



Independent Supervisory Bodies Report

Audit Office, Ombuds Office, Data Protection Authority

Sustainable Governance Indicators 2020

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Indicator

Audit Office

Question

Does there exist an independent and effective audit office?

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 = There exists an effective and independent audit office.
- 8-6 = There exists an effective and independent audit office, but its role is slightly limited.
- 5-3 = There exists an independent audit office, but its role is considerably limited.
- 2-1 = There does not exist an independent and effective audit office.

Australia

Score 10

Under the Auditor-General Act 1997, the auditor-general is responsible for providing auditing services to parliament and other public sector entities. The Australian National Audit Office (ANAO) supports the auditor-general, who is an independent officer of parliament. The ANAO's purpose is to provide parliament with an independent assessment of selected areas of the public administration, and to provide assurance regarding public sector financial reporting, administration and accountability. This task is undertaken primarily by conducting performance and financial statement audits.

Citation:

<https://www.anao.gov.au/about/auditor-general-and-office>

https://www.aph.gov.au/~/~/link.aspx?_id=387AD00794BD41C39579392068D56CF9&_z=z

Austria

Score 10

The Austrian Court of Audit (Rechnungshof) is an instrument of parliament. The office reports regularly to parliament, and parliament can order it to perform specific tasks. As a consequence, the parliamentary majority determines how to handle audit reports, and in cases of doubt, the majority inevitably backs the cabinet. Thus, the main vehicle by which to force the government to react in a positive way to audit reports is public opinion. If a specific audit report formulates a specific criticism, the government's primary incentive to respond is its interest in preserving its public reputation.

The president of the Court of Audit is elected by parliament for the period of twelve years. This gives the president a certain degree of independence. At the moment of election by the National Council, he or she is the product of the majority. But as this

figure cannot be reelected, and as parliamentary majorities often change in the course of 10 years, the president and his or her office in fact enjoy a significant degree of independence.

The elections of a new president for the court in 1992, 2004 and again in 2016 have underlined the possibility for opposition parties to impact these decisions due to the inability of coalition partners to unite behind a common candidate for the presidency.

One problem is the insufficient funding of the Austrian Court of Audit, while, at the same time, an increasing number of tasks are delegated to the court by the governing majority.

The Court of Audit demonstrated its independence once more when it asked critical questions concerning policies of the ÖVP-FPÖ coalition. It may be seen as a compliment that, in 2019, the majority in parliament denied the Court of Audit direct access to party finances.

Belgium

Score 10

Established by the constitution (Article 180), the Court of Audit (Cour des Comptes/Rekenhof) is a collateral body of the parliament. It exerts external controls on the budgetary, accounting and financial operations of the federal state, the communities, the regions, the public-service institutions that depend upon them, and the provinces. Some public firms and non-profit organizations are also subject to review (for instance, the Flemish public-transportation firm De Lijn was audited in 2013). The Court of Audit's legal powers allow it considerable independence and broad autonomy to fulfill its mandate. The members of the Court of Audit are elected by parliament. The court's reports are public and presented to parliament along with the accounts of the state. The body regularly attracts media attention for its critical remarks regarding the management of public entities or services (such as over the roads in Wallonia).

Citation:

<https://www.ccrek.be/EN/Presentation/Presentation.html>

<https://www.courdescomptes.be/EN/>

Canada

Score 10

The auditor general is appointed by parliament on the advice of the prime minister for a 10-year term. Once in place, however, auditor generals have virtually a free hand in deciding who to audit and when. The Office of the Auditor General is accountable to parliament, and the removal of an auditor general requires the approval of both the House of Commons and Senate. Instances when either parliament or its Public Accounts Committee were able to direct the work of the Office of the Auditor General are rare.

Denmark

Score 10

The national audit office, Rigsrevisionen, is an independent institution under the authority of parliament. It examines the soundness of state accounts and assesses whether institutions have applied funds in the best possible ways. The Rigsrevisionen may initiate investigations on its own initiative, but more often on the request of the State Auditors (Statsrevisionerne), the parliamentary audit office. The work is made public via various reports, some of which also attract quite a lot of media attention. Its work is highly respected and can lead to policy action. This was seen recently, for instance, with the report on the principles for the valuation of housing underlying the tax levied on housing values (ejendomsværdiskatten). The issue of valuation of real estate for tax purposes remains a political issue in connection with the government's 2025 plan.

Citation:

Hentik Zahle, Dansk forfatningsret, 2.

Website of national audit office: <http://www.rigsrevisionen.dk/> (accessed 20 October 2017).

Finland

Score 10

Legislative accountability is advanced by the audit office, which is accountable to parliament. Formerly, parliamentary oversight of government finances was performed by parliamentary state auditors. However, this institution has been abolished. In its place is the parliamentary Audit Committee, which was created by combining the tasks performed by the parliamentary state auditors with the related functions of the administrative and audit section of the Finance Committee. The office of the parliamentary state auditors has also been replaced by the National Audit Office of Finland, which is an independent expert body affiliated to parliament. Its task is to audit the legality and propriety of the state's financial arrangements and review compliance with the state budget. Specifically, the office is expected to promote the exercise of parliament's budgetary power and the effectiveness of the body's administration. It also oversees election and party funding. The office is directed by the auditor general, who is elected by parliament. With about 150 employees, the office has four impact areas: sustainable general government finances; sustainable governance and public administration; a safe, healthy and affluent society; and information governance. Covering long-term objectives, operational emphasis and strategic policies, the current audit strategy covers the period 2013 – 2020.

