminatory acts was not functional and was seriously underreporting.”

3) Access of disabled people to private businesses and facilities. While access to public buildings for disabled people is mandated by law and enforced, according to the 2013 U.S. Department of State Report on Human Rights Practices, the same is not true of private facilities and businesses, for which there is no legislation mandating disabled access.

Citation:

Eurostat, Gender pay gap in unadjusted form, available online at: <http://ec.europa.eu/eurostat/tgm/table.do?tab=table&init=1&language=en&pcode=tsdsc340&plugin=1>

US Department of State, Bureau of Democracy, Human Rights and Labor. “Country Reports on Human Rights Practices for 2013 - Portugal,” available online at: <http://www.state.gov/documents/organization/220531.pdf>

## 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, and there have been cases of discrimination against same-sex couples. Amnesty International and others have criticized the government for not doing enough to counter discrimination toward the Roma.

## 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. The Ministry of Health, Social Services and Equality, the ombudsperson and other regional agencies are active in monitoring discrimination.

Of course, this does not mean that occasional public discrimination and, above all, indirect social discrimination are never observed, particularly regarding women, the elderly, persons with disabilities, or ethnic and linguistic minorities. For example,

there are still relevant wage differences between men and women and few women on the boards of companies. 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 a very few Spanish-speaking families regarding the exclusive use of the Catalan language in the regional education system. For their part, some Catalan- or Basque-speaking citizens criticize the primacy of Castilian Spanish in the central administration.

Prejudices against the Roma and some non-Western immigrants may occur. Nonetheless, a survey conducted by the Pew Research Center in 2014 demonstrated that Spaniards, compared to the rest of Europeans, express less fears regarding Roma and tend to express less negative views about immigration. It is true that anti-Muslim views are high (46% of Spaniards have an unfavorable opinion, although the community represents only 3.5% of the total population) and some tensions emerge from time to time, but it is also true that the state tends to offer protection. For example, the Supreme Court declared as in 2013 as illegal the decision taken by some municipalities of not allowing the access to public buildings of women wearing the burqa veil. In the same vein, and according to an interim report published by ECRI (a committee of the Council of Europe) in 2013, Spain has made adequate progress implementing recommendations made in 2011 to fight racism and intolerance.

Since the arrival to office of Mariano Rajoy, the Spanish government has been less active in fighting discrimination against women or homosexuals as compared with the previous Prime Minister José Luis R. Zapatero. However, 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. Spain has not yet adopted a comprehensive legislation on discrimination and fails to comply with the requirements laid down in EU Directive 2000/43/EC (Racial Equality Directive) and EU Directive 2000/78/EC (Employment Equality Directive). A draft law was prepared in 2011 but never passed, which leaves the country without the legal authority to ensure equal treatment and non-discrimination (which was a provision of that failed new regulation).

Citation:

European Commission against Racism and Intolerance (ECRI) Conclusions on the implementation of the recommendations in respect of Spain. 2013. (Council of Europe)  
[www.accem.es/ficheros/documentos/pdf\\_noticias/2014\\_pdf/Igualdad%20y%20No%20Discriminación/ESP-IFU-IV-2014-005-ENG.pdf](http://www.accem.es/ficheros/documentos/pdf_noticias/2014_pdf/Igualdad%20y%20No%20Discriminación/ESP-IFU-IV-2014-005-ENG.pdf)  
[www.pewresearch.org/fact-tank/2014/05/14/in-europe-sentiment-against-immigrants-minorities-runs-high/](http://www.pewresearch.org/fact-tank/2014/05/14/in-europe-sentiment-against-immigrants-minorities-runs-high/)

## 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 the courts in cases of suspected discrimination. In practice, however, episodes of discrimination can be frequently observed. Discrimination against the highly marginalized Roma minority remains a major issue. On a smaller scale, discrimination against other groups can also be observed. For example, many groups – including people with mental and physical disabilities, women, and members of sexual minorities – face discrimination within the labor market. Elderly people and those with comparatively low socioeconomic status often face discrimination with regard to the provision of health services.

