



Civil Rights and Political Liberties Report

Civil Rights, Political Liberties, Non-discrimination

Sustainable Governance Indicators 2017

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. The country has received the highest possible rankings for civil rights in Freedom House's annual rankings since the early 1980s. 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. In November 2014, after long and contentious discussions, parliament voted to provide marriage rights for same-sex couples, and adoption-rights legislation for same-sex couples becomes effective in March 2017.

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 the rights of 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 introduce new anti-terrorism legislation. In 2015, the government introduced a new Anti-Terrorism Act (Bill C-51), representing sweeping changes to the Canadian security apparatus. The Act was passed in June of the same year with the support of both the governing Conservatives and the Liberal Party. It includes expanded surveillance and intelligence sharing, a remodeling of the Canadian no-fly regime in the style of the United States', and expanded powers and courtroom anonymity for the Canadian Security Intelligence Service (CSIS). The bill was the subject of intense public debate. Many civil libertarians and privacy advocates as well as the New Democrats, who constituted the official opposition in the House of Commons at the time, opposed the bill.

In a 2015 report, the U.N. Human Rights Committee expressed concerns about the bill. Two civil liberty organizations, the Canadian Civil Liberties Association and Canadian Journalists for Free Expression, have since launched a legal challenge to C-51 under the Canadian Charter of Rights and Freedom.

Citation:

Bill C-51, An Act to enact the Security of Canada Information Sharing Act and the Secure Air Travel Act, to amend the Criminal Code, the Canadian Security Intelligence Service Act and the Immigration and Refugee Protection Act and to make related and consequential amendments to other Acts (2015). Retrieved from the Parliament of Canada website <http://www.parl.gc.ca/HousePublications/Publication.aspx?Language=E&Mode=1&DocId=8056977>.

United Nations Human Rights Committee, Concluding Observations on Canada's sixth report in relation to Canada's compliance with the International Covenant on Civil and Political Rights, August 2015. <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhskswUHe1nBHtSwwEsgdxQHJBoKwgsS0jmHCTV%2fFsa7OKzz9yna94OOQLeAavwpMzCD5oTanJ2C2rbU%2f0kxdos%2bXCyn4OFm3xDYg3CouE4uXS>

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 for 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.

It is being contested whether recent changes in relation to asylum-seekers, including rules for family reunification, violate the Geneva Convention.

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).

Danish Institute for Human Rights, *Human Rights in Denmark: Status 2014-15. A Summary*. http://www.humanrights.dk/files/media/dokumenter/udgivelser/status/status_uk_2015.pdf (accessed 7 October 2015)

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. Time needed to resolve civil, commercial and administrative cases has steadily declined since 2010. The same is true for the number of pending cases. Overall, the Estonian court system can be regarded as efficient in cross-European comparison on the basis of several indicators. However, according to the country's

Chief Justice, legal advice in Estonia is too expensive for many citizens. Annual public budget allocated to legal aid is three euro per inhabitant being far below the EU average.

The Chancellor of Justice plays an important role in ensuring civil rights. She ensures 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. In 2015, 995 citizen applications were received, 148 of them dealing with alleged violations of civil rights or liberties.

Citation:
COM (2016). The 2016 EU Justice Scoreboard. http://ec.europa.eu/justice/effective-justice/files/justice_scoreboard_2016_en.pdf (accessed at 29. October 2016)

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 2015 Democracy Index, Germany ranked 13th.

Recent scandals brought to light that the intelligence services neglected laws and disregarded national boundaries. In view of these revelations, it seems almost certain that state security agencies do not fully respect citizens' civil rights. The federal privacy officer, Andrea Voßhoff, suggested in September 2016 that the Federal Intelligence Service (BND) systematically violated basic civil rights in collecting private data from citizens. His report claimed that data collection was illegal (Die Zeit, 1 September 2016).

In reaction to the increasing risk of radical Islamic terrorism, new measures have been taken which raise debates about the right balance between privacy and security. In June 2016, the German government expanded the competences of the BND for wiretapping. In addition, the government established a new state agency for continuous monitoring of Internet traffic, which was strongly criticized by the federal privacy office. In July 2016, the Federal Office for the Protection of the Constitution (Bundesamt für Verfassungsschutz) was permitted to exchange data with their foreign counterparts. To sum up, the threat of radical Islamic terrorism has begun to change the structure of security policies in Germany and the balance between protecting and infringing liberal civil rights. Despite these changes, the overall level of protection remains high.

Citation:

http://www.eiu.com/public/topical_report.aspx?campaignid=DemocracyIndex2015

<https://netzpolitik.org/2016/das-neue-bnd-gesetz-alles-was-der-bnd-macht-wird-einfach-legalisiert-und-sogar-noch-ausgeweitet/>

<http://deutsche-wirtschafts-nachrichten.de/2016/06/24/bundesregierung-richtet-neue-behoerde-fuer-ueberwachung-im-internet-ein/>

<http://www.yabiladi.com/img/content/EIU-Democracy-Index-2015.pdf>

<http://www.zeit.de/politik/deutschland/2016-09/bundesnachrichtendienst-andrea-vosshoff-gesetzesverstoesse>

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 Defense 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 for this indicator.

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, which incentivizes staff to prioritize efficiency and closure over full legal consideration. Moreover, the immigration administrative system has come under considerable stress from the rapid increase in asylum-seekers caused by the Syrian war. The Migration Agency has done its utmost to step up to this challenge by increasing staff and introducing work shifts to deal with the soaring number of immigrants.

Also, there were instances in the recent past which raise issues about the extent to which state institutions or actors uphold the basic civil rights codified in the constitution. There is a current debate about whether it is humane to return young Afghan men or boys who have been denied asylum to their country of origin. While such extradition is consistent with the law – migrants that have been denied asylum are to be extradited – these cases still raise questions about what constitutes humane treatment.

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 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 professional lawyers. In the right-populist and 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.

Consequently, in the summer of 2016, the country's strongest political party, the Swiss People's Party, had collected a sufficient number of signatures for an initiative that aims at giving federal law precedence over international law; this initiative will be decided upon in the near future.

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 also 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 considerably 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 successful 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.

With the proclamation of a state of emergency by the government after the terrorist attacks of 13 November 2015 and its extension until mid-2017 by parliament, the question of possible infringements of civil rights has become an important topic. The Council of Europe has been informed about this measure, which implies a possible breach of human rights, according to article 15 of the European Human Rights Convention. Up to now, infringements have been rather limited and the administrative courts have exerted full control of the individual or collective measures adopted by the government in spite of pressures from right-wing political parties and the police to further restrict the rights of persons suspected of supporting terrorist activities.

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 generally 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 discriminatory 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 later dropped the case, saying that Iceland's promise of a new constitution was partly sufficient. However, the parliament has failed to ratify the new constitution.

The European Court of Justice (ECJ) has heard several petitions by Icelandic citizens recently that their civil rights have been violated. In almost all of these cases, the ECJ has ruled 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 innocent by the ECJ. Following a number of similar ECJ rulings in recent years, Icelandic courts have demonstrated an increased tendency to acquit defendants in politically motivated libel cases. Nevertheless, defendants in several recent libel cases have had to bear the cost of their legal defense, despite being acquitted.

Citation:

Gylfason, Thorvaldur (2016), Constitution on Ice, forthcoming in *Iceland's Financial Crisis: The Politics of Blame, Protest, and Reconstruction*, eds. Valur Ingimundarson, Philippe Urfalino, and Irma Erlingsdóttir, Routledge, London. — 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 2015, an individual who downloaded data from the State Revenue Service and published a portion of that data in the public interest was prosecuted, found guilty and sentenced to community service. The published data, detailing the salaries of public servants, has since been categorized as openly accessible information. Nevertheless, the state pursued the individual for an unjustifiable violation of an individuals' right to privacy, because his download 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, 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, Last assessed: 21.05.2013.
4. Resource Centre for People with Mental Disability "Zelda," Information available at: 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, on the Civic Empowerment Index, produced by the Civil Society Institute since 2007, Lithuania ranked 33 out of 100 in 2015 compared to 36 in 2013. Lithuanian society shows only an average interest in

public affairs, while the social environment remains unfavorable for civic engagement. A total of 18% of the Lithuanian population indicated in 2014 that they had experienced violations of their rights, and again only 18% said they had 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/hrrpt/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/musu-darbai/tyrimai/178/visuomenes-nuomones-apklauso/>

Luxembourg

Score 8

Civil rights are officially protected in Luxembourg and all state institutions respect these rights with some exceptions. Four institutions are in charge of protecting civil rights: the Constitutional Court, an advisory board on human rights, the National Commission on Data Protection and a parliamentary ombudsman. However, the judiciary system's slow processing of cases has led to concerns over due process and equitable treatment. The European Court of Human Rights in Strasbourg has reprimanded the country on several occasions because of delays in the court system. The mediation law grants a maximum of four months for processing, with the aim of speeding up administration procedures. The influence and the number of complaints to the Ombudsman Office continues to grow. A total of 743 complaints were made in 2015, an increase from 689 complaints in 2014. The rate of favorable rulings or settlements is high with 84.21% in 2015, compared to 85.52% in 2014. These high figures show both, the efficiency and the necessity of this institution. Due to overcrowding in prisons, a new remand prison will be opened in 2022. Furthermore, 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:

Accès citoyens aux documents détenus par l'administration. Chambre des Métiers, 2013. www.google.de/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&uact=8&ved=0ahUKewiP8LSI0cTSAhVCCiwKHcibD2AQFggcMAA&url=http%3A%2F%2Fwww.cdm.lu%2Fdownload%2F3430%2Facces-des-citoyens-aux-documents-detenus-par-l-administration.pdf&usq=AFQjCNHJbT_bsJFviOMHI5mc28E0R6U69Q&sig2=f1aFfS2CNIpKwoSV-vvlCA. Accessed 21 Feb. 2017.

"Mémorial A n° 128 de 2003." Journal officiel du Grand-Duché de Luxembourg, 3 Sept. 2003, legilux.public.lu/eli/etat/leg/memorial/2003/128#page=2. Accessed 7 Mar. 2017.

Projet de loi relative à l'accès des citoyens aux documents détenus par l'administration. Le gouvernement du Grand-Duché de Luxembourg Ministère d'État, 2013. www.csl.lu/component/rubberdoc/doc/1671/raw. Accessed 21 Feb. 2017.

Rapport d'activité 2015. Médiateur du Grand-Duché de Luxembourg, 2016. www.ombudsman.lu/userfiles/files/Rapports%20annuels/RA%202015.pdf. Accessed 21 Feb. 2017.

"Reformen im Luxemburger Rechtswesen." Tageblatt, 26 Sept. 2014, www.tageblatt.lu/nachrichten/story/26766397. Accessed 21 Feb. 2017.

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, chaired by the secretary for justice, to advise the government. Amnesty International reported in its Annual Report 2012 that it had 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.

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. Controversially, New Zealand continues to be an active member of the so-called Five Eyes network, a government-level alliance that shares intelligence information on a global scale.

In August 2016, the New Zealand Intelligence and Security Bill 2016 was introduced. The bill modifies existing legislation and enhances transparency of New Zealand's intelligence and security agencies. The introduction of the bill resulted in a significant increase in the scope and powers of the GCSB. According to the Human Rights Commission, although the bill is a significant improvement in legislation, "there are aspects of the bill which are still of concern," notably the definition of national security.

Citation:

Amnesty International Aotearoa New Zealand Annual Report 2016: https://www.amnesty.org.nz/sites/default/files/Amnesty%20International%20NZ%20Annual%20Report%202016_May.pdf (accessed November 30, 2016).

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).

NZ Intelligence and Security Bill 2016. New Zealand Parliament <https://www.parliament.nz/en/pb/bills-and-laws/bills-digests/document/51PLLaw23781/new-zealand-intelligence-and-security-bill-2016-bills> (accessed 13 September, 2016).

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 guarantees.

The U.S. Department of State Human Rights Practices raises similar issues in its 2015 report, notably with regard to police violence and brutality, overcrowding and treatment of prisoners, and lengthy pretrial “preventive” detentions without charge.