Citation:

"National Audit Office"; <http://www.vtv.fi/en>;

"The

Audit

Committee,"

<https://www.eduskunta.fi/EN/lakiensaaminen/valiokunnat/tarkastusvaliokunta/Pages/default.asp>

Germany

Score 10

The Federal Court of Audit (FCA) is a supreme federal authority and an independent public body. FCA members enjoy the same degree of independence as the members of the judiciary. Its task is to monitor the budget and the efficiency of state's financial practices. It submits its annual report directly to the Bundestag, the government and the Bundesrat. The Bundestag and Bundesrat jointly elect the FCA's president and vice-president, with candidates nominated by the federal government. According to the FCA's website, around 1,300 court employees "audit the (state) account and determine whether public finances have been properly and efficiently administered," while the FCA's "authorized officers shall have access to any information they require" (Federal Budget Act Section 95 Para. 2). The reports receive considerable media attention. In its report from 22 October 2019, the FCA strongly criticized the expenditures of the government. The report particularly criticized the public procurement policies of the Ministry of Defense.

Citation:

<https://www.bundesrechnungshof.de>

<https://www.bundesrechnungshof.de/de/veroeffentlichungen/produkte/beratungsberichte/einzelplaene-jahresuebersicht/information-ueber-die-entwicklung-des-einzelplaene-fuer-die-haushaltsberatungen-2020>

Iceland

Score 10

Iceland's National Audit Office (Ríkisendurskoðun) is fully accountable to parliament. Considering its substantial human and financial resource constraints, the National Audit Office performs its functions quite effectively. These constraints, however, mean that a vast majority of the agencies under its jurisdiction have never been audited. No significant strengthening of the office's financial resources occurred for several years, as its staff numbers were reduced from 49 in 2009 to 41 in 2015, a total of 16%. The number of staff was 46 at the end of 2017.

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Ársskýrsla Ríkisendurskoðunar 2017. (Maí 2018). https://rikisendurskodun.is/wp-content/uploads/2019/09/Arsskyrsla_RE_2017.pdf Accessed 20th October 2019.

New Zealand

Score 10

The controller and auditor general is appointed by the governor-general on the advice of parliament and is fully accountable to it. The Office of the Auditor General consists of the following departments: Accounting and Auditing Policy, Legal Group, Local Government, Parliamentary Group, Performance Audit Group and Research and Development. It is empowered to survey the central government and local governments. The legal basis is the Public Audit Act 2001.

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All about the Controller and Auditor General (Wellington: Office of the Auditor General 2012).

Norway

- Score 10 Norway has a national audit office, an independent statutory authority that is responsible to parliament. Its main task is to audit the use of government funds to ensure they are used according to parliamentary instructions. The audit office has around 500 employees and its governing council is made up of members of the main political parties. Decisions of the audit office have consistently been consensual.

Sweden

- Score 10 For a long time, Sweden was one of the few countries where the audit office reported to the government and not to the parliament. In order to conform to international standards, such as the International Organization of Supreme Audit Institutions (INTOSAI), this institutional arrangement was changed in 2003. For all intents and purposes, the audit office now reports to the parliament. The mandate and mission of the audit office is such that this represents the only chain of accountability. In this respect, the constitutional role and mandate of the audit office is now in harmony with INTOSAI standard.

The audit office underwent a major crisis during 2016, culminating with the resignation of the three national auditors. The crisis did not trigger a revision of the constitutional mandate of the audit office, but the parliament did point out that they wanted a “closer relationship” with the audit office. After the crisis was resolved and three new “national auditors” were appointed to lead the national audit office, the institution resumed its work. It now delivers high-quality audits and appears to exhibit the integrity and autonomy necessary to pursue its mission.

Citation:

www.riksrevisionen.se

Bringselius, L. (2013), *Organisera oberoende granskning: Riksrevisionens första tio år* (Lund: Studentlitteratur).

Bringselius, L. (ed.) (2017), *Den statliga revisionen i Norden: forskning, praktik och politik* (Lund: Studentlitteratur).

United Kingdom

- Score 10 The National Audit Office (NAO) is an independent office funded directly by parliament. Its head, the comptroller and auditor general, is an officer of the House of Commons. The NAO works on behalf of parliament and the taxpayer to scrutinize public spending and is accountable to the Public Accounts Committee (PAC).

United States

Score 10

The General Accountability Office (GAO) is the independent nonpartisan agency of the U.S. Congress charged with auditing activities. It is responsive to Congress alone. The GAO undertakes audits and investigations upon the request of congressional committees or subcommittees, or as mandated by public laws or committee reports. The GAO also undertakes research under the authority of the Comptroller General. In addition to auditing agency operations, the GAO analyzes how well government programs and policies are meeting their objectives. It performs policy analyses and outlines options for congressional consideration. It also has a judicial function in deciding bid protests in federal procurement cases. In many ways, the GAO can be considered a policy-analysis arm of Congress.

Ireland

Score 9

The Office of the Comptroller and Auditor General (OCAG) reports to the lower house of parliament. The OCAG attends meetings of the lower house's Public Accounts Committee (PAC) as a permanent witness. The results of the OCAG's independent examinations are used for PAC enquiries.

The PAC's effectiveness is enhanced by having the OCAG's reports as a starting point, and in turn the OCAG's scrutiny gains significantly in impact and effectiveness because its reports are considered by and used as a basis for action by the PAC. The PAC examines and reports to the lower house as a whole on its review of accounts audited by the OCAG. This process ensures that the parliament can rely on its own auditing processes and capacities.

Luxembourg

Score 9

The Chamber of Auditors was upgraded in 1999 to become the Court of Auditors, which today oversees the finances of the state administration. While keeping a low profile, the court effectively controls government spending, including that of ministries, public administration and other state services. It can audit the use of public funds and subsidies granted to public and private entities. The court essentially controls the effectiveness and efficiency of public spending, but it is not authorized to express its opinion on the political wisdom of public spending. Its scrutiny completes the ongoing work done by internal auditors in each ministry. Furthermore, the court's main interlocutor is parliament, and it undertakes cases either voluntarily or upon parliamentary instruction.

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Annual reports and special reports are available at:

"Rapports." Cour des comptes du Grand-Duché de Luxembourg. <http://www.cour-des-comptes.lu/fr/rapports.html>.

Accessed 20 Oct. 2019.