## Czech Republic

**Score 6** The Czech legal system guarantees equality of access to work, education and social services before the law. The implementation of EU directives has underpinned such guarantees. However, the World Economic Forum's 2014 Global Gender Gap Report put the Czech Republic 96th on the list, at the very bottom of developed countries. Gender discrimination is especially strong in the labor market. Another major issue is discrimination against Roma. The ratio of Roma pupils in so-called special schools that service individuals with learning disabilities is about 30%, that is, significantly higher than the actual proportion of Roma living in the Czech Republic. Such tracking means that many Roma children have a poor chance of moving on to higher education and better work opportunities. As low-income Roma families have moved out of cities into rural areas in response to rising housing prices, territorial segregation has increased. This has intensified social tensions between the socially excluded Roma communities and the majority Czech population, and has led to demonstrations by right-wing extremists in municipalities in which Roma minorities live.



## 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 and, later, 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 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 four 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).

With regard to gender, only 15.8% of Chile's current deputies and 18.4% of current senators are women. These averages are much lower than those elsewhere in Latin

America or in the OECD as a whole. Other gender-discrimination issues are prevalent as well. For example, health care insurance is twice as expensive for women as for men due to maternity costs. Many other social, political, economic and legal policies and practices lead (directly or indirectly) to gender and ethnic discrimination.

Citation:

Interparliamentary Union, Situation as of 1. November 2014

<http://www.ipu.org/wmn-e/classif.htm>

## 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 specific areas of social life and distinguishes 17 different forms of discrimination. It has enabled new forms of judicial redress for cases of discrimination. The Ombudsman institutions have a large role in combating discrimination, and the Office of the Public Ombudsman serves as a central anti-discrimination body under the ADA. However, although discrimination is prohibited by the law, the legislation has not been fully implemented, and certain vulnerable groups still experience widespread discrimination. In particular, the Roma encounter discrimination in almost all areas of life, especially in education and employment. In addition, although Croatia has a good legal framework governing minority rights, Croatian citizens of Serbian ethnicity continue to experience discrimination.

## Greece

### Score 5

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].

## Hungary

Score 5

Hungary has a comprehensive anti-discrimination legal framework. In practice, however, anti-discrimination efforts have shown only limited success. Discrimination against women in the areas of employment, career and pay is exemplified by the small number of women in Hungarian politics (e.g., in parliament or in high-ranking government positions). The failure is even greater regarding the Roma, since about half of all Roma children in Hungary still live in segregated communities and receive substandard education. In many cases, court rulings against segregation are not enforced. Other groups have suffered from discrimination as well. Rising levels of anti-Semitism in Hungary led the World Jewish Congress to convene its 2013 annual congress in Budapest. The biggest conflict in this respect has been around the new monument at Szabadság Square, allegedly raised to commemorate all victims of the German occupation in March 1944. In fact, this monument argues that the Hungarian state was innocent in the mass deportation of Jews, emphasizing that they were victims only of German Nazism. The Jewish community has deemed this monument to be a "historical lie," and the democratic opposition has organized permanent demonstrations against it. The erection of this monument – at night, in deep secrecy, and by keeping it protected by police for weeks – strongly undermined the relationship between the Jewish community and the Orbán government, and also drew harsh criticism from within the wider public. Separately, homophobia remains a visible issue, especially in the form of prejudices throughout the right-wing camp. This is particularly evident in the Jobbik party ranks, but also visible in the KDNP and Fidesz, although not to the extent seen in Russia and other countries to the east.

## Israel

Score 5

Israel's main venue for dealing with cases of discrimination is the court system, particularly the Supreme Court, which address cases dealing with discrimination against women and minorities in professional, public and state spheres. The country

has longstanding institutional mechanisms intended to promote equality, such as the Authority for the Advancement of the Status of Women in the Prime Minister's Office and the Equal Employment Opportunities Commission in the Ministry of the Economy. However, these tend to offer ad-hoc solutions instead of comprehensive and long term plans. Attempts to pass a basic law protecting equality to join existing legislation protecting human dignity and liberty did not yield results. Instead, the struggle against discrimination is usually fought through Israel's media and by vigorous NGO activity.

Progress was achieved in recent years regarding women and gay rights. The government addressed the expanding industry of trafficking in women and prostitution by opening designated shelters for victims and legislating (2006) prison terms of up to 20 years for perpetrators. The gay community also marked prominent victories: non-biological same-sex parents have been made eligible for guardianship rights and same-sex marriages conducted in foreign countries are recognized by the state; the first divorce of a same-sex couple was granted in 2012.

Discrimination is prevalent and systematic regarding Palestinians' rights. 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 local 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 that marry Israeli citizens. This measure affects about 15,000 couples and has been criticized as blatantly discriminatory. In 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 burdensome.

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>

"Israel: 2014", Freedomhouse website.