Former prime minister José Sócrates remains under investigation for alleged corruption, money laundering and tax fraud. In addition, there are ongoing investigations into corruption involving foreigners, particularly Chinese, receiving “Gold” visas, as well as judicial proceedings against Miguel Macedo, former Minister of Internal Administration, and other important government officials within the Socrates government.

Citation:

US State Department, “Country Reports on Human Rights Practices for 2015 - Portugal,” available online at: <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2015&dliid=252889>

Patricia Pires, “Europa quer mais medidas contra a corrupcao em Portugal” Reuters October 2, 2016.

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.

While Australia’s record of protecting human rights is internationally regarded as strong, criticism continues to be voiced regarding treatment of the indigenous population and the respect accorded to asylum-seekers’ civil rights.

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. 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.

Concerns have also been raised about counter-terrorism legislation. The Anti-Terrorism Act 2005 includes a variety of individual powers, including detention for up to 14 days, and restrictions on the movement, activities and contacts of persons

subject to “control orders,” whether or not those persons have been accused or convicted of any offense. The coalition government has implemented four further tranches of legislation since October 2014. These include the Telecommunications (Interception and Access) Amendment (Data Retention) Act 2015, which requires telecommunications service providers to retain and secure telecommunications metadata for two years. Twenty-two agencies, including the Australian Security Intelligence Organization (ASIO), state police forces, the Australian Crime Commission and the Australian Taxation Office are able to view the data without a warrant. The Act is opposed by a wide range of groups, including human-rights organizations and civil-liberties groups, on the basis that it represents an excessive encroachment on Australians’ privacy. Most recently, the Australian Citizenship Amendment (Allegiance to Australia) Bill 2015 grants the government explicit powers to revoke Australian citizenship from dual citizens convicted of engaging in terrorist-related activities. The bill has also been criticized for being unconstitutional and possible retrospective application.

Citation:

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

Leonard, P (February–March 2015). “The metadata retention debate rages on” Internet Law Bulletin: <http://www.gtlaw.com.au/wp-content/uploads/The-Metadata-Retention-Debate-rages-on.pdf>

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Austria

Score 7

The rule of law as well as basic civil rights are guaranteed in Austria, at least for Austrian citizens. This is less so the case for non-citizens (and especially non-EU-citizens). Austrian laws concerning naturalization are extremely strict, which leaves hundreds of thousands of persons living legally in Austria excluded from political rights. Recent cases documented by NGOs have shown members of the Austrian police to have used cruelty and violence in interactions with non-citizens (especially migrants without a residence permit).

Right-wing populist parties, especially the Freedom Party of Austria (FPÖ), instrumentalize social and economic anxieties among the broader population 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, 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 fed the growth of a 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.

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 dates back to 1984 and violates international conventions signed by Chile – have been applied in recent years. 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 against infringements of their rights and for whom access to justice is difficult.

Cyprus

Score 7

Cyprus’ constitution and laws guarantee and protect the civil rights of all resident individuals, whether citizens of the republic or of other EU or non-EU countries. However, many problem areas exist, even though the ombudswoman made reference to improvements. They relate to the treatment of asylum-seekers and economic and

irregular migrants, where compliance with European and international rules and standards remain deficient. On human trafficking, Cyprus has been moved from Tier 2 to Tier 1 in the US Department of State 2016 Trafficking in Persons Report ; this means that satisfactory action has been taken by the authorities.

The general situation is as follows: A late 2015 report by the CoE's Group of Experts on Action Against Trafficking in Human Beings (GRETA) committee noted a rise in labor exploitation. Despite a new policy framework and an EU harmonization law (2014), some problems persisted with regard to the detention of migrants and asylum-seekers and the exploitation of migrant workers through low wage work and a lack of social insurance. Measures to combat trafficking and eliminate labor exploitation have included an increase in the severity of penalties for offenders. NGOs have sought to compensate for existing gaps or omissions in official action by assisting various groups in overcoming barriers that constrain access to legal protections. Societal complacency, which critics also blamed for problems in this area, has shown signs of significant positive change. The GRETA committee recommended in its report a campaign of awareness-raising among police and justice-system officials.

More proactive measures have been necessary since 2013 because of the effects of the financial crisis on vulnerable groups, new policies and forms of assistance, and increased competition in the labor market. The economic crisis is sometimes dissuading both locals and immigrants from seeking legal protection, while it has also led to repatriation of foreign workers and emigration.

Citation:

1. Ombudswoman says police misconduct and abuse ongoing, Cyprus Mail, 19.10.2016, <http://cyprus-mail.com/2016/10/19/ombudswoman-says-cases-police-misconduct-abuse-ongoing>
2. CoE GRETA report on Human Trafficking, 2015, <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680631b96>
3. USA State Department 2016 Report on Trafficking, Cyprus <http://www.state.gov/j/tip/rls/tiprpt/countries/2016/258754.htm>

Czech Republic

Score 7

The government and administration of the Czech Republic respect and protect its citizens' 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. During the period under review, the Constitutional Court defended civil rights by setting limits for undercover operations by the police, restricting sanctions against parents who refused to have their children vaccinated and declaring the repeated police custody for the members of a leftist group accused of preparing a terrorist attack unconstitutional.

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. This appears to be the case for human trafficking where Malta is still said not to meet minimum standards. However, the extension of rights to members of the LGBT community has improved civil rights protection. There has been a similar development regarding disabled persons in Malta. Reforms concerning civil rights of immigrants and asylum-seekers, including the removal of automatic detention, have also been implemented, but according to the UNHCR they need greater clarification before they can be reviewed effectively. The removal of THPN status for migrants that have been in Malta for a number of years can be seen as a non-renewal of rights previously granted. Furthermore, the prime minister has declared that the government will tackle the exploitation of refugees by employers, while a Human Rights and Equality Commissioner has also been appointed.

Citation:

The Malta human rights report 2015 The people for change foundation.

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The Guardian 07/12/16 Malta becomes first European Country to ban gay cure therapy

Amnesty International Annual Report Malta 2015/16

Times of Malta 03/01/16 New Migrant strategy is a step in right direction

Times of Malta 19/11/16 No More temporary humanitarian protection N for failed asylum seekers

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 publicly exposes abuses and reports them to the U.N. Human Rights Council or the European Union. 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 has criticized recent Dutch legislation restricting the rights of asylum seekers, and efforts by the incumbent government to only offer shelter, clothes and food to irregular migrants in the five largest cities. Recently, the Council of 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 residence, allowing authorities to put those lacking residence permits in jail. There were concerns about racial profiling by police officers and white Dutch citizens interfering in protests against the traditional “Black Pete” (“Zwarte Piet”) Sinterklaas figure.

Citation:

Human Rights Watch in Nederland (hrw.org., consulted 8 November 2016)

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 police discrimination and mistreatment of the Roma population. In the period under review, clashes over these issues between the government and Public Defender of Rights (Ombudswoman) Jana Dubovcová continued. When in May 2016 Jana Dubovcová delivered her annual report on the activities of the public defender of rights for 2015, the parliament was nearly empty.

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. Some problems exist with regard to the integrity of the judiciary. By contrast, the duration of court proceedings, which was very long in the past, has been reduced. In February 2016, the president of the Supreme Court announced that judiciary backlogs are no longer a problem, since the average time of the judiciary procedure was reduced in 2015 to little more than seven months.

Citation:

Nova TV (2016), Branko Masleša: Judicial backlogs are not a problem anymore. February 10 (<http://nova24tv.si/slovenija/branko-maslesa-sodni-zaostanki-v-sloveniji-niso-vec-tezava/>).

Spain

Score 7

A controversial new law on public safety (Ley Orgánica 4/2015 “de protección de la seguridad ciudadana”) was passed in 2015. This so-called gag law (ley mordaza) has been widely regarded as an anti-protest instrument, with the aim of reducing the tide of demonstrations against the government’s austerity policies, and has thus been resisted strongly by the opposition and activists. It includes a new system of executive fines imposed for insulting (or sometimes simply criticizing) police officers, as well as for taking part in public unauthorized demonstrations (see also “Political Liberties”).

Conversely, the new law also introduces civil-rights guarantees, and makes some timid progress on racial profiling by police in the course of carrying out street searches. Under the new regulation, police searches must be carried out by a member of the same sex as the person being searched, and can only be conducted for the purpose of preventing or investigating a crime. People who fail to supply ID can be taken to a police station only in order to prevent a crime, or if they have already committed a misdemeanor. Apart from these specific cases, state institutions generally respect and protect civil rights, and the rights guaranteed by the constitution and in ordinary legislation are enforced, even if some infringements may occur in practice (for example, concerning illegal immigrants). Separately, the systematic delays and lack of adequate resources (both human and technological) in the Spanish courts are factors that serve to undermine the effective protection of fundamental rights to some degree.

Citation:

Abril 2016, The Guardian: “Spanish journalist fined under controversial ‘gag law’”

<https://www.theguardian.com/world/2016/apr/08/spanish-journalist-fined-under-controversial-gag-law>

Belgium

Score 6

The courts operate independently of 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 is chronically underfunded, which means that many cases face a delay of years before a decision is made. This continues to damage Belgium’s position in the World Bank’s “ease of doing business” rankings, where it is ranked 52nd in terms of contract enforcement (compared to an overall rank of 43rd, June 2015) and 63rd for minority shareholder protection. These abnormal delays occasionally force judges to dismiss cases.

The government passed several new laws in the wake of the terrorist attacks on France, Belgium and Germany. Human Rights Watch determines that “at least six of the government’s newly adopted laws and regulations threaten fundamental rights.”

Another difficulty involves linguistic issues (e.g., in municipalities around Brussels) as some jurisdictions are split into Dutch-speaking and French-speaking areas. This is mainly a problem in Brussels, which is bilingual, and means in practice that equal treatment (in particular, in terms of length of procedures) is not guaranteed for persons of different linguistic groups.

<http://www.doingbusiness.org/~media/wbg/doingbusiness/documents/profiles/country/bel.pdf>

Human Rights Watch: https://www.hrw.org/sites/default/files/report_pdf/belgium1116_web.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. Notably, despite intense political conflict since the start of the economic crisis (2010), Greek democracy has continued to function and the courts have administered justice, albeit with very significant delays, because judges are unable to handle the constant overflow of cases. 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.

In the period under review there was visible progress with respect to dealing with the attacks by Golden Dawn members. For instance, in November 2015 the long-awaited criminal trial against accused assassins of a left-wing singer finally started. The trial is still under way, as the Greek justice system can take a painfully long time to issue a court decision. Moreover, a newly designated Deputy Minister on Migration and his staff monitored the living conditions of refugees and asylum-seekers by regularly visiting the relevant camps on the Greek islands of the Aegean Sea, which received roughly 60,000 refugees and asylum-seekers in the period under review.

In summary, 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 Renzi government has put a special emphasis on reducing the backlog of judicial proceedings, particularly civil proceedings, and has introduced some organizational reforms to increase the efficiency of the judicial system.

The legal protection of the rights of immigrants, especially if they are illegal, is far from satisfactory. Some cases of police violence are reported. Actions by the security agents of the various authorities (including the state police) sometimes seem to contradict the principles of the rule of law. Immigrants and homosexuals sometimes experience discrimination. A proposal to tighten the definition of what constitutes illegal torture remains blocked in the parliament.

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 supra- or international level. Unlike 35 other UN member states, Japan has not 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. Under the current government led by Prime Minister Shinzo Abe, 16 executions were carried out until March 2016.

Observers are concerned at current government plans to introduce anti-conspiracy/anti-terror legislation in preparation for the Tokyo Olympics in 2020, which could be so vague as to endanger civil liberties.

Citation:

United Nations Human Rights, Japan Webpage, <http://www.ohchr.org/EN/countries/AsiaRegion/Pages/JPIndex.aspx>

Linda Sieg, Japan's proposed anti-conspiracy law stirs civil rights concerns, Reuters, 8 September 2016, <http://www.reuters.com/article/us-japan-conspiracy-idUSKCN11E0F8>

Shusuke Murai, Japan sends two more inmates to the gallows, Japan Times, 25 March 2016, <http://www.japantimes.co.jp/news/2016/03/25/national/crime-legal/japan-sends-two-inmates-gallows/>

Poland

Score 6

The PiS government's attempts to take control of the judiciary have raised some doubts about the government's respect for civil rights. So has the anti-terrorism legislation introduced after the terrorist attacks in Brussels in March 2016. It has extended options for telephone and internet surveillance without a court's order, has increased the period that suspects can be held without charges and has widened the Internal Security Agency's (ABW) access to data. Further concerns have been raised by the weakening of parliamentary oversight of the secret services.