Malta

Score 9

The National Audit Office is an independent institution reporting exclusively to parliament, and is charged with scrutinizing the fiscal performance of public administration. Both the auditor general and his or her deputy are appointed by a resolution of the House of Representatives, requires a majority vote of no less than two-thirds of the body's members. The auditor general enjoys constitutional protection and works closely with the Public Accounts Committee. The NAO can open investigations without a prior request by parliament or the prime minister. The office audits all central government ministries, local governments and EU-funded projects, and publishes special reports on key and often sensitive policy areas. A 2019 report on constitutional reform by the Commissioner for Standards in Public Life recommended that the auditor general, as a designated officer of parliament, should not be additionally designated as a public officer, in order to emphasize his/her independence from the government.

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<http://www.timesofmalta.com/articles/view/20160202/local/nao-stands-by-its-findings-in-gaffarena-scandal.600970>

<http://www.timesofmalta.com/articles/view/20160627/local/spend-more-on-primary-health-care-nao-urges-government.616991>

<http://www.timesofmalta.com/articles/view/20151110/local/NAO-finds-25-permits-issued-just-before-poll.591562>

Report by the Auditor General on the public accounts 2016

Annual Report on the working of local government 2016

Performance audit: outpatient waiting at Mater Dei hospital

Ombudsman annual report 2016

<https://www.timesofmalta.com/articles/view/20171215/opinion/Eventful-year-for-NAO-Charles-Deguara.665670>

<https://www.timesofmalta.com/articles/view/20171114/local/most-nao-recommendations-addressed.663116>

<https://www.timesofmalta.com/articles/view/20181008/local/audit-office-adopts-new-strategy-to-improve-governance.691098>

<https://www.independent.com.mt/articles/2018-11-28/local-news/Electrogas-NAO-flags-shortcomings-in-due-diligence-says-Gasol-departure-not-in-line-with-contracts-6736200040>

<https://nao.gov.mt/en/press-releases/4/1230/presentation-of-the-cooperative-audit-report>

Commissioner for standards in public life; Toward Higher Standards in public life October 2019

Slovenia

Score 9

According to Article 150 of the Slovenian constitution, the Court of Audit is the supreme auditing authority in all matters of public spending. The Court of Audit is an independent authority accountable exclusively to parliament. The Court of Audit scrutinizes the performance of national and local governments and all legal persons established or owned by them. The chairman and the two vice-chairmen are elected by the parliament for nine years – on the basis of secret ballots – and the office reports regularly and whenever requested to the parliament. The Court of Audit has far-reaching competencies and enjoys a good reputation and high public trust. Its reports have impact on the policymaking process and its criticisms are mostly regarded as positive. However, its position is somewhat limited by a lack of both financial and human resources. While it can propose its own budget to the legislature, the ultimate decision regarding the Court's resources rests with parliament.

Switzerland

Score 9

Switzerland's Audit Office is an independent and autonomous body. It supports the Federal Assembly and the Federal Council through the production of analyses and reports. The chairman of the Audit Office is elected by the Federal Council; this election must be confirmed by the Federal Assembly. In administrative terms, the Audit Office falls under the authority of the Department of Finance.

The Audit Office acquired a very independent and self-confident role in the recent case of the politically controversial export of arms to war-prone regions. It has harshly criticized the Federal Administration as being insufficiently critical and working too closely with representatives from the arms industry.

Citation:
NZZ 4. Sept. 2018

https://www.efk.admin.ch/images/stories/efk_dokumente/publikationen/_wirtschaft_und_verwaltung/wirtschaft_und_landwirtschaft/17159/17159BE_WiK_d.pdf

https://www.efk.admin.ch/images/stories/efk_dokumente/publikationen/_wirtschaft_und_verwaltung/wirtschaft_und_landwirtschaft/17159/17159BE_Endg%C3%BCltige_Fassung_V04.pdf

Bulgaria

Score 8

The Audit Office underwent complete overhauls in both 2014 and 2015 due to the adoption, in both years, of completely new Audit Office Acts, in each instance changing the office's governance structure in its entirety. In both cases, the new laws served as an excuse for the early termination of the mandates of the existing Audit Office leadership. While the present governance structure, established with the act of 2015, has made the office more professional than in the past, the repeated changes have undermined the independence and credibility of the audit office.

Since 2015, the Audit Office has performed its tasks in a clear and professional manner with a high degree of openness and has made its findings available to the general public. Under the present framework, the Audit Office's capacity to contribute to the improvement of the effectiveness of government expenditures and assessment of the overall impact of different policies remains severely underutilized. Its effectiveness has also suffered from the fact that it is not vested with sufficient powers to act based on its findings. Such powers are reserved for government bodies with dubious reputations, such as the prosecutor general or the anti-corruption agency.

Chile

Score 8 Chile's General Comptroller (Contraloría General de la República) has far-reaching competences, and is invested with strong political and legal independence. The officeholder is nominated by the president and must be approved by a three-fifths majority vote in the Senate. The comptroller has oversight power over all government acts and activities, and investigates specific issues at the request of legislators serving in the Chamber of Deputies. The office presents an annual report simultaneously to the National Congress and the president. The National Congress has the right to challenge the constitutionality of the comptroller's work.

Czechia

Score 8 The Supreme Audit Office (Nejvyšší kontrolní úřad, SAO) audits the financial management of state entities and of financial resources received from abroad. It expresses an opinion on the state's final financial accounting statement, and oversees implementation of the state budget. The SAO is not authorized to audit the finances of municipalities, towns or regions, or to audit companies cofinanced by the state or lower-level governments. The functioning of the SAO is regulated by the constitution; the body's president and vice-president are appointed for terms of nine years by the county's president, based on proposals made by the Chamber of Deputies. The Chamber of Deputies further elects the members of the SAO upon nomination by the president of the SAO. In 2018, the Chamber of Deputies' Control Committee discussed 17 SAO audit reports. The government considered 31 audits. In its annual report for 2018, the SAO summarized its findings from inspections and assessed the state's progress with regard to selected policies and their management. It also drew a comparison between Czechia and foreign countries. In its report, the SAO indicated specific areas in which Czechia's public sector has not been able to respond adequately to the dynamic transformations and challenges facing society. For instance, it highlighted the areas of digitalization, the simplification of tax obligations, energy savings, social housing and transportation. Although the state invests significant resources in these areas, its return on these investments has not been as substantial as expected.