<http://www.freedomhouse.org/report/freedom-world/2014/israel-0#.VEOZwCueWro>.

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

## Japan

### Score 5

Women still face some discrimination, particularly in the labor market. Women on average earn 27 percent less than their male colleagues - in no other OECD country except Korea is the wage differential higher. The country's share of female parliamentarians - 8 percent before the 2014 elections - is very low by the standards of other advanced countries. Prime Minister Abe called women "Japan's most underused resource" and the government has designated "womenomics" a key pillar of its "third arrow" reform program. Specific objectives have been set and several measures initiated, including measures in support of daycare and a review of the spousal tax deduction system. Given the undercurrent of sexism in Japanese society, it is an open question whether work culture infringements can be overcome. In addition, Abe called for 20% of all leadership positions nationwide to be filled by women by 2020. Currently, Japan is far away from reaching these targets as only 6.6% of managerial positions in close to 3,900 companies surveyed in FY 2013 were held by women. Respectively only 3% and less than 7% of all section-chief-and-above positions in the central and prefectural governments were held by women in 2013.

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. Naturalization rules have been eased somewhat in recent years. 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. Rejections of applications have become more frequent recently, despite rising global problems.

#### Citation:

Emma Chanlett-Avery and Rebecca M. Nelson, "Womenomics" in Japan: In Brief, Congressional Research Service, Washington D. C., 01.08.2014

Carsten Germis, Woran Karrieren japanischer Frauen scheitern, Frankfurter Allgemeine Zeitung (FAZ), 13.08.2014, p. 16

Carsten Germis, Japan will Managerinnen befördern, FAZ, 19.08.2014, p. 20

Masami Ito, Can women really "shine" under Abe?, Japan Times, 23.11.2014, pp. 13-15

Japan Times, Prefectures slow to boost female staff, 25.11.2014, p.1

## Malta

### Score 5

The Maltese constitution's chapter on fundamental human rights forbids discrimination on the basis of race, color, gender or politics. Other laws forbid discrimination on the basis of physical disability or handicap. 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. In 2014, the government passed legislation legalizing same-sex unions and regulating cohabitation. It is currently developing provisions for the recognition of gender-identity changes. 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 also bring a case before the Public Service Commission. Nevertheless, allegations of discrimination on political grounds remain common. In addition, it has been alleged that many cases of discrimination remain unreported

EU nationals living in Malta have complained of discrimination in the form of fees for water and electricity higher than those paid by natives. Similar discrimination with regard to public transport use has been eliminated.

#### Citation:

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Unreported discrimination cases causes concerns Di Ve 24/05/13

## 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

The Romanian state has been ineffective in countering discrimination against a number of vulnerable groups, including members of the LGBT community, adults and children infected with HIV, people with disabilities, and the country's large Roma minority. When President Basescu was fined for making a derogatory statement against the country's Roma population in February 2014, the National Council for Combating Discrimination initially refused to exercise authority on grounds that the statement had been made outside Romania. However, the Supreme Court compelled it to take the case. The agency ultimately fined Basescu for having stated that the Roma people did not generally want to work, preferring instead to live off stealing. The Civil Code still prohibits same-sex partnership and marriage, and fails to recognize any such marriages registered abroad. In March 2014, the Romanian parliament rejected a bill that would have legalized same-sex civil unions. The bill provided for the registration of both same-sex and heterosexual partnerships with rights of inheritance, mutual health insurance and joint mortgage.

## Slovakia

### Score 5

Slovakia has fairly sophisticated anti-discrimination legislation in place. In practice, however, discrimination, especially against women and Roma, rarely produces legal action. One reason is that the reform of the Slovak National Center for Human Rights, which has the task of implementing anti-discrimination law, has not yet been completed (ECRI 2014). In general, the Fico government has paid less attention to the issue of discrimination than did the preceding Radičová government. Discrimination against the Roma population continues to be a major problem. In November 2013, Marian Kotleba, a leader of the far-right People's Party – Our Slovakia (ĽSNS) who openly articulates anti-Roma attitudes, was elected to the regional government in the Banská Bystrica region. In several cases, municipalities have built walls in order to isolate the Roma population, with the most prominent being Kosice, the biggest city in eastern Slovakia and a European City of Culture in 2013. The Slovak police was accused of using excessive force when entering the