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 UK government more and harsher instruments to fight terrorism. For most citizens, these anti-terrorist measures are not an issue, but for the very small minority that they affect, they can be a source of dismay. In the past, governments had objected to rulings from the ECHR, to the extent that some government ministers advocated a UK withdrawal from the court. The absolute national sovereignty of British courts was a crucial argument to the campaign to leave the European Union.

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 U.S. National Security Agency (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 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, wider 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.

In October 2016, the investigatory power tribunal, which is the only court that hears complaints against the intelligence agencies (i.e. MI5, MI6 and GCHQ), ruled that the mass collection of private data as committed by the security services between 1998 and 2015 failed to comply with Article 8 of the European Convention of Human Rights and was therefore illegal. Although the government has announced plans to replace the Human Rights Act with a new Bill of Rights, it is unclear what will change and how court decisions based on EU law will be made when the UK leaves the EU.

The House of Lords is currently debating the investigatory powers bill, the so-called snoopers charter, which aims to set clear legal standards for electronic and digital mass surveillance for the first time. However, until then, 17 years of unlawful spying makes a clear case for an infringement 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 invoked rules of war to hold detainees at Guantanamo indefinitely. 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 ultimately affect thousands of U.S. citizens who become targets of investigation for one reason or another. Furthermore, anti-terrorism focus has produced precedents that could lead to the further erosion of

established protections. In 2015, police review boards were strengthened in some cities, and a bipartisan group in Congress made progress promoting a sentencing-reform bill that would reduce excessive sentences for nonviolent offenses.

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, its failure to protect Roma and other minorities from harassment and hate speech and its attempts to criminalize the (former) left-wing elite. The Prosecutor General has acted more and more as a shield protecting Fidesz people and initiating fake legal processes against opposition actors, damaging their economic situation and private life. In the context of the EU refugee crisis, the Orbán government adopted emergency

legislation that has raised fears of an emerging police state both inside and outside Hungary. The new acts (Acts CXL and CXLII of 2015) and a series of complementary government decisions (e.g., 256/2015 and 273/2015) have given police and the military the right to use force and restrict personal liberty if necessary to manage the inflow of refugees. The refugee crisis has also drawn international attention to the existence of a special police force called TEK (Center Against Terrorism) which has been commanded by the former chief bodyguard of Orbán and is not subject to parliamentary control. In summer 2016, the 2015 emergency legislation was followed by the sixth amendment of the 2011 constitution authorizing parliament to declare at the initiative of the government, with a two-thirds majority, a state of emergency. Faced with a terrorist attack or the imminent threat of an attack, such a declaration allows the government to suspend existing laws. This amendment was complemented by a package of legislative amendments that restricted data protection and other civil rights in the name of the fight against terrorism. Already in January 2016, the European Court of Human Rights found that Hungary's internet and telecommunication surveillance practices have violated the European Convention on Human Rights (Szabó and Vissy v. Hungary (application no: 37138/14)).

Citation:

Hungarian Civil Liberties Union (TASZ) (2016): Hungarian Parliament is about to enact new anti-terror laws. May 3 (<https://tasz.hu/en/news/hungarian-parliament-about-enact-new-anti-terror-laws>).

Scheppele, K. L. (2015) Toward a police state? Hungarian Spectrum (<http://hungarianspectrum.org/2015/09/05/toward-a-police-state/>).

Israel

Score 5

By law, the effort to safeguard civil rights is constituted in the basic law “Human Dignity and Liberty,” which protects the right of each citizen to privacy, property, dignity and life. This basic law is designed to establish legally binding norms and is procedurally protected from nullification. However, its provisions can be overruled in cases of specific urgency as determined by the government and 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. Civil-rights claims are expressed through media pressure, NGO activities, appeals to the Supreme Court, legislative amendments, and appeals to government bodies that investigate public complaints.

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. In reaction to a surge in violence by Palestinians and Arabs against Israelis since September 2015, a December 2015 report issued by the Association for Civil Rights in Israel (ACRI), found that Israeli authorities had taken extreme measures against the perpetrators. The report also

noted the complicated situation in Israel, where fear and concern has dominated as a consequence of the many terror attacks by Palestinians; this has led to discrimination against innocent Arab citizens.

Citation:

Ben Solomon, Ariel, "FM Liberman calls for boycott of Israeli Arab businesses who strike for Gaza", Jerusalem Post 21.07.2014:

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<https://en.idi.org.il/media/7811/democracy-index-2016-eng.pdf>

Romania

Score 5

Civil rights are guaranteed by the constitution and are generally respected in practice. Romania responded to the decision by the European Court of Human Rights by adopting a new civil procedure order, which came into effect in February 2013. However, court protection has continued to suffer as a result of long and unpredictable proceedings. More specific concerns have been raised by the disproportionate use of preventive detention, often against the existing European legal standards, and the large-scale surveillance activities of the Romanian Intelligence Service (SRI).

South Korea

Score 5

Basic civil rights are protected by the constitution. Despite the establishment of the Human Rights Commission in 2001 and the relatively effective performance of courts in protecting civil rights, many problems remain. Indeed, observers tend to agree that human- and civil-rights conditions have deteriorated since 2008. Serious issues include the inadequate rights accorded to migrant workers, the widespread physical abuse of sex workers and the imprisonment of conscientious objectors, more than 600 of whom were imprisoned in 2015.

Violent cases of abuse in the military are increasingly a topic of public discussion. The National Human Rights Commission of Korea has recommended that the military create an ombudsman, but the proposal has met with opposition within the military, which has argued that any such procedure might interfere with military authority. Recently, several people indicted in 2013 on suspicion of being North Korean spies were determined to be innocent, and the charges are today regarded as fabrications by the National Intelligence Service and the Prosecutor's Office.

During the period under review, police overreaction to demonstrations became an important topic. In September 2016, 69-year-old political activist Baek Nam-gi died in the hospital after being knocked into a coma by a police-wielded water cannon on 14 November 2015. Baek had been protesting against the South Korean government's agricultural policies.

Citation:

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<https://www.amnesty.org/en/documents/pol10/2552/2016/en/>

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Mexico

Score 3

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. Nevertheless, access to the court system and protection against violations is highly unequal. Overall, the rule of law is weak and this undermines the effectiveness of formally guaranteed rights.

The tension between formal rights and effective guarantees plays out especially forcefully in the field of security. Since 2006, the military has taken on a more prominent role in combating organized crime and drug trafficking organizations. However, the Mexican military and other security forces are notorious for violating human rights and the courts do not provide adequate protection to citizens victimized by the military or police. Police corruption is also a very serious problem; it is not rare for police officers to extort money from members of the public. In some parts of

the country, local police forces collude with armed criminal gangs. Against the background of increasing violence, it has generally been impossible to effectively hold the security forces to account for abuses. The government's failure to provide security has led to the formation of self-defense forces in some parts of the country, which are themselves associated with human rights violations.

Turkey

Score 2

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 pretrial 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 the aftermath of the 15 July coup attempt, even more serious violations of civil rights have occurred. Although the government claims it conducts the rules of emergency government with utmost care, these practices are based on the decrees having the force of law and are not subject to judicial review. The institutionalized neglect of civil rights in Turkey are reflected in mass arrests of alleged coup plotters and sympathizers, confiscation of their properties, sentences against journalists and opposition politicians, renewed violence in the southeast, widespread restrictions on freedom of expression, association and assembly, a deteriorating judicial system, violence against women and impaired relations with key international actors.

Political influence and pressure on the judiciary as well as allegations of conspiring with Gülenist organizations has weakened the independence of the judiciary as the sole guarantor for civil and political rights and liberties. The Justice Minister's right of veto, as ex officio President of the High Council of Judges and Prosecutors (HSYK), continued to be a source of major concern.

Since September 2012, the Constitutional Court accepts individual petition if the right to a fair trial has been violated. 1,314 violations of the right to fair trial have been noted by the court since that time. Article 148 of the constitution states that anyone who believes his or her human or civil rights as set forth in the European Convention on Human Rights (ECHR) have been infringed upon by a public authority has a right to apply to the Constitutional Court, after exhausting other administrative and judicial remedies. The cost of individual application was about €1.35 in 2015. Individual applications must be filed within 30 days after the notification of the final proceeding that exhausts other legal remedies. As of August 2016, a total of 14,002 applications were submitted.

Citation:

European Commission, Turkey 2016 Report, Brussels, 9.11.2016, http://ec.europa.eu/enlargement/pdf/key_documents/2016/20161109_report_turkey.pdf (accessed 1 November 2016).

Anayasa Mahkemesi 23 Eylül 2012-4 Ağustos 2016 Bireysel Başvuru İstatistikleri, <http://www.anayasa.gov.tr/files/bireyselbasvuru/istastik-04082016.pdf> (accessed 1 November 2016)

ECtHR, Press Country Profile Turkey, http://www.echr.coe.int/documents/cp_turkey_eng.pdf (accessed 1 November 2016)

T.C. Ministry of Justice (2014), Action Plan on Prevention of ECHR violations, <http://www.inhak.adalet.gov.tr/eng/announced/actionplan.pdf> (accessed 10 December 2014)

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 (accessed 10 December 2014)

İnsan Hakları Kurulu Kararı, (Eşit Haklar İçin İzleme Derneği – Yüksek Seçim Kurulu), 25.06.2015, <http://www.tihk.gov.tr/www/files/13-Temmuz-YSK-karari.pdf> (accessed 27 October 2015)

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. Twelve political parties collectively covering 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 (Opinion Festival) is held annually since August 2013 and expands each year. In 2016, over 9,000 people attended the three-day event. There is no state church in Estonia and religious freedom is guaranteed through the presence of 10 religious associations in the country.

Finland

Score 10

Political liberties are effectively protected in Finland. The country 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, although the share of membership in trade unions has been decreasing. Women enjoy rights and liberties in Finland equal to those of men. The

criminal code covers ethnic agitation and human trafficking. The constitution guarantees members of the indigenous Saami population, who comprise less than 1% of the population, cultural autonomy and the right to pursue their traditional livelihoods.

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, such as 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. However, the protection of privacy rights is in practice increasingly subject to political attention and public debate. The Expert Body on the Protection of Privacy Data (College Bescherming Persoonsgegevens) has identified a growing number of deliberate or unintended infringements of the constitutional right to privacy. Since January 2016, its powers have been broadened and it can now impose fines. There is also an obligation for large data-processing private and public companies to immediately report any data leaks. Nevertheless, there is a widespread perception that the big data revolution poses a considerable threat to privacy rights and the government's response has been too weak.

Citation:

Freedom House, Freedom in the world 2016, Netherlands (freedom house.org, consulted November 2016)

Autoriteit Persoonsgegevens, Agenda 2016 (autoriteitpersoonsgegevens.nl, consulted 9 November 2016)

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. It ultimately recommended that consultation on these issues should be continued.

Citation:

Constitutional Advisory Panel, 2013. New Zealand's Constitution. A Report on a Conversation, 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 liberties are respected by state institutions and their observance is supervised by the courts. In the case of the visit of the Chinese president, Xi Jinping, to Prague in March 2016, the police were criticized for not sufficiently

protecting human rights activists against pro-China protesters and for preventing a previously approved demonstration by human rights activists in the city center. Civil society is vibrant, but has suffered from a reduction in EU funding.

Denmark

Score 9

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

Freedom House usually gives 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.

Recent human rights reports from Amnesty International include critiques 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 2013 report criticized some individual cases of denied asylum. In a report reviewing human rights between 2011 to 2015, Amnesty International expressed concern about the “management of asylum cases which fails to insure the best interests of the child, and the detention of asylum-seekers and vulnerable persons while awaiting deportation.”