France

Score 8 Parliament does not have its own audit office, except for a special body called the Office Parlementaire d'Évaluation des Choix Scientifiques et Technologiques, which is responsible for analyzing and evaluating the impact of technology. In practice, its role has been rather limited.

Instead, the Court of Accounts is now at the disposal of any parliamentary request and can act both as auditor and adviser. While much progress could be made to fully

exploit this opportunity, it is noticeable that collaboration between the two institutions has improved since the Court's presidency was offered to two prestigious former politicians, the last one from the opposition to the governing party. The role of the Court has dramatically changed, from merely overseeing the government accounts to making a full evaluation of public policies. In fact, the body's criticisms of past policies and forward-looking proposals are often a blessing for reformers. They can rely on these objective and usually tough evaluations when promoting their own agendas, and can point to the evaluations as a means of persuading the public.

Lithuania

Score 8

The National Audit Office is accountable to the parliament and the president. The auditor general is appointed by the parliament based on a nomination by the president. The parliament's Committee on Audit considers financial-, compliance- and performance-audit reports submitted by the office, and prepares draft parliamentary decisions relating to the implementation of audit recommendations. The office also cooperates with other parliamentary committees. The leaders of the parliamentary Committee on Audit at one time used audit reports for political purposes, especially after an opposition-party member was appointed to head it. The National Audit Office also performs the functions of an independent fiscal institution, monitoring compliance with EU fiscal-policy norms. According to the OECD review released in 2019, this unique institutional setup, in which the independent fiscal institution is part of National Audit Office, results in several challenges; for instance, there is a lack of a clear public identity and a lack of operational independence, and the office has difficulties in recruiting and retaining senior staff members.

Over the last few years, the National Audit Office criticized the government's draft budgets for their lack of compliance with fiscal-discipline provisions and poor allocation of government expenditure. However, these criticisms were largely ignored by members of parliament or ministerial officials. In its 2018 report to the parliament (Seimas), the National Audit Office reported that 60% of its recommendations have been implemented, 25% of its recommendations faced delays during implementation, and a remaining 15% of recommendations have not reached their implementation deadlines yet. The National Audit Office was ranked as the best state institution in 2016 by the Lithuanian journal *Veidas* due to its representation of state interests, competence and exceptional performance. Recently, the head of the National Audit Office criticized the centralized process of selecting civil servants (including those employed in the audit office), because this risked compromising the independence of the office's own activities.

Citation:

OECD Independent Fiscal Institutions Review, Lithuania's Fiscal Independent Institution, 2019, <https://www.oecd.org/gov/budgeting/lithuania-independent-fiscal-institutions-review-2019-en.pdf>

Portugal

- Score 8 The Tribunal de Contas or Supreme Audit Office (SAO) is totally independent of the Assembly of the Republic and the executive. It is part of the judicial system, on an equal level with the rest of the judicial system.

Romania

- Score 8 The Court of Accounts is an independent institution in charge of conducting external audits on the propriety of money management by state institutions. Parliament adopts the budget proposed by the court's plenum and appoints the court's members but cannot remove them. The court president is appointed by parliament for a nine-year term from among the counselors of account. Thus, while court presidents tend to be appointed on a partisan basis, they are not always representing the current parliamentary majority. The court submits to parliament annual and specific reports that are debated in the legislature after being published in the Official Gazette. The annual public report articulates the court's observations and conclusions on the audited activities, identifies potential legal infringements and prescribes measures. The appointment of Mihai Busuioc, who has been close to PSD leader Dragnea, as new court president in mid-October 2017 has raised concerns about its independence. These concerns have been aggravated by parliamentary proposals to alter the Court's remit and to render it more amenable to the will of the government.

Israel

- Score 7 The Knesset's audit functions are divided between three main institutions: the State Comptroller, the State Audit Committee and the Knesset Internal Audit Department. The State Comptroller is independent, and its mandate is legally anchored in a basic law acknowledging its importance. The Knesset audit committee is in charge of following up on reports issued by the State Comptroller. While the State Comptroller enjoys independence and adequate resources, it does not have the power to issue penalties. Instead, its mandate ends with the submission of its findings and the establishment of an advisory committee for implementing its recommendations in the audited office. However, its responsibility to audit financial contributions during elections is accompanied by external legal powers of penalization.

The law establishes the State Comptroller as exclusively accountable to the Knesset. Accordingly, while the judiciary's budget is determined by the Ministry of Finance and the Ministry of Justice, the State Comptroller's budget is allocated by the Knesset's finance committee. Some argue that the State Comptroller could benefit from further institutional independence, since current arrangements allow the Knesset to request an investigation into a specific area, for example. While

understandable, this may undermine the office's ability to set an independent agenda and strategic yearly plans.

On 3 June 2019, Matanyahu Englman was approved by the Knesset as the ninth comptroller of the State of Israel. Since entering office, he has initiated several reforms that have been very poorly received by the media and civil servants in his own office. These reforms include ending real-time scrutiny, with the office only scrutinizing government actions in hindsight; reports will now be published only if they also include positive findings; the office's work plans and foci of scrutiny will be determined through consultation with the scrutinized bodies and not independently; and the Department to Fight Corruption, a unit charged with tackling corruption and white-collar crime, and which had brought to court several prominent figures, will be closed or limited to retrospectively checking the implications of the office's various reports. Indeed, as pointed out in various media commentary, Englman appears less driven than his predecessors to tackle corruption. On one occasion, Englman explicitly expressed his lack of enthusiasm. It has also been reported that Englman has delayed the publication of several reports (made mostly by his predecessor, Yosef Shapira), among them a report into Netanyahu's involvement in the media. Englman has stated that he wishes to review them in depth before publishing.