Romani settlement of Budulovská in the town of Moldava nad Bodvou in eastern Slovakia. Thirty persons were injured in this incident. When Ombudswoman Jana Dubovcová raised the issue of discrimination against this community, the Smer-SD majority blocked her speech in parliament. Legislators belonging to the governing Smer-SD called her reports on the treatment of Roma “an abuse of the issue to stir anti-Roma and anti-police sentiments,” and the speaker of parliament sarcastically proposed moving Dubovcová’s office from Bratislava to the eastern part of the country (where the majority of Roma citizens live). Discrimination on the basis of sexual and gender minorities has also become a major issue. In June 2014, Smer-SD reached a deal with the conservative Christian Democratic Movement (KDH) that led to the passage of a constitutional amendment defining marriage strictly as a union between a man and a woman, thus banning same-sex marriage. Moreover, the conservative Alliance for the Family submitted a petition for a referendum on the “protection of the family” that was slated to take place on 7 February 2015.

Citation:  
ECRI, ECRI Report on Slovakia 2014, 16.9.2014;  
[http://www.coe.int/t/dghl/monitoring/ecri/Library/PressReleases/168-2014\\_09\\_16\\_S\\_lovakia\\_en.asp](http://www.coe.int/t/dghl/monitoring/ecri/Library/PressReleases/168-2014_09_16_S_lovakia_en.asp)

## South Korea

### Score 5

Women remain underrepresented in almost all important fields in South Korea. The wage gap between men and women is on average 38%, the biggest such gap among OECD countries. The unequal treatment of South Korean women is reflected in various UNDP data studies. While South Korea ranked at 12 out of 47 in the UNDP’s 2013 Human Development Index, it only ranked at 27 out of 148 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.

In April 2013, an attempt by liberal politicians to pass a comprehensive anti-discrimination legislation failed, following two legislative failures in 2007 and 2010. Resistance and oppositions to the proposed anti-discrimination bill came from different groups, two main political parties, religiously affiliated organizations, and employers’ associations.

Discrimination against the disabled has lessened, although barrier-free entrances to buildings and public transportation services remain rare. 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 with 874 concerning disability related discrimination.



## Citation:

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## Turkey

### Score 5

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, and legal regulations concerning the administration of minority foundations and their properties were still being drafted as of the time of writing. Physical attacks on non-Muslim residents were reported during the period under review, and anti-Semitism in physical or oral form is increasingly expressed in public. According to the Anti-Defamation League's 2014 Global Anti-Semitism Index, 69% of Turkey's adult population is estimated to harbor anti-Semitic attitudes – a slightly lower figure than the 74% for the MENA region overall.

While the Turkish state promotes one Sunni Islam, there is no religious education in public schools for Alevi, who constitute Turkey's second-largest religious community. In this context, the European Court for Human Rights' 2007 judgment on religious culture and ethics classes (*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. The Alevi community's request for the acceptance of Cem houses as places of worship has not officially been recognized. However, the public atmosphere concerning the Alevi issue may have changed, not least due to high-ranking executive officials' efforts to reach out to the community in recent years. Some accommodation has been evident between the government and Abdullah Öcalan, the former leader of the Kurdistan Workers' Party (PKK). This has helped promote effective peace talks and led to the introduction of legislation improving the lot of the Kurdish population. However, investigations and detentions of Kurdish activists have undermined efforts to find a proper solution to the Kurdish issue.

In March 2012, the parliament adopted a law on the protection of families and the prevention of violence against women, aiming to protect married women and those

in relationships outside marriage from violence. The Ministry for Family and Social Policies also adopted a national action plan to combat violence against women (2012 – 2015). Both measures can be considered a general improvement in terms of discrimination issues, but have not been effective. Even though a large number of cases go unreported, women-rights groups reported that 229 women had been killed in 2013, almost twice the number in 2011. By July 2014, 123 murders had already been reported. A 2014 Penal Code amendment, expanding penalties for violence against women, was considered unsatisfactory by women's rights associations.

A “democracy package” adopted by the parliament in March 2014 included measures ostensibly securing the freedoms of thought, conscience and religion. Hate speech and discriminatory acts related to language, race, nationality, color, gender, disability, political opinion, philosophical belief, religion or sectarian differences can under the new legislation be punished by up to three years in prison. However, ethnic origin, sexual orientation and gender identity are not included in the list of values to be protected by the law. The most disadvantaged groups thus remain women, children, Roma and LGTB individuals. Official registration of Roma as citizens has been adopted. The establishment of an inclusive Anti-Discrimination and Equality Board is still pending.

Citation:

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