The latest report from Amnesty International also mentions a recent judgment by the Eastern High Court that the police had unlawfully removed and detained protesters during an official state visit by Chinese officials in 2012.

Citation:

Freedom House, “Freedom in the World 2016” <https://freedomhouse.org/report/freedom-world/freedom-world-2016> (Accessed 17 October 2016)

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

Amnesty International Annual Report: Denmark 2015/2016, <https://www.amnesty.org/en/countries/europe-and-central-asia/denmark/report-denmark/> (Accessed 17 October 2016).

Amnesty International, Denmark: Human Rights in Review: 2011-2015. <https://www.amnesty.org/en/documents/eur18/2332/2015/en/> (accessed 8 October 2015).

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. While political institutions and the judiciary still stick to the ideals of political liberties and civil rights, one observes a growing illiberal attitude in public opinion and a rejection of differences based, in particular, on religious beliefs (Halāl food, public religious demonstrations, wearing burkinis on public beaches, etc.).

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). Freedom of expression is protected by the constitution (Art. 5), although there are exceptions for hate speech and Nazi propaganda, such as Holocaust denial. With the exception of 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. All exceptions are applied very restrictively. For example, even extreme parties such as the far-right Nationaldemokratische Partei (NDP) currently have full freedom to operate. The Bundesrat appealed to the Federal Constitutional Court seeking to prohibit the NDP. The court's judgement is expected in January 2017. 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 almost ceased as two anti-austerity parties, the radical left Syriza party and the right-wing nationalist ANEL party, formed a coalition government; as a result, their supporters stopped taking to the streets. However, in the period under review, the realization that the Syriza-ANEL government followed in the steps of previous governments on economic and social policy led to protests, e.g., protests by old-age pensioners, which at various times were suppressed by police forces. In other areas – the right to worship, for example – liberties are affected by the constitutionally imposed impediments on proselytism and the establishment of places of worship. For example, the Muslim community of Athens still does not have an officially recognized place of worship (i.e., a state recognized mosque). At last, in autumn 2016, the Greek government made available the space designated for the construction of such a mosque.

Iceland

Score 9

The 1944 constitution contains provisions protecting the freedom of the press as well as freedoms of organization and assembly. The 2011/2012 constitutional bill, which still not has been ratified by parliament, aims to significantly broaden individual rights and liberties further in line with international developments in the area of human rights. The probability of more comprehensive changes to the constitution after the parliamentary elections in 29th October are difficult to judge at the time of writing. Even though the government coalition of the Independence Party and the Progressive Party lost its majority, the only party willing to do a total change, the Pirate party, did not get more than 10 seats out of 63. Upcoming negotiations on forming a government coalition will be complicated. No coalition pattern seems to be more likely than others.

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 accepted the constitutional convention's recommendation that a referendum be held on removing the offense of blasphemy from the constitution. However, it has made clear that this referendum will not be held in the life of the present government.

Sinn Féin, the political wing of the formerly illegal Irish Republican Army, has become increasingly involved in mainstream Irish politics. Its share of the national vote grew from 1.6% in 1992 to 13% in 2016, while the number of seats it occupies

in parliament grew from zero to 23. No political group is presently excluded from access to the airwaves or the print media.

Over the review period, public protests against Irish Water reached a new intensity. As a result of one violent confrontation with the police, some protesters, including elected members of parliament, faced charges of “falsely imprisoning” the Tánaiste (deputy prime minister) in 2016. The protesters claimed that these charges effectively limited the right to freedom of political expression, a view that was rejected in court.

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, 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-right-wing groups. Right-wing campaigns involving so-called hate speech, for instance against ethnic Korean inhabitants of Japan, remain an issue. A 2016 Anti-Discriminatory Speech Act requires the government to take action, but falls short of providing specific punishments.

At the same time, public opposition to the LDP-led government’s assertive foreign-security policy has led to the foundation of outspoken protest groups, particularly the Student Emergency Action for Liberal Democracy (SEALDs). This group has organized several high-profile mass rallies before disbanding temporarily after the 2016 Upper House elections. While the success of such movements is as yet limited, they offer testimony to the high de facto level of political liberties.

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>

Tomohiro Osaki, SEALDs leaves door open for future activities, 16 August 2016, <http://www.japantimes.co.jp/news/2016/08/16/national/politics-diplomacy/sealds-leaves-door-open-future-activities/>

Sayuri Umeda, Japan: New Act Targets Hate Speech Against Persons from Outside Japan, *Library of Congress, Global Legal Monitor*, 31 August 2016, <http://www.loc.gov/law/foreign-news/article/japan-new-act-targets-hate-speech-against-persons-from-outside-japan/>

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 2016, Lithuania obtained the best possible score 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 obstacles, 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 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 2016 freedom rating of Lithuania by the Freedom House is available at <https://freedomhouse.org/report/freedom-world/2016/lithuania>

Luxembourg

Score 9 No infringements of 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 have demanded the separation of church and state, and criticized state subsidies for churches, particularly the Catholic Church, which is the dominant faith in Luxembourg. Protestant and Jewish organizations already benefit from public funding. In response to this, the 2009 government program promised the creation of so-called houses of secularism, following the Belgian model. Since 2016 and following a period of receiving very low subsidies, the Islamic Religious Community, Anglican Community and the Orthodox Church have received significant public funding. Initially, the government coalition intended to include a question in the June 2015 referendum, relating to the funding of the churches and the introduction of a church tax system in Luxembourg. In January 2015, however, the government agreed to the demands of the various religious communities and removed the issue from the referendum.

Citation:

"Budget für Muslime soll um das 180-fache steigen." *L'essentiel*, 25 Oct. 2015, www.lessentiel.lu/de/news/story/15641224. Accessed 21 Feb. 2017.

"Religion is private, says Luxembourg PM." *Luxemburger Wort*, 12 Sept. 2014, www.wort.lu/en/politics/church-and-state-religion-is-private-says-luxembourg-pm-54128b3eb9b3988708063816. Accessed 21 Feb. 2017.

"«Die Kirche muss sich in Zukunft selbst finanzieren»." *L'essentiel*, 11 Sept. 2014, www.lessentiel.lu/de/news/story/19528954. Accessed 21 Feb. 2017.

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 stills 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.

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 relatively 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.

Switzerland

Score 9 Switzerland is in many ways a role model for the exercise and protection of political liberties. However, the November 2009 adoption of a ban on constructing new minarets must be considered a serious political signal against the right to freely worship, even if, in practice, the law means little for the free exercise of religion. Before the decision, there were only four minarets in Switzerland.

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., during G-8, G-20, and WTO meetings).

In 2015 and 2016, there was increasing media and political attention to the practice on many university campuses of imposing restrictions on speech deemed to offend one or more groups – primarily African Americans, LGBTQ or women. According

to the nonpartisan Foundation for Individual Rights in Education, a large majority of campuses have speech codes with provisions that have been ruled unconstitutional by federal courts. The U.S. Department of Education (DOE) has interpreted anti-discrimination laws as requiring prevention of “offensive” speech. The House Judiciary Committee, controlled by Republicans, has challenged the DOE interpretations and warned campuses to ensure that their speech codes do not violate constitutional rights. Some universities have barred conservative speakers from making appearances on campus, mostly citing security concerns that arise from left-wing activists’ efforts to disrupt the events.

Australia

Score 8

Political liberty is strongly protected by the courts. However, political liberties are not unfettered. As in other Western countries, anti-terrorist legislation has raised a major challenge to political liberties. The Anti-Terrorism Act 2005 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.

Like many other OECD countries, Australia has seen a rise in anti-Islamic political parties, including Pauline Hanson’s One Nation party, which secured four out of 76 senate seats in the July 2016 federal election.

Belgium

Score 8

Belgium is a mature democracy in which political rights are generally well-protected. Internal issues with respect to political liberties began to appear as a result of tensions between the Dutch-speaking (Flanders and a minority in Brussels) and French-speaking (Wallonia, a majority in Brussels and in some municipalities around Brussels) communities. To reinforce the usage of Dutch in Flanders, the Flemish regional government passed a law that in effect largely bans the usage of French for political communication in Flemish territory, even in municipalities where a large majority of the population is French-speaking.

A more recent set of challenges is emerging in the wake of the terrorist attacks on Brussels, Paris and Nice. The government has started to adopt countermeasures that allow the police to crackdown on terrorist networks, which have been using Belgium as a staging ground for attacks across Europe and to channel fundamentalists to Syria.

Human Rights Watch, however, reports that the recent legislative reforms may be infringing on individual liberties. Recent legal changes allow the government to “place prisoners detained for terrorism in prolonged isolation, and allow the government to suspend passports and review terrorism suspects’ phone and email logs without judicial approval. Other laws can revoke Belgian citizenship and criminalize comments that stop short of direct incitement to terrorism. [The report] also details abusive police responses during counterterrorism raids and detentions.”

Citation:

https://www.hrw.org/sites/default/files/report_pdf/belgium1116_web.pdf

<https://www.hrw.org/news/2016/11/03/belgium-response-attacks-raises-rights-concerns>

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. A wave of politically effective public protests in 2013-2014 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 to 2016 period, with two exceptions. Bill C-309, passed in 2013 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. Another potential challenge to Canadian political liberties was posed by the anti-terrorism legislation Bill C-51, passed in 2015, which contains provisions restricting protest rights and freedom of speech, this has attracted criticism from a number of human rights and civil liberty organizations. In a recent report, the U.N. Human Rights Committee voiced concerns about the excessive use of force by law enforcement officers during mass arrests in the context of protests on both the national and provincial levels.

Other developments have been more positive. 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>

United Nations Human Rights Committee, Concluding Observations on Canada’s sixth report in relation to Canada’s compliance with the International Covenant on Civil and Political Rights, August 2015.

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, though only 23 of which took part in the 2016 parliamentary elections. In the period under review, demonstrations and public protests have increased. The Bonaparte protests, named after the building complex in which Minister of the Interior Robert Kaliňák has resided, have targeted the issue of corruption. Nurses and teachers have staged protests for higher wages and better working conditions.

Spain

Score 8

Spain is classified as an advanced democracy by various indices, including the Freedom House “Freedom in the World” index and the Economist Intelligence Unit’s index of democracy. The country’s institutions are generally effective at protecting political liberties, though there are occasionally incidents of infringements on political liberties. The 1978 Spanish Constitution outlines 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) are subject to special protections. The political liberties subject to special protection against government (or even private) interference or violation include: the freedoms of ideology, religion and worship; the right to freely express and spread thoughts, ideas and opinions without any form of prior censorship; the right to peaceful unarmed assembly, with no need to notify local authorities in advance unless demonstrations are being held in public places; the right of association; the right to freely join a trade union; and the right to individual and collective petition.

The period under consideration was characterized by the controversial entry into force of a law on public safety (Ley Orgánica 4/2015 “de protección de la seguridad ciudadana”). The new piece of legislation introduced several measures potentially affecting political liberties, including penalties for insulting police officers, as well as fines for interrupting public events or protesting in unauthorized demonstrations outside the parliament (see also “Civil Rights”).

Citation:

Freedom House: Freedom in the World, Spain 2016
<https://freedomhouse.org/report/freedom-world/2016/spain>
The Economist Intelligence Unit's Democracy Index
<https://infographics.economist.com/2017/DemocracyIndex/>

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, 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.

The relative informality of civil rights in the United Kingdom is often justified by the strong tradition of a fair and open public discourse, which forms the very heart of the United Kingdom's political identity. Some elements of the Brexit campaign, not least the murder of Jo Cox, may have cast doubt on this, although the strong public and political reaction to this tragedy highlighted a national determination to defend civil liberties.

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. While the constitution guarantees freedom of expression, the criminalization of defamation, insult and shaming remains at odds with international standards.

Citation:

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

Cyprus

Score 7 Political liberties and the protection of fundamental human rights are enshrined in the constitution and protected by law. Political forces, trade unions, NGOs and other groups flourish in Cyprus. In addition, new media development have expanded traditional channels for petitions, protests 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-Christian sects are allowed to maintain their own places of worship, and are not subject to interference by the authorities.