Citation:

Avital, Tomer. "The State Comptroller: In recent years there has not been actual auditing of the Knesset's administration," Calcalist 11.5.2010: <http://www.calcalist.co.il/local/articles/0,7340,L-3404250,00.html> (Hebrew).

Bezalel Smotrich. Serial number: P/20/4167. Internal Number: 2010953. Placed in the Knesset's plenum on May 8th, 2017. (Hebrew). Full text: https://www.nevo.co.il/law_html/law04/20_1st_383235.htm (most specifically article 1, "Amendment of Article 10," clause 1)

"Englman to the Dorms Report's Author: 'On My Watch [lit. in me, or at my place] There Will Be No Such a Report, Maximum a Report about Day-Cares [lit. day-dorms]'" In Maariv website. August 21st, 2019. (Hebrew)

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The State Comptroller and Ombudsman of Israel website, <http://www.mevaker.gov.il/En/Pages/default.aspx>
 “Basic Law: The State Comptroller, passed by the Knesseth on February 15, 1988,” text (English), <http://www.mevaker.gov.il/En/Laws/Documents/Laws-Basic-law.pdf>

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Italy

Score 7

General auditing functions are conducted in Italy by the Court of Accounts (Corte dei Conti), which oversees all administrative activities. The court regularly reports its findings to the parliament, but cannot be said to be accountable to the parliament as it is an independent judicial body. The court can review *ex ante* the legitimacy of executive acts (although its decisions can be overruled by the government) and is responsible for the *ex post* review of the management of the state budget. The court oversees the financial management of publicly funded bodies. It is protected from political influence; its judges remain in office until they are 70 years old and cannot be removed without cause. Judges are nominated through national competitive exams, and members of the court nominate the court president. The court has a highly skilled professional staff. Citizens may access court decisions via the internet, at no cost, shortly after decisions are rendered.

In April 2014, the parliament created the Parliament Budgetary Office (Ufficio parlamentare di bilancio), which is tasked with assessing the government’s macroeconomic and fiscal forecasts and monitoring compliance with national and European fiscal rules. This new body plays a particularly important role during the budgetary session and enables the parliament to have its own independent source of information in evaluating government proposals. In 2016 and again in 2018, this office demonstrated its increased independence by openly contesting some of the government’s economic forecasts.

Netherlands

Score 7

The Netherlands' General Audit Chamber is the independent organ that audits the legality, effectiveness and efficiency of the national government's spending. The court reports to the States General and government, and its members are recommended by the States General and appointed by the Council of Ministers. Parliament frequently consults with this institution and in many cases this leads to investigations. Investigations may also be initiated by ministers or deputy ministers. However, such requests are not formal due to the independent status of the General Audit Chamber. Requests by citizens are also taken into account. Every year, the chamber checks the financial evaluations of the ministries. Chamber reports are publicly accessible and can be found online and as parliamentary publications (Kamerstuk). Through unfortunate timing in view of (more) important political developments, in recent years such evaluations played only a minor role in parliamentary debates and government accountability problems. By selecting key issues in each departmental domain, the General Audit Chamber hopes to improve its efficacy as instrumental advice. In addition, there is an evident trend within the chamber to shift the focus of audits and policy evaluations from "oversight" to "insight." In other words, the chamber is shifting from ex post accountability to ongoing policy-oriented learning. Unfortunately, this has been accompanied by a substantial reduction in resources for the Audit Chamber, resulting in a loss of 40 full-time employees and the need to outsource research frequently.

Citation:

http://www.rekenkamer.nl/Over_de_Algemene_Rekenkamer

P. Koning, Van toezicht naar inzicht, Beleidsonderzoek Online, July 2015

Algemene Rekenkamer, Een toekomstbestendige Algemene Rekenkamer, 13 October 2016 (rekenkamer.nl, consulted 10 November 2016)

Algemene Rekenkamer, Ambtelijke baas Algemene Rekenkamer naar Authorities Financiële Mededinging, Nieuwbericht 28 August 2017

Poland

Score 7

Poland's Supreme Audit Office (Naczelna Izba Kontroli, NIK) is accountable exclusively to the Sejm. The NIK chairperson is elected by the Sejm for six years, ensuring that his or her term does not coincide with the term of the Sejm. The Senate has to approve the Sejm's decision. The Supreme Audit Office has wide-ranging competencies and is entitled to audit all state institutions, government bodies and local-government administrative units, as well as corporate bodies and non-governmental organizations that pursue public contracts or receive government grants or guarantees. The NIK can initiate monitoring proceedings itself or do so at the request of the Sejm, its bodies or its representatives (e.g., the speaker of the

Sejm, the national president or the prime minister). It is also responsible for auditing the state budget.

From 2013 to 2019, the NIK was led by Krzysztof Kwiatkowski, who had been appointed under the PO-PSL government. While the PiS government tried to obstruct the office's functioning, the NIK was able to continue its broad audit functions in an independent and effective manner. The fact that the NIK operates professionally was demonstrated by its top showing in the competition to supervise the OECD's financial management in 2018. When Kwiatkowski's term in office ended in August 2019, the government was quick to nominate Marian Banas, a former minister of finance. While Banas was found to have provided irregular information on his income and to have contact to criminal circles in Cracow, he stayed on, and under his leadership the NIK has continued to behave professionally and independently.