Strong professional associations and trade unions have better access to authorities and government officials than do groups such as immigrants, who typically need assistance from NGOs to place their requests into the political sphere.

Revelations in mid-2015 on use of surveillance software (Hacking Team) by the intelligence services led to no debate or investigation. Also law enforcement practices of indiscriminately seizing personal computers during investigations raises serious concerns of potential interference with fundamental rights.

Handling of personal data by officials and others is often carried out in non-properly secure manners.

Libel was decriminalized in 2003, and courts apply European Court of Human Rights (ECHR) free expression and shield standards. However a high incidence of libel/defamation cases persists, mainly filed by politicians against media and critical individuals. This threatens the ability to scrutinize public figures and authorities.

In sum, persistent flaws exert “ambient” pressures on citizens’ liberties in a clientelist system, with some practices undermining individual fundamental rights.

Citation:

1. Press view, Raid on Central Bank offices a sham investigation, Cyprus Mail, <http://cyprus-mail.com/2015/05/28/our-view-raid-on-central-bank-offices-a-sham-investigation/>
2. Our View: Protection of mediocrity by the unions keeps healthcare standards low, Cyprus Mail, 20.10.2016, <http://cyprus-mail.com/2016/10/20/view-protection-mediocrity-unions-keeps-healthcare-standards-low/>
3. Report by Transparency Cyprus on Lobbying, http://www.transparencycyprus.org/lobbying/wp-content/uploads/2015/01/Lifting-the-Lid-on-Lobbying_Cypriot-Report_FINAL_WEB_VERSION_EN.pdf

Malta

Score 7

The constitution of Malta and its chapter on fundamental human rights provide for a broad range of political and civil liberties. The incorporation of the European Convention on Human Rights into the Maltese constitution as well as membership in the European Union has also enhanced political liberties in Malta. Maltese citizens have the right to take a case before the European Court of Human Rights (ECHR), and several individuals have done so with success. However, a traditionally clientelistic approach to politics sometimes hinders the political liberties of individuals, forcing them to refrain from associating with political parties, non-government organizations and/or trade unions for fear of being discriminated against by the government in office or after a change of government. Excessive delays in the deciding of court cases and the costs of such delays often deter people from seeking legal solutions, although the picture has improved sharply regarding the former issue. In 2013, a commission charged with reforming the judicial system was established and although it has presented a number of reports, it remains subject to criticisms regarding the delayed implementation of its recommendations. The right to a lawyer during police interrogation is still absent however. Legislation to rectify this is being debated in parliament. An EU directive requires enforcement of such an act.

Citation:

- Migrant Integration Policy Index. <http://www.mipex.eu/malta>
 Freedom in the World 2015 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
<http://www.timesofmalta.com/articles/view/20160411/local/european-commission-justice-scoreboard-results-welcomed.608529>
 Times of Malta 28/09/16 Lawyers to be present during interrogation
 Legal and Reformers Network Malta: parties agree on legal aid for suspects facing police interrogation

Poland

Score 7

Despite the PiS government's hands-on approach to the media and the judiciary, political liberties are still largely respected and protected by state institutions. There is a strong political opposition, especially outside the parliament whose right to speak up in public is neither forbidden nor restricted. The controversial 2012 amendments to the Law on Public Assembly from 2012 making it easier for

municipalities to ban demonstrations by invoking concerns over ‘public safety’ remain a problem. The PiS government has begun discussing ways to make the provisions even more restrictive by privileging state-organized and regular public events over one-off demonstrations organized by social actors.

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. In 2015 and 2016, a wave of protests took the country by storm. Protests focused on corruption and on the social situation and/or employment conditions of various social groups, including court clerks, doctors, teachers and retired soldiers.

Hungary

Score 5 The Orbán government has shown little respect for political liberties. In Putin style, Orbán and other Fidesz leaders have time and again defamed opposition activists as traitors to the Hungarian nation and as foreign agents led by George Soros. In the period under review, the harassment of independent NGOs has further increased. The police raid on the NGO Ökotárs in September 2014, which remains an open wound, was followed by a similar raid in October 2016 on the Energiaklub, another NGO supported by the Norwegian Fund. NGOs have complained about wiretapping, and demonstrators about the intimidation by thugs. In most cases, the police have failed to protect the victims and to launch investigations.

Israel

Score 5 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. However, parliamentary activity 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,” passed in July 2011, which exposes Israeli individuals and groups to civil lawsuits if they advocate 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. For example, PM Netanyahu refrained from presenting a new bill before the new elections in March 2015 meant to elevate the Jewish identity of the state over its democratic identity. Similar proposals have in the past been ruled unconstitutional by the judiciary.

A third controversial proposal, sponsored by MK Yoav Kish (Likud), seeks to limit NGO funding of political campaigns. The bill has been called the “V15 Law” after the NGO that waged an extensive electoral campaign against PM Benjamin Netanyahu in 2015. The bill includes a long list of restrictions on nonprofits, and, fueled by the state comptroller’s report, several members of the Likud party have endorsed this measure.

Though such measures have been rejected to date, they have intensified Arab Israelis’ political marginalization. Another example for this political marginalization can be taken from the 2015 election day. PM Netanyahu warned of “Arab voters (...) coming out in droves to the polls. Left-wing organizations are busing them out.” In this election, Arab Israelis won 14 out of 120 seats in the Knesset, the highest number ever reached; however, Arab Israelis constitute some 20% of the population. In recent elections, many have opted to boycott the polls in protest, but this time an alliance of Arab parties opted to run on a joint ticket and, as a result, became the third largest faction in the Knesset.

In July 2016, the Knesset enacted the “Transparency Requirements for Parties Supported by Foreign State Entities Bill,” which requires NGOs that receive a majority of their funding from foreign governments to disclose this fact to the registrar of nonprofit associations in the Justice Ministry. Opponents of the law claim it unfairly targets left-wing organizations, as it applies almost exclusively to human rights and anti-occupation activist groups. Based on Justice Ministry reporting, there are only 27 organizations in Israel that get more than half their funding from foreign governments. Of these, 25 are human rights organizations identified with the left.

Citation:

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>

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

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

“Freedom in the world 2016,” Freedomhouse website:

<https://freedomhouse.org/report/freedom-world/freedom-world-2016>

“Project Democracy: The Arab minority,” The Association for Civil Rights in Israel (October 2010).

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Knesset Press Release “Knesset passes NGO transparency law”, 12.07.2016,
<http://main.knesset.gov.il/News/PressReleases/pages/press120716.aspx> (Hebrew)
Ben Shitrit, Lihi, “Israel’s Shrinking Democracy”. Carnegie Endowment for International Peace, 10.03.2016
<http://carnegieendowment.org/sada/63006>

Mexico

Score 4

Political liberties are guaranteed by law, and public debate and political competition are meaningful. If political rights are violated, citizens have access to electoral courts which are generally professional and effective. However, in many parts of the country, the ineffective rule of law and threat of physical violence leads to considerable self-censoring. Public officials, especially at the local level, are kidnapped, harassed and even murdered. In several regions, extremely high levels of violence seriously constrain political liberties.

Furthermore, the state security services, including the military and police, enjoy almost total impunity. A culture of omerta and widespread corruption prevents organizations and individuals from being prosecuted. The vast majority of disappearances and unexplained deaths remain uninvestigated, let alone prosecuted.

South Korea

Score 4

Political liberties are protected by the constitution, but infringements do take place. The freedoms of opinion and of the press are constitutionally guaranteed, and freedom of association and assembly are respected in principle. Yet recent illiberal trends have raised major concerns. In November 2013 the government filed a claim with the Constitutional Court to dissolve the United Progressive Party (UPP). In December 2014, the Constitutional Court acceded to the government’s request. In February 2014, UPP lawmaker 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. In January 2015, the Korean Supreme Court reduced the sentence to nine years for “instigating plots to topple the government in the case of war with North Korea,” but cleared him of charges of conspiracy, citing insufficient evidence indicating that Lee and others in fact planned an insurrection. As of the close of the review period in 2016, Lee was still in prison. His former colleagues called for his release at the party convention of the newly established People’s United Party. This group included two congressmen who were members of UPP, but who had recently been elected as independent candidates.

The freedom of association and collective action still faces major restrictions. 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. In May 2015, the Constitutional Court confirmed the ban in an 8-1 decision, arguing that the decision to outlaw the teachers' union was constitutional and in January 2016, the Seoul High Court ruled in favor of the government's decision to outlaw the KTU, effectively removed the legal rights the group has enjoyed since September 2014, when the Seoul High Court issued an injunction to suspend the government's decision to outlaw the group.

Businesses can sue labor unions for compensation for "lost profits" during strikes, and civil servants are also limited in their political freedom. Another issue is an opaque and vague election law that limits political activities 180 days before elections. Some cartoonists and social activists who made pamphlets criticizing President Park Geun-hye and government policy were arrested and indicted during the period under review.

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>

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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.

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<https://www.amnesty.org/en/documents/pol10/2552/2016/en/>

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<http://www.yonhapnews.co.kr/bulletin/2016/08/14/0200000000AKR20160814049700001.HTML>

"Korean Appeals Court Upholds Ban on Korean Teachers' Union", 22 January 2016, <http://www.rokdrop.net/2016/01/korean-appeals-court-upholds-ban-on-korean-teachers-union/>

Turkey

Score 3

Whereas the freedoms of thought, conscience and religion are generally respected, official violations of the freedoms of expression and assembly occur, particularly when criticism of the ruling government and its policies is involved. Several key pieces of legislation adopted regarding the rule of law and fundamental rights were not in line with European standards, such as the law on data protection. The constitutional amendment to parliamentary immunities adoption in May 2016 allowed lifting immunity for a large number of deputies, and resulted in the detentions and arrests of several HDP Members of Parliament, including the two co-chairs in November 2016. Following the 2015 parliamentary elections, a peaceful

solution for the Kurdish issue was replaced by a “nationalist” anti-terror policy by the government.

A highly controversial Internal Security Law adopted in March 2015 granted the police the power to detain a person caught in the act of committing a crime. A person can be kept in custody for 24 hours without seeing a judge, and this period can be extended to 48 hours if the police deem that a “collective crime” has been committed. The police forces have been allowed to use firearms against demonstrators, deepening fears of crackdowns on dissent ahead of parliamentary elections. This law was considered a threat to the Turkish state’s conflict-resolution negotiations with the PKK, and a means of attracting nationalist votes for the AKP.

In the Penal Courts of Peace established in July 2014, single judges have the authority to issue search warrants and approve detentions and the seizure of property. Judges have been criticized for undermining the public’s trust in the judiciary due to the arbitrary nature of their detainments, arrests and judgments.

The European Commission stated during the review period that the freedoms of expression and assembly have become major shortcomings in Turkey. Intimidation of journalists, up to and including physical attacks, has taken place. The Commission advised Turkey to improve monitoring of the implementation of the Action Plan on Prevention of ECHR Violations (adopted in March 2014). The Commission’s 2016 Progress Report identified several major weaknesses, including: the intimidation of and denial of accreditation to journalists; the government’s blocking of websites with or without a court decision; the lack of editorial independence within the public broadcast system, especially during the elections; and media ownership transparency more generally. The number of journalists in prison increased during the review period.

Although bans on social media imposed by the government in early 2014 were subsequently lifted by the Constitutional Court, 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.

Civil-society organizations have reported restrictions on their freedom of assembly, and have been fined for violating these restrictions. Concepts such as the “general morality,” the “Turkish family structure,” “national security,” and the “public order” have been widely used to justify restrictive practices, allowing broad discretion to authorities and hindering the freedom of association in practice. LGBTI associations have been closed on grounds of “general morality.” Court cases regarding the closure of five associations dealing with human rights in general and Kurdish issues in particular remain pending. Moreover, legislative and bureaucratic obstacles have hindered civil-society organizations’ financial sustainability. Associations applying for public-benefit status and for permission to raise funds have complained of discrimination. The situation for media and civil society representatives deteriorated further during the state of emergency following the failed coup attempt in July 2016.

Citation:

European Commission, Turkey 2016 Report, Brussels, 9.11.2016, http://ec.europa.eu/enlargement/pdf/key_documents/2016/20161109_report_turkey.pdf (accessed 1 November 2016).

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Turkish government unveils blueprint to boost rights, freedoms, Hürriyet Daily News, 4 March 2014, <http://www.hurriyetdailynews.com/turkish-government-unveils-blueprint-to-boost-rights-freedoms.aspx?pageID=238&nid=63164> (accessed 27 October 2015)

Turkey's police granted more power as controversial law enters into force, Hürriyet Daily News, 4 April 2015, <http://www.hurriyetdailynews.com/turkeys-police-granted-more-power-as-controversial-law-enters-into-force.aspx?pageID=238&nID=80573&NewsCatID=509> (accessed 27 October 2015)

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.

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 May 2015, a referendum legalizing same-sex marriage was passed by a vote of 62% in favor, 38% against. The Thirty-Fourth Amendment of the Constitution (Marriage Equality) Act was signed into law on 29 August 2015.

Netherlands

Score 9

The Netherlands is party to all the important international anti-discrimination agreements. 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 provided by the European Commission has not been adopted by the Dutch legislature, and many regulations avoid the term “discrimination” in favor of “distinction” (with less negative connotations in a religiously and culturally diverse society like the Netherlands). A recent expert report criticized Dutch anti-discrimination sanctions as “ineffective,” and as neither “dissuasive” nor “proportionate.” In 2013, the U.N. Human Rights Commission got involved in contentious political debates about the discriminatory character of “Black Pete” that appears 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:

European Commission. European equality law review. European network of legal experts in gender equality and non-discrimination, 2015/1, Netherlands (equality law.eu, consulted 2 November 2015)

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

Mens en Samenleving, Voor- en tegenstanders over Zwarte Piet (+ oplossingen) (mens-en-samenleving.infonu.nl., consulted 9 November 2019)

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 focusing on populations such as 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 had a rightful claim to the title, based on the Treaty of Waitangi. More recently, the conflict over the Kermadec marine reserve sanctuary led to tensions between the minority National government and one of its key parliamentary allies, the Maori Party. The conflict led the Maori Party to threaten to end its supply agreement with National, which would have

undermined parliamentary confidence in the minority government. The government reacted by postponing a final decision on the project.

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).

Bramwell, Chris, 2016. Māori Party puts government on notice over Kermadec row. 15 September, 2016. Radio New Zealand. <http://www.radionz.co.nz/news/political/313354/maori-party-puts-govt-on-notice-over-kermadec-row> (accessed 12 October, 2016).

Norway

Score 9

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

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

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

Some discrimination against non-Western immigrants seems to persist. In some areas of the economy, immigrants find it comparatively harder to find work, while earning lower wages and showing substantially higher unemployment rates than native Norwegians. Although discrimination against immigrants (including in the labor market) is illegal, 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 performing the same work as well as 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 metropolitan areas in Sweden has increased. This societal fracturing remains an unsolved political challenge in contemporary Sweden. With the increased immigration in 2015 and 2016 there is an imminent risk that these challenges will be exacerbated.

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. A subsequent 2015 report from the U.N. Human Rights Committee listed similar issues, including the “potential extinguishment of indigenous land rights and titles,” lengthy unresolved land disputes placing financial burdens on indigenous peoples, and the “disproportionately high rate of incarceration of indigenous people, including women, in federal and provincial prisons across Canada.”

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

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United Nations Human Rights Committee, Concluding Observations on Canada’s sixth report in relation to Canada’s compliance with the International Covenant on Civil and Political Rights, August 2015.

Cyprus

Score 8

An extensive body of laws and measures protecting the rights of various groups seeks to prevent discrimination. The constitution protects human rights, with Article 18 guaranteeing equality and non-discrimination for all. 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. However, implementation gaps and omissions exist in practice.

Laws on gender equality and anti-discrimination, updated in line with EU directives, provide for proactive measures and sanctions aimed at enforcing equality of treatment in employment and occupations, combating racism and other forms of discrimination, and protecting persons with disabilities. Disabled persons are offered additional protection and special treatment.

The adoption, in late 2015, of a law on civil partnerships is considered a serious step in efforts against discrimination. In 2016, the exclusion of women and some age groups for 3,000 army posts was considered discriminatory.

The Ombudsman’s office, tasked with investigating discrimination, noted in its 2013 report (so far latest available) that the economic crisis exacerbated xenophobia and

discrimination, and that supervisory mechanisms had been weakened. Similar phenomena are reported by CoE committee (2015), which recommended actions to protect minorities' rights and raise awareness on issues of human rights and anti-discrimination among the police and the judiciary.

Citation:

1. Report of the Ombudsman as Authority against Racism and Discrimination for 2013, [http://www.ombudsman.gov.cy/Ombudsman/Ombudsman.nsf/All/996EE18EA5A8F853C2257EB9003BD6A0/\\$file/Αρχή_κατά_του_Ρατσισμού_και_των_Διακρίσεων_-_ΕΤΗΣΙΑ_ΈΚΘΕΣΗ_2013.pdf](http://www.ombudsman.gov.cy/Ombudsman/Ombudsman.nsf/All/996EE18EA5A8F853C2257EB9003BD6A0/$file/Αρχή_κατά_του_Ρατσισμού_και_των_Διακρίσεων_-_ΕΤΗΣΙΑ_ΈΚΘΕΣΗ_2013.pdf)
2. CoE committee on minorities, Cyprus 2015, rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680483b48

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.

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) concluded in 2010 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 take 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 “start-aid” (roughly half of ordinary social assistance) offered to immigrants which have been residing in

the country seven out of the last eight years. While formally treating all immigrants equally (as required by EU regulations) the scheme in particular targets immigrants from low-income countries with a low employment rate. The scheme was introduced by the liberal-conservative government in 2002, abolished by the Social Democratic-Center government in 2012 and reintroduced by the liberal government in 2015.

Immigration laws were tightened after the liberal-conservative government came to power in 2001. One particularly controversial law was the tightening of rules for family reunification. Bringing a spouse to Denmark required that both persons in the couple are at least 24 years old, in addition to a number of other requirements; the law also included an economic test. However, 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 advocates had hoped for more far-reaching change. At the moment, the asylum policy is under pressure due to the large influx of asylum-seekers from the Middle East. Immigration rules and their implementation have been further tightened recently.

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. Alongside the Chancellor of Justice, the Gender Equality and Equal Treatment Commissioner (GEETC) acts as an independent and impartial expert tasked with monitoring the issue of discrimination. Legal standards are set by the Gender Equality Act (2004) and Equal Treatment Act (2009).

Gender equality has been a longstanding concern, but in recent years the situation is improving. This is reflected in the cases filed with the GEETC, where about 33% all discrimination cases were made on the basis of gender (compared to 50% in 2014). The second-largest number of cases filed with the GEETC concerns discrimination on the basis of disability (35 cases out of 209), followed by age (16 cases), ethnicity (13) and sexual orientation (6). About half of the discrimination cases occurred in workplaces.

The Registered Partnership Act (in force January 2016) allows same-sex couples to register their cohabitation. Within seven months, 26 couples have done so. The Work Ability Act, aimed at improving disabled people's access to the labor market, entered into force in July 2016. Yet, it is too early to evaluate the extent to which the work ability reforms will improve the welfare of disabled citizens.

Citation:

Annual Review of Activities of Gender Equality and Equal Treatment Commissioner (in Estonian)
<http://www.vordoigusvolinik.ee/voliniku-too/aasta-tegevuse-ulevaated/>(accessed 30.Oct. 2016)

Finland

Score 8

Rights of ethnic and religious minorities are as a rule well protected in Finland, and the criminal code provides penalties for 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 recognized as an official national language. However, reforms to public administration at the local level, which are still pending at the time of writing, may violate important rights of the Swedish-speaking population. In addition, some segments of the population, primarily represented by the so-called Finns Party, have turned hostile toward Finland's Swedish-speaking population. The Åland Islands, whose inhabitants speak Swedish, have historically maintained an extensive autonomy and a home-rule parliament as well as one permanent seat in the national legislature. Finland has often been seen as a forerunner concerning its efforts to maintain an effective minority-protection policy. Still, although cases of discrimination are rather few, ethnic minorities and asylum-seekers report occasional police discrimination; an immigrant background additionally increases the risk of encountering discrimination. Roma individuals, who make up a small proportion of the population, are marginalized, and the Finns Party, which is a government party, encourages discrimination against 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. In 2015, the government adopted legislation to increase the number of women on corporate supervisory boards. The law stipulates a 30% share of women 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 January 2015, the court ruled that a bill banning headscarves for teachers at public schools must adhere to state laws (Ländergesetze). A general prohibition, incumbent on teachers in state schools, of expressing religious beliefs by outer appearance is not compatible with the freedom of faith and the freedom to profess a belief (Art. 4 secs. 1 and 2 of the Basic Law). However, in a dissenting opinion, two of the judges opposed the majority's reasoning, signaling that non-discrimination on religious grounds is a contested issue in society and in constitutional law.

Citation:

www.bundesverfassungsgericht.de/SharedDocs/Pressemitteilungen/EN/2015/bvg15-014.html

Luxembourg

Score 8

Fundamental human and civil rights are anchored in Luxembourg's constitution. Anti-discrimination efforts are overseen both by public authorities and NGOs.

The 2015 Migrant Integration Policy Index gave Luxembourg a low score of 57 points for its anti-discrimination policies (2014: 49). Two EU anti-discrimination directives (2000/43 and 2000/78) were adapted after years of debate in the form of an act passed on 28 November 2006, establishing a Center of Equal Treatment (Centre pour l'égalité de traitement, CET), which opened in October 2008. The act includes EU definitions of discrimination. 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.

Migration is a much debated issue. Considering that most migration is essentially European (90%) and of Christian faith, migration issues have caused fewer conflicts and ethnic concerns than in neighboring countries. After the adoption of the U.N. Convention on the Rights of Persons with Disabilities and in addition to a 2011 action plan, incidents of discrimination on the grounds of physical or mental disabilities have increased. This highlights the need to intensify inclusion policies.

Citation:

"Luxembourg." Migrant Integration Policy Index 2015, www.mipex.eu/luxembourg. Accessed 21 Feb. 2017.

"Mémorial A n° 207 de 2006." Journal officiel du Grand-Duché de Luxembourg, 6 Dec. 2006, legilux.public.lu/eli/etat/leg/memorial/2006/207. Accessed 21 Feb. 2017.

"Mémorial A n° 70 de 2008." Journal officiel du Grand-Duché de Luxembourg, 26 May 2008, legilux.public.lu/eli/etat/leg/memorial/2008/70#page=2. Accessed 21 Feb. 2017.

Rapport d'activités 2014. Centre pour l'égalité de traitement, 2014. cet.lu/wp-content/uploads/2015/03/CET-rapport-annuel-2014.pdf. Accessed 21 Feb. 2017.

For further information:

Centre pour l'égalité de traitement, cet.lu/en/. Accessed 21 Feb. 2017.

Conseil National des Femmes du Luxembourg, www.cnfl.lu/site/. Accessed 21 Feb. 2017.

Convention internationale sur l'élimination de toutes les formes de discrimination raciale. Office luxembourgeois de l'accueil et de l'intégration, 1965. www.olai.public.lu/fr/legislation/discrimination/C-1965-12-21/C-1965-12-21.pdf. Accessed 21 Feb. 2017.

Médiateur du Grand-Duché de Luxembourg, www.ombudsman.lu. Accessed 21 Feb. 2017.

"Mémorial A n° 207 de 2006." Journal officiel du Grand-Duché de Luxembourg, 6 Dec. 2006, legilux.public.lu/eli/etat/leg/memorial/2006/207#page=2#page=2. Accessed 21 Feb. 2017.

"Mémorial A n° 209 de 2008." Journal officiel du Grand-Duché de Luxembourg, 24 Dec. 2008, legilux.public.lu/eli/etat/leg/memorial/2008/209#page=2. Accessed 21 Feb. 2017.

Portant création d'une Agence des droits fondamentaux de l'Union européenne. Journal officiel de l'Union européenne, 2007. www.olai.public.lu/fr/legislation/discrimination/R-168-2007-fr/R-168-2007-fr.pdf. Accessed 21 Feb. 2017.