Slovakia

Score 7

The Supreme Audit Office of the Slovak Republic (NKÚ) is an independent authority accountable exclusively to the National Council. The chairman and the two vice-chairmen are elected by the National Council for seven years each, and the office reports regularly and whenever requested by the council. There is an informal agreement that the chairman should be proposed by the opposition. After NKÚ Chairman Ján Jasovský's term expired in 2012, Fico's Smer-SD successfully prevented the election of a new chairman four times. In May 2015, the National Council eventually elected a new chairman, Karol Mitrik. While Mitrik was suggested by one of the opposition parties, he did not muster the support of the majority of the opposition. While the NKÚ has been active, its findings have often been conspicuously inconclusive. In a number of sensitive cases, such as overpriced cultural events and dubious commissions during Slovakia's EU presidency in the second half of 2016 or the suspicious allocation of EU funds for farmers in the Nitra Region, the NKÚ has found no crimes, but only "flaws." This recurrent pattern has raised some doubts about its independence from the government. In the period under review, however, the NKÚ has stepped up its control activities. The installation of a new planning board has increased the relevance and timeliness of its reviews, and the NKÚ has sought to expand its role in the legislative process and to widen its mandate with regard to local self-government.

Croatia

Score 6

The Auditor General is elected by the parliament (Sabor) for an eight-year mandate and can be removed by the Sabor only if he or she is unable to conduct his or her work or is convicted for a criminal act. The Audit Office reports to the Sabor at the

end of every fiscal year. It undertakes a broad range of audits (approximately 300 every year) and acts independently. Since 2019, it can also covers the operations of the Croatian National Bank (HNB) – an extension of its remit seen by the European Central Bank as compatible with central bank independence. Ivan Klesic, the auditor general, was reappointed for a further eight-year term in December 2018. The reports of the auditor general are carefully crafted, and often identify inefficiencies and irregularities in spending taxpayers’ money. The auditor general can inform the State Attorney’s Office about cases of fraud. In 2018, however, one-third of all 258 recommendations or decrees issued by the auditor general were ignored by the public entities concerned. Since 2019, the auditor general can impose fines on recalcitrant and non-compliant public entities. However, these fines remain too small to significantly alter existing behavior patterns and processes.

Citation:

ECB (2018) Opinion of the European Central Bank of 26 October 2018 on the legal framework of the State Audit Office. European Central Bank, CON/2018/45, Frankfurt, M.

Greece

Score 6

The Audit Office (Court of Audit) is an institution formally independent of the government and parliament. It is both a court that intervenes to resolve disputes related to the implementation of administrative law (e.g., civil service pensions) and a high-ranking administrative institution supervising expenses incurred by ministries and public entities.

The staff of the Audit Office is composed of judges who enjoy the same tenure and follow a comparable career path to other judges. The Audit Office submits an annual financial statement and the state’s balance sheet to the parliament. Submissions of some of these financial statements have been delayed. For example, in late 2019, the most recent financial statements available were those concerning 2016.

As in the case of selecting high-ranking judges, the government selects and appoints the Audit Office’s president and vice-presidents. Nonetheless, the Audit Office has detached itself from government control. For example, in June 2017 it declared the freezing of civil servants’ pensions to be unconstitutional; this measure had been part of the government’s plan to consolidate the state’s finances.

In early 2017, precautionary control of state finances was abolished, and the office can now conduct “focused” audits into certain agencies or categories of expenses. At the time of writing, it was still unclear whether this change would help enhance transparency in Greece’s public sector.

Citation:

Information on the Greek audit office in English is available at www.elsyn.gr

For more information on Court of Audit competences and activities see <https://www.elsyn.gr/en/index>.

Japan

Score 6 The Board of Audit of Japan is considered to be independent of the executive, legislative and judiciary. Its yearly reports to the cabinet are forwarded to the Diet along with the cabinet's own financial statements. The board is free to direct its own activities but parliament can request audits on special topics. The Board can also present opinions, reports and recommendations in between its annual audit reports. In these reports, the board frequently criticizes improper expenditures or inefficiencies, fulfilling its independent watchdog function.

The board presented an interim report to the Diet in mid-2018 on the Moritomo Gakuen scandal, a deal involving the transfer of state-owned land in which the prime minister and his wife were implicated. The report alleged serious misconduct in the Ministry of Finance, but a later report in November 2018 failed to find conclusive evidence supporting this charge.

Citation:

Colin Jones, Japan's Board of Audit: unlikely guardians of the Constitution?, The Japan Times, 4 December 2016, <https://www.japantimes.co.jp/community/2016/12/04/issues/japans-board-audit-unlikely-guardians-constitution/>

Atsushi Takahashi and Kosuke Tauchi, Board of Audit blasts ministry over 'illegal' falsified files, The Asahi Shimbun, 20 June 2018, <http://www.asahi.com/ajw/articles/AJ201806200043.html>

New Board of Audit probe fails to cut to heart of Moritomo affair, Editorial, The Asahi Shimbun, 24 November 2019, <http://www.asahi.com/ajw/articles/AJ201811240020.html>

Mexico

Score 6 The federal Superior Audit Office (ASF) was set up in 2001 to help the Chamber of Deputies, the lower house of the National Congress, and it has technical and managerial autonomy. In practice, the audit office shows a high degree of independence, but little sanctioning power. The audit office is accountable to parliament exclusively. Over the last decade, the audit office has become stronger in technical terms, but remains incapable of fully covering all relevant topics. A central problem remains impunity, a challenge which has become more and more severe over the last decade, and undermines the authority of the institution.

Citation:

OECD 2017: Mexico's National Auditing System. Strengthening Accountable Governance, <https://doi.org/10.1787/9789264264748-en>

Spain

Score 6 The Audit Office (Tribunal de Cuentas) is accountable primarily to parliament, but is not an integral part of it. The Audit Office exercises the function of auditing the state's accounts and the financial management of the entire public sector. However,

even if this organ is envisaged by the constitution as a powerful one, parliament cannot fully rely on its auditing capacities. Public accounts are submitted annually to the Audit Office, which sends an annual statement of its auditing activities to the parliament, identifying where applicable any infringements that in its opinion may have been committed, or any liabilities that may have been incurred. Most state public sector organizations deliver their accounts to the Audit Office for inspection, although many of them do so with delays. As a consequence, the annual audit statements are also published very late. The office's members are appointed by a qualified majority agreement between the parties, and thus may not be sufficiently independent – particularly when auditing the political parties' accounts. The Audit Office has in the past been slow to investigate the big financial scandals engulfing the political parties (see “Party Financing”), and has faced accusations not only of inefficiency but also of nepotism when hiring its own staff. In addition, most autonomous communities have also established courts of audit for their devolved competences.