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, currently the strongest party in the country, has repeatedly resorted to openly xenophobic discourse. Although gender-based discrimination is illegal, women continue to face considerable economic and social discrimination with regard to wage equality and equal career opportunities.

Social discrimination in higher education persists, as it does not attract political attention. Children with weak socioeconomic backgrounds have considerably lower chances of gaining access to higher education, and little progress has been made in the last decades.

United States

Score 8

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 within the Justice Department and an independent Equal Employment Opportunity Commission. While the origins of these policies are to be 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.

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 on how much the persistence of unfavorable outcomes for African Americans 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 has advanced through a cascade of court decisions, legislative enactments and referendums, and in 2015 the majority-conservative Supreme Court, in a sweeping constitutional ruling, legalized same-sex marriage in all 50 states.

Of course, these extensive policy measures do not prevent nearly all discriminatory conduct. In 2015 and 2016, widespread protests alleged discriminatory conduct by local police and criminal justice systems in stop-and-frisk methods, criminal sentencing, and even gun violence.

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. After completion of a 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. Despite a reduction in sexual discrimination over recent decades, a 2016 survey of young Australians indicated

that discrimination against women remains a problem.

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 perform an act that is reasonably likely to "offend, insult, humiliate or intimidate" someone because of their race or ethnicity. In response to widespread opposition to the proposal, it was abandoned in August 2014. Though several members of the coalition government continue to advocate for its repeal.

Citation:

<https://www.missionaustralia.com.au/what-we-do/research-evaluation/youth-survey>

<http://www.smh.com.au/business/workplace-relations/gender-discrimination-starts-young-mission-australia-2016-youth-survey-20161202-gt2snt.html>

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.

A specific set of challenges has emerged since the terrorist attacks on Paris and Brussels, with reports of police violence and abuse toward Muslims. These incidences, however, are projected to abate and will be progressively addressed by authorities.

Citation:

https://www.hrw.org/sites/default/files/report_pdf/belgium1116_web.pdf

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. However, in some regions, the system lacks 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. A 2014 report examining the representation of women on the boards of publicly owned companies found that on average less than 20% of their board members were women. Much greater progress has, however, been achieved in political institutions, such as parliament, assemblies and cabinet.

In 2016, parliament approved legislation allowing same-sex civil partnerships. Italy was one of the last EU member states to introduce legislation granting same-sex couples marriage-like rights (Legge Cirinnà).

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 Albanians, which originated in Albania. Some municipalities created democratically elected assemblies to represent migrants in the local decision-making.

Citation:

http://www.pariopportunita.gov.it/images/MAGGIO2014_Donne_CDA_e_CS_perregione.pdf

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 2014, the Ombudsman received 87 complaints of discrimination. The Ombudsman has focused on labor-market discrimination on the basis of age, sex and sexual preference, cases of hate speech, and on issues of equal access to education and health services.

Due to Latvia's ethnic makeup, 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. In 2016, new legislation was passed requiring "loyalty" from teachers in the public school system, creating concerns over how this "loyalty" measure will be implemented.

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, 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, Last assessed: 21.05.2013.

4. Ombudsman of Latvia (2014), Annual Report, Available at (in Latvian): http://www.tiesibsargs.lv/files/content/zinojumi/Tiesibsarga_gada_zinojums_%202014.pdf, Last assessed: 16.11.2015.

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, Last assessed: 21.05.2013

6. University of Latvia, Social and Political Research Institute (2014). How Democratic is Latvia: Democracy Audit 2005 - 2014. Available at (in Latvian): http://www.szf.lu.lv/fileadmin/user_upload/szf_faili/Petnieciba/Demokratijas_audits_2014_kopaa.pdf, Last assessed: 03.11.2014

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 offenses 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 the limited evidence available. 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. In addition, political opposition occasionally forms a significant barrier to the implementation and enforcement of equality legislation.

However, according to public opinion surveys, the perception of discrimination as a widespread problem is significantly lower than EU averages. According to 2015 Eurobarometer data, 29% of respondents in Lithuania agreed that discrimination on the basis of ethnicity was widespread, compared to an EU average of 64%, while 17% of respondents thought that religious discrimination was widespread, compared to an EU average of 50%.

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

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>

The 2016 freedom rating of Lithuania by the Freedom House is available at <https://freedomhouse.org/report/freedom-world/2016/lithuania>

European network of legal experts in gender equality and non-discrimination, Lithuania country report 2016: <http://www.equalitylaw.eu/downloads/3737-2016-lt-country-report-nd>

Portugal

Score 7

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

First, the gender wage gap, which discriminates against women increased in 2014, continuing the recent trend in a widening gender wage gap. The unadjusted gender wage gap increased from 8.4% in 2006 to 14.9% in 2014. Though the gender wage gap in Portugal is below the EU average, the increase in Portugal contrasts with the modest downward trend in the EU average.

Second, regarding racial discrimination, the U.S. Department of State's 2015 Report on Human Rights Practices noted patterns of institutional and societal discrimination against the Roma.

However, the Costa government has the most diverse cabinet since Portugal's democratization. Aside from a prime minister of Indian (Goan) ascent, the cabinet also includes an Afro-Portuguese female Minister of Justice, Francisca Van Dunem, a Roma junior minister, and a blind junior minister.

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 State Department, "Country Reports on Human Rights Practices for 2015 - Portugal," available online at: <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2015&dclid=252889>

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 still at times 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. Media rights for minorities other than the Hungarian, Italian and Roma are underdeveloped.

Citation:

Petković, B. (2016): Discriminatory policies of minority protection in Slovenia: unequal access to media. South-East European Media Observatory (<http://mediaobservatory.net/radar/discriminatory-policies-minority-protection-slovenia-unequal-access-media>).

Spain

Score 7

Any discrimination based on birth, race, sex, religion, opinion or any other personal or social condition or circumstance is forbidden in Spain (according to the constitution and all important international and European treaties signed by Spain that are relevant to counteracting marginalization). In addition, any individual, whether a national citizen or not, can invoke a special expedited procedure in the

courts asking the state to protect him or her against any form of discrimination. As a result, 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 in the cases of women, the elderly, persons with disabilities, and ethnic and linguistic minorities. For example, there are still relevant wage differences between men and women, and few women sit on the boards of companies. The approval of equal parental leave for fathers may prove a positive development.

Though there are instances of discrimination toward Muslim immigrants and the Roma, a survey conducted by the Pew Research Center in 2016 showed that Spaniards express fewer fears than other Europeans regarding minorities, but also tend to express less negative views about immigration. It is true that anti-Muslim views are comparatively common (50% of Spaniards have an unfavorable opinion of Muslims, 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 to minority communities. Spain is also considered to be a pioneer in fighting discrimination against homosexuals and women, although the Rajoy government was less active in this realm than its predecessor. The main national agency tasked with monitoring equality and anti-discrimination efforts is the Institute for Women and Equal Opportunities. Nevertheless, Spain has not yet adopted a comprehensive anti-discrimination law and the European Parliament declared in a 2015 report that “there are some concerns about whether the law in Spain is in complete compliance with the EU directives on racial and employment equality.”

Citation:

October 2016, The Local: “Spain approves equal parental leave for fathers”

<http://www.thelocal.es/20161019/spain-approves-equal-parental-leave-for-fathers>

July 2016, Pew Research: “Negative views of minorities, refugees common in EU”

<http://www.pewglobal.org/2016/07/11/negative-views-of-minorities-refugees-common-in-eu/>

United Kingdom

Score 7

Over the last 15 years, measures to combat discrimination have entered the political agenda, the statute books and, perhaps most tellingly, have become cultural norms. 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. The Equality Act 2010 has added further areas, such as age, gender identity, pregnancy and maternity, and religion or belief. Political pressure is being exerted to add “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 toward minorities still surface occasionally, including some of the rhetoric in the 2016 referendum campaign. 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. The perception that the indigenous population is crowded-out by from public services and social housing has contributed to concerns about the impact of immigration, on which right-wing political forces and the right-wing press are capitalizing. 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.

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.

From the viewpoint of an inclusive democracy, the most significant form of discrimination is currently the increasing number of people living legally in Austria but excluded from political participation by the obstacles faced when applying for Austrian citizenship. Dual citizenship in Austria is legally possible, but the dominant policy is to make it as difficult as possible.

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. Compared to other developed countries, however, gender discrimination

is still relatively strong, especially in the labor market. The World Economic Forum's 2016 Global Gender Gap Report ranked the Czech Republic 77 out of 144 countries due primarily to challenges facing women in the areas of economic participation and political empowerment. 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. Since 2015, the discrimination of Muslims has increased. Driven by populist political voices and unbalanced media reporting, they have been confronted with hate speech, and there have been controversies over issues such as whether schools should allow the hijab. In November 2016, a Prague court began hearing a case into whether it is within the powers of a local nursing school to ban two students from wearing the hijab. The Czech Ombudswoman, Anna Šabotová, argued that the school acted in a discriminatory fashion.

Citation:

World Economic Forum (2016): The Global Gender Gap Report 2016. Geneva (http://www3.weforum.org/docs/GGGR16/WEF_Global_Gender_Gap_Report_2016.pdf).

France

Score 6

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

France's legal basis for non-discrimination is solid. The controversial recognition of "marriage for all," or recognizing the right of gays and lesbians to legally marry, is a point in case. Courts tend not only to apply but also to extend these rights. Many policy measures, particularly financial incentives or subsidies, attempt to compensate for different instances of discrimination, in particular gender, age or migration background. However, the situation is often contradictory in many cases. For instance, while immigrants face challenges in getting residence permits, illegal immigrants have free access to health care and their children can be legally registered at school. A key contention concerns the integration of so-called second-generation immigrants. Despite many policy measures, a large number of these young French citizens feel like foreigners in their country, and they are often considered as such by the population at large. 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 (such as gathering statistics based on ethnicity to determine social service allocation).

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.

Greece

Score 6

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 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.” After the murder of a left-wing rap singer by neo-Nazi militants in September 2013, the Golden Dawn party became more restraint, as prosecuting authorities launched criminal investigations against the party's leadership and scores of its militants. In the period under review, the outcry against racism and the rise to power of a left-wing party, Syriza, contributed to the decline of discrimination. In fact, the opposite of racist discrimination, namely tolerance, solidarity and support of foreigners, was observed in the summer and the fall of 2015, when Greece received a vast inflow of refugees from Syria, Iraq and Afghanistan (210,000 refugees arrived in and passed through Greece in the month of October alone).

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 [accessed on 07.05.2013].

Iceland

Score 6

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 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 of Disabled in Iceland (Öryrkjabandalagið), the electoral laws were adjusted to allow blind or otherwise physically disabled individuals to independently nominate their own assistant who would be sworn to secrecy. This change applied to the 2013 parliamentary elections.

The government's non-compliance with the binding opinion of the United Nations Human Rights Committee, which ruled in 2007 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 sveitarstjórna nr. 5/1998 (aðstoð við kosningu). Lög nr. 111 16. október 2012.

Poland

Score 6

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. Anti-discrimination policy has not featured prominently on the agenda of the PiS government. Quite to the contrary, the PiS government has launched a strong discourse against Muslims and has spoken out against the LGBT community and 'gender-ideology'. The non-pluralist world view of the PiS government can be seen in financing for cultural activities or the removal of a TV spot on how to separate garbage because a homosexual cook is acting in this spot.

Bulgaria

Score 5 The Bulgarian constitution, the 2004 Anti-Discrimination Act and various EU directives guarantee protection against discrimination. There is a Commission for Protection against Discrimination, and citizens have access to the courts in cases of suspected discrimination. In practice, however, instances of discrimination can be frequently observed. Discrimination against the highly marginalized Roma minority remains a major issue. Groups such as people with mental and physical disabilities 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. As the inflow of refugees and migrants from the Middle East has increased since 2013, discrimination against foreigners and Muslims has become an important public issue. Public discourse regarding migrants has grown increasingly xenophobic as many Bulgarian media outlets openly broadcast hate speech, thereby contributing to racially motivated agitation.