Citation:

Tribunal de Cuentas (2019), Annual audit programme – https://www.tcu.es/tribunal-de-cuentas/en/fiscalizacion/Plan_Programa/programa-anual/

El Pais, march 2019, El informe sobre el proceso separatista rompe la unanimidad en el Tribunal de Cuentas, https://elpais.com/politica/2019/03/28/actualidad/1553792368_000635.html

Cyprus

Score 5

The auditor general is a constitutionally independent officer appointed by and reporting to the president, the highest authority in the republic. The office is equivalent to that of a Supreme Court justice. The auditor general presents an annual report to the president, who “shall cause it to be laid” before the parliament. S/he also produces other reports. Parliamentary committees invite the auditor general to their hearings. The constitution provides that the audit office shall review “all disbursements and receipts, and audit and inspect all accounts of moneys and other assets administered, and of liabilities incurred, by or under the authority of the republic.” This gives it oversight authority over all three estates, local governments and the broader public sector.

In 2019, the auditor general was involved in confrontations with other independent public offices on issues relating to the extent of his powers, damaging the credibility of the institution.

Citation:

1. Auditor-general has abused his position yet again in attack on Cyprus Mail, opinion Cyprus Mail, 2 July 2019, <https://cyprus-mail.com/2019/07/02/our-view-auditor-general-has-abused-his-position-yet-again-in-attack-on-cyprus-mail/>

Estonia

Score 5 The National Audit Office (NAO) is an independent institution defined by the national constitution. According to the constitution, the NAO is not a part of any branch of power, rather it must remain independent. Although the reports of the NAO are aimed at the national parliament, the government and the public, the parliament remains the first client. The Auditor General annually reports to the parliament on the use of public funds and on government budgetary discipline and spending.

Hungary

Score 5 The Hungarian State Audit Office (ÁSZ) is accountable only to the parliament. The Orbán government has used its parliamentary majority to take control of this body by appointing a former Fidesz parliamentarian to head the institution, and also by replacing other top officials. Nevertheless, the ÁSZ has monitored part of the government's activities rather professionally. In its campaign for the 2018 and 2019 elections, the government instrumentalized the ÁSZ by bringing it to investigate the finances of some opposition parties, so as to decrease their campaign capacity. Though, among state institutions, the ÁSZ still has a fairly large amount of independence.

Latvia

Score 5 The State Audit Office is Latvia's independent and collegial supreme audit institution. The office is constitutionally independent of parliament and the executive. It reports to parliament, which has full access to all audit findings. However, the State Audit Office does not audit the parliament itself. The parliament's Public Expenditure and Audit Committee has this responsibility. Additionally, the parliament has commissioned an external financial audit every year since 2012. In 2012, NGOs and citizens called for the parliament to subject itself to an external audit, performed either by the State Audit Office or an independent auditor, which in addition to addressing financial issues would focus on the effectiveness, efficiency and economy of the body's operations and processes. The speaker of parliament publicly rejected these proposals. A citizens' petition was circulated in 2012 aiming to place the issue on the parliamentary agenda but failed to achieve the 10,000 signatures needed.

In order to promote the responsibility of officials and company managers for their decisions, the State Audit Office has frequently called for amendments to the law, which would enable the State Audit Office to impose financial penalties on officials

who have wasted state funds. The law has been under discussion in the parliament since 2015, with repeated calls from the State Audit Office to solve the issue.

In addition, in 2019, the State Audit office made an announcement emphasizing the urgent need to marshal the state guarantee and debt discharge accounting. It was noted that if the ministries were unable to cooperate, the State Audit Office would refuse to give an opinion on the state's annual report for the financial year and call on the respective officials to take responsibility for the consequences.

Citation:

1. State Audit Office (2019) The Reluctance of Ministries Can Lead to the State Audit Office Refusing to Express an Opinion on the Annual Report of the State for Financial Year 2019, Available at:<http://www.lrvk.gov.lv/en/the-reluctance-of-ministries-can-lead-to-the-state-audit-office-refusing-to-express-an-opinion-on-the-annual-report-of-the-state-for-financial-year-2019/>, Last assessed: 05.11.2019.

2. OECD (2009), Review on Budgeting in Latvia, p. 204 and 223, Available at: <http://www.oecd.org/countries/latvia/46051679.pdf>, Last assessed: 05.11.2019

3. http://www.transparency.org/whatwedo/pub/national_integrity_system_assessment_latvia, Last assessed: 05.11.2019

Turkey

Score 4

According to Article 160 of the constitution, the Turkish Court of Accounts (TCA) is charged on behalf of the Grand National Assembly with auditing all accounts related to revenues, expenditures and properties of government departments that are financed by the general or subsidiary budgets. The court's auditing capacity was limited by the Law 6085 in 2010, but the Constitutional Court annulled Article 79 regulating how the TCA would audit the accounts of public institutions. In December 2012, the Constitutional Court also annulled the provision limiting performance auditing. Currently, the TCA has three functions: auditing, financial trials and reporting. It conducts regulatory audits and performance audits. Contrary to the Constitutional Court's decision, the current law prohibits the TCA to conduct a propriety audit. The TCA law is in line with the International Organization of Supreme Audit Institutions (INTOSAI) standards. It provides for an exhaustive audit mandate and gives the TCA full discretion in discharging its responsibilities. As of the beginning of 2019, it consists of eight departments in which 48 members and 53 reporter auditors and 10 prosecutors are employed. It also has 674 professional auditors, 416 expert auditors, 120 chief auditors, 93 auditors and 45 deputy-auditors.