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 part of Chile. The Mapuche are not constitutionally recognized as an ethnic minority with collective rights. Despite official denials, some Mapuche captives claim to be political prisoners. There have been some important attempts to diminish discrimination, such as the Civil Union Agreement (Acuerdo de Unión Civil) that allows for the official acceptance of same-sex unions. The law on this issue was enacted in October 2015. However, there are still inequalities in various domains such as labor rights, access to health care and family law.

With regard to gender, Chile is ranked 70th out of 144 countries in the Global Gender Gap Index (2016); its parity-impairity score (ranging from 0 to 1) is 0.699. Only about 16% of Chile's serving deputies and senators are women. These averages are much lower than comparable shares elsewhere in Latin America or in the OECD as a whole. In order to improve the ratio of women representatives, a new electoral law obligates political parties' electoral slates to be composed of at least 40% women beginning in the 2017 elections and provides financial incentives for the candidacy and election of women. Furthermore, a new labor reform package enacted in August 2016 implemented a 30% female quota for the representatives of labor unions.

Gender-discrimination issues are relevant in other spheres 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. September 2016

<http://www.ipu.org/wmn-e/arc/classif010916.htm>

Global Gender Gap Index (2016)

<http://reports.weforum.org/global-gender-gap-report-2016/economies/#economy=CHL>

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.

Israel

Score 5

Israel's main venue for dealing with cases of discrimination is the court system, particularly the Supreme Court, which address cases of 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 trafficking 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.

Regarding protecting the rights of disabled persons, Israel has demonstrated major advances. The Commission for Equal Rights of Persons with Disabilities has stated that the gap between the general employed population (57% in 2016) and the disabled employed population (78% in 2016) continues to close. The commission's work is based on the Equal Rights Law for Persons with Disabilities (1998) that sets a goal for Israel to "protect the dignity and liberty of persons with disabilities and anchor their right to equal and active participation in society in all fields of life, as well as properly provide for their special needs in a manner enabling them to spend their lives in maximum independence, privacy and dignity, while making the most of their capabilities."

In the area of gender equality, however, Israel continues to demonstrate significant discrimination. Women still earn less than men (32.5% of women earn minimum wage in contrast to only 18.1% of men), despite the fact that more women have completed higher education than men.

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>

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Swirsky, S., E. Konor-Atias and R. Zelinger, "Social status report 2015", December 2015. (Hebrew)

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Japan

Score 5

Women still face some discrimination, particularly in the labor market. Women on average earn 27 percent less than their male colleagues - the third highest gap among OECD countries (most recent data from 2014). The country's share of female parliamentarians - 9.5% in 2015 - is still low by the standards of other advanced countries (only Turkey scores lower among OECD countries). Prime Minister Abe has called women "Japan's most underused resource," and the government has designated "womenomics" as a key pillar of its three arrow reform program, reiterated in the "new three arrows" of 2015. Child care support and similar measures are a major part of the 2016 fiscal stimulus program. A 2015 law asks large companies to set numerical targets for the employment and promotion of women. However, the measure's sanctioning mechanisms are weak and no minimum targets are prescribed. Given the persistent undercurrent of sexism in Japanese society, de facto workplace-culture discrimination will be hard to overcome.

The three million descendants of the so-called burakumin, an outcast group during the feudal period, still face 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.

In 2016, a law against discrimination of people with disabilities was introduced. It requires "reasonable" accommodation of special needs, leaving room for various interpretations.

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. In late 2015, a UN special rapporteur asked Japan to increase efforts to tackle child sexual exploitation.

The treatment of refugees and asylum-seekers is frequently the subject of criticism. Grants of asylum status have remained extremely low, despite rising global problems.

Citation:

UN data, Seats held by women in national parliament, percentage, <http://data.un.org/Data.aspx?q=japan&d=MDG&f=seriesRowID%3A557%3BcountryID%3A392>; for gender wage gap: <http://www.oecd.org/gender/data/genderwagegap.htm>

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United Nations Human Rights Office of the High Commissioner, UN human rights expert urges Japan to step up efforts to combat child sexual exploitation, 28 October 2015, <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=16669&LangID=E>

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, the civil courts and the Constitutional Court are staunch defenders of anti-discrimination legislation. Since 2013, the government has strengthened the rights of gay, lesbian and transgender people through the establishment of civil unions and a gender identity act. Malta also has a number of independent commissions to protect the rights of vulnerable groups, such as children and disabled people. In the last budget, the government increased the fine for employers who discriminate against disabled people.

Women are generally underrepresented in the social, economic and political life of Malta. There is little political consensus concerning the introduction of positive discrimination measures to address this problem, though much has been done over the last two years to promote gender equality in the work place. Discrimination on grounds of political affiliation remains a problem, a direct result of the electoral system used in Malta. 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. Many do so with mixed outcomes. 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 locals, but this was remedied in 2016. Similar discrimination with regard to public transport use has been eliminated. Migrant workers experience discrimination in accessing employment and within employment.

Citation:

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

Ellul, T. REPORT ON MEASURES TO COMBAT DISCRIMINATION Directives 2000/43/EC and 2000/78/EC COUNTRY REPORT 2011 MALTA

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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. The civil code still prohibits same-sex partnership and marriage, and fails to recognize any such marriages registered abroad. In September 2015, the European Commission Against Racism and Intolerance (ECRI) and Romania's Council for Combating Discrimination recommended that Romanian authorities enforce legislation to penalize discrimination, initiate a public awareness campaign, and provide training to societal actors such as teachers, police officers and judges. The Ciolos government failed to follow these recommendations. The popular initiative to make the constitutional definition of marriage more restrictive, with strong support by the Romanian Orthodox Church, has favored the discrimination of members of the LGBT community.

Slovakia

Score 5 While Slovakia has fairly sophisticated anti-discrimination legislation in place, the discrimination of Roma, women and LGBTI persons continues to be a major problem. The Roma population has suffered from the lack of access to adequate housing, the pervasive segregation of Roma children and their very high dropout levels in the education system, the excessive use of force by police officers during raids carried out in Roma settlements and various manifestations of hate speech. The second and the third Fico governments alike have not cooperated with Public Defender of Rights (Ombudswoman) Jana Dubovcová who has again and again drawn public attention to the discrimination of Roma. The new commissioner for Roma affairs appointed by the third Fico government has lacked standing. The failed February 2015 referendum on the constitutional definition of marriage, adoption law and sex education in schools has led to a growth in negative propaganda and hate speech directed at LGBTI persons. Unlike in the previous year, however, the LGBTI community has dared to stage its traditional Rainbow Pride event in July 2016. Since the onset of the refugee crisis, Prime Minister Fico stirred a discriminatory discourse on refugees and migrants.

Citation:

Council of Europe, Commissioner for Human Rights (2015): Report by Nils Muižnieks, Commissioner for Human Rights, following his visit to the Slovak Republic from 15 to 19 June 2015. CommDH(2015)21, Strassbourg (<https://wcd.coe.int/ViewDoc.jsp?Ref=CommDH%282015%2921&Language=lanEnglish>).

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South Korea

Score 5

Discrimination remains a major problem in Korea, with the state failing to be sufficiently active in preventing it. Women remain underrepresented in almost all important fields in South Korea. The wage gap between men and women is greater than in any other OECD country, and discrimination against gays and lesbians remains widespread. Discrimination against irregular workers and migrant workers is also common, with many migrant workers still having to submit to an HIV test in order to obtain a work visa. The establishment of the National Human Rights Commission was an important step with regard to preventing discrimination, 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. In July 2015, a gender-equality act came into force. This is particularly intended to help working mothers.

The Park administration was strongly criticized for filling most top government positions with men from the traditionally conservative southeastern provinces, expressing the strong regionalism that characterizes Korean politics.

Citation:

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“New paradigm of gender equality starts now,” The Korea Herald, July 5, 2015

Hungary

Score 4

Hungary has a comprehensive anti-discrimination legal framework, but practice has been different. Fidesz’s traditional family concept corresponds with strong discrimination against women in the areas of employment, career and pay. After all, Fidesz has no female ministers or top leaders. The failure is even greater regarding the Roma minority. By trying to create a separate school system, the Orbán government has aggravated segregation.

It has also continued its hate campaign against Muslims. As a result, xenophobia has grown among Hungarians, with a spillover to all kinds of minorities, including Jews.

Citation:

Hungarian Free Press (2016): One third of Hungarians are anti-Semitic, according to new Median poll. April 19 (<http://hungarianfreepress.com/2016/04/19/one-third-of-hungarians-are-anti-semitic-according-to-new-median-poll/>).

Mexico

Score 4 While there is a societal norm against overt racial discrimination, there is a significant correlation between race and class. Light-skinned Mexicans are over-represented among the wealthy and powerful. Social discrimination varies by region and setting. In urban centers, there is growing awareness around issues of sex and gender, but this is not the case in rural and poorer regions of the country where there remains a degree of social authoritarianism. The courts are aware of these gender issues and becoming increasingly assertive. However, while there is generally more awareness of discrimination than there once was, insufficient attention is paid to indigenous rights and other forms of social stigmatization. In an attempt to increase LGBT rights, the government presented a constitutional reform that would legalize same-sex marriages across the country and campaigned in favor of more inclusive rights for minorities. Same-sex marriages were first legalized in Mexico City in 2009 and by 2016 around 10 states had followed. However, the government's proposed legislation failed in Congress.

Turkey

Score 4 While Article 10 of the constitution guarantees equality before the law, irrespective of language, race, sex, political opinion or religion, the political reality in Turkey differs significantly from this constitutional ideal.

The new Law on the Human Rights and Equality Institution of Turkey provides a positive development towards non-discrimination. Turkey did not ratify Protocol 12 of the ECHR providing a general prohibition of discrimination. The National Human Rights and Equality Institution needs to be rapidly established and start processing cases of discrimination.

Although Turkey ratified the Council of Europe Istanbul Convention on preventing and combating violence against women and domestic violence, gender-related violence, hate speech, and discrimination against LGBT communities are serious problems. Physical attacks on non-Muslim residents were reported during the period under review, and anti-Semitism in physical or oral form is clearly expressed in public. According to the Anti-Defamation League's 2015 Global Anti-Semitism Index, 71% of Turkey's adult population is estimated to harbor anti-Semitic attitudes – a slightly higher figure than for the Middle East and North Africa (MENA) region overall. The establishment of an inclusive Anti-Discrimination and Equality Board is still pending.

A number of high court rulings remain unimplemented, including the European Court of Human Rights' December 2014 decision on *cemevi* (gathering places for Alevi Muslims) as a place of worship and February 2015 rejection of Turkey's

appeal on the issue of compulsory religious-education classes, as well as the Turkish Court of Cassation's August 2015 judgement on cemevi as religious locations within the scope of the ECHR ruling. Some leading politicians' "uneven" treatment of the Alevis negatively affects the public atmosphere.

The use of Kurdish and some other languages in formal education gradually widened. However, investigations and detentions of Kurdish activists have undermined efforts to find a workable solution to the Kurdish issue. The government introduced a National Strategy and Action Plan for Roma people, yet Roma continued to face discrimination in social and economic life.

Three years ago, the Ministry for Family and Social Policies adopted a national action plan to combat violence against women. However, despite rising public awareness, the incidence of violence against women in Turkey has undergone a dramatic and rapid increase in the last decade. Even though a large number of cases go officially unreported, women's rights groups reported that 230 women had been killed in 2016 as of mid-November. In some cases, courts have ruled that "extenuating circumstances" existed for perpetrators of so-called honor crimes. A 2014 Penal Code amendment expanding penalties for violence against women was considered unsatisfactory by women's rights associations. A controversial amendment on victims of sexual abuse was submitted by a group of AKP deputies in early November 2016, yet withdrawn by the Constitution Commission following street protests. Gender discrimination and discrimination against LGBTI in the workplace is widespread.

Citation:

European Commission, Turkey 2016 Report, Brussels, 9.11.2016, http://ec.europa.eu/enlargement/pdf/key_documents/2016/20161109_report_turkey.pdf (accessed 1 November 2016).

Anti-Defamation League, Global 100, 2015 Update, <http://global100.adl.org/#map/2015update> (accessed 1 November 2016).

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