The TCA reports – but is not accountable to – parliament. Parliament elects the TCA president and its members among graduates of universities or higher education institutions of law, political science, economics and administrative sciences who have served at least 16 years in public service. The auditors are selected from a pool of university graduates in the same fields through a series of written and oral examinations. If a criminal act is found during the audits and investigations, the relevant auditor notifies the president of the TCA immediately. If a public criminal

case is required, the chief prosecutor of the TCA sends the documents either to the relevant public authority or to the chief public prosecutor of the republic (prosecutors at the highest level in the country). A TCA report is taken as the basis of a trial but is shared only with those responsible and not disclosed to the public.

The court's 2018 audit report on the administrative activities of 372 public institutions, including 184 municipalities, revealed several legal deficiencies. Out of 372 public institutions, 36 did not deliver an annual activity report; 141 failed to meet the legal contents and 52 of them did not refer to any source for the information provided in these reports. Moreover, 220 public administrations did not include basic financial statements, 134 administrations did not include information about the unions, institutions and organizations that received assistance and 236 public entities did not explain discrepancies in budget targets and realizations. Turkey's Sovereign Wealth Fund, which has been directly affiliated with the president of the republic since July 2018, lies outside the scope of the TCA's supervision.

Citation:

European Commission, Turkey 2019 Report, Brussels, 29.5.2019, <https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20190529-turkey-report.pdf> (accessed 1 November 2019)

TC Sayıştay Başkanlığı, 2018 Yılı Faaliyet Genel Değerlendirme Raporu, <https://www.sayistay.gov.tr/tr/?p=2&CategoryId=98> (accessed 1 November 2018).

TC Sayıştay Başkanlığı, 2018 Yılı Faaliyet Raporu, [https://www.sayistay.gov.tr/tr/Upload/76662805/files/SAYI%C5%9ETAY%202018%20YILI%20%C4%B0DARE%20FAAL%C4%B0YET%20RAPORU-\(1\).pdf](https://www.sayistay.gov.tr/tr/Upload/76662805/files/SAYI%C5%9ETAY%202018%20YILI%20%C4%B0DARE%20FAAL%C4%B0YET%20RAPORU-(1).pdf) (accessed 1 November 2018).

"Sayıştay haberleri," <https://odatv.com/tag/Say%C4%B1%C5%9Ftay> (accessed 1 November 2018).

South Korea

Score 2

The Board of Audit and Inspection is a national-level organization tasked with auditing and inspecting the accounts of state and administrative bodies. It is a constitutional agency that is accountable to the president. It regularly reports to the parliament. The National Assembly regularly investigates the affairs of the audit office, as it does with other ministries. Demands to place the audit office under the leadership of the National Assembly, thus strengthening the institution's autonomy, have gained parliamentary support. However, tired of repeated political gridlocks and political confrontations, civil society organizations have instead proposed making the audit office independent. In its revised constitutional-reform bill, the Moon government too has proposed making the audit office independent.

Indicator

Ombuds Office

Question

Does there exist an independent and effective ombuds office?

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 = There exists an effective and independent ombuds office.
- 8-6 = There exists an effective and independent ombuds office, but its advocacy role is slightly limited.
- 5-3 = There exists an independent ombuds office, but its advocacy role is considerably limited.
- 2-1 = There does not exist an effective and independent ombuds office.

Austria

Score 10

The Austrian Ombudsman Board (Volksanwaltschaft) has three chairpersons, with one nominated by each of the three largest party groups in parliament. Parliament is required by law to select these nominees. This prevents the ombuds office from being run solely by persons handpicked by the ruling majority. The Ombudsman Board is a parliamentary instrument and reports regularly to the legislature. The chairpersons are elected for a period of six years. In contrast to the Audit Office (Rechnungshof), which had asked for more power to control the flow of political money, the Ombuds Office has stayed out of the turbulences of summer 2019. The structure and function of the Ombuds Office have not been disputed.

Denmark

Score 10

In 1955, Denmark became the third country in the world, after Sweden and Finland, to introduce the institution of the ombudsman. The ombudsman is appointed by parliament and the office is an independent institution. Distinguished law professors have held the position of ombudsman, especially in the early years. Criticisms from the ombudsman normally lead to a change in practice or policy.

Citizens can complain to this office about decisions made by public authorities. In 2017, 5,062 cases were concluded: 17.9% were rejected for formal reasons, 17.7% were investigated, and 64.4% led to other forms of processing and assistance to citizens. Again, the largest number of complaints were about municipalities (1,568 cases) and the Ministry of Justice (718 cases), with only a few complaints about the Ministry of Immigration and Integration (186 cases).

Citation:

Henrik Zahle, Dansk forfatningsret 2.

Web site of the Danish Parliamentary Ombudsman: <http://en.ombudsmanden.dk/> (re-accessed 8 October 2018).

Folketingets Ombudsmands Beretning 2017, <http://beretning2017.ombudsmanden.dk/> (Accessed 8 October 2018)

Estonia

Score 10

Estonia has a separate and independent legal chancellor who performs an ombuds function. The chancellor's task is to ensure that legislation conforms with the constitution, and that the citizen's fundamental rights and liberties are protected. Besides the constitutional review and ombudsman functions, the chancellor also fulfills the role of a national preventive mechanism for ill-treatment and an ombudsman for children. To raise an issue or forward a concern, citizens can submit a petition offline or online.

The current legal chancellor has called for politicians to address important public issues such as the comprehensiveness and readability of legal language, the equal treatment of citizens under digital government, the quality of social services, and the ill-treatment of patients in institutional care. However, while the legal chancellor can point out concerns, real intervention is only possible if the constitution has been violated.

Finland

Score 10

Parliament has an ombudsman office consisting of one ombudsman and two deputy ombudsmen. Established in 1920, it is the second-oldest ombuds office in the world and employs about 60. The officeholders are appointed by parliament, but the office is expected to be impartial and independent of parliament. The office reports to parliament once a year. Citizens may bring complaints to the office regarding decisions by public authorities, public officials, and others who perform public duties (examples of authorities include courts of law, state offices and municipal bodies). The number of complaints decided by the ombuds office in recent years has varied between 4,500 and 5,000 cases. However, in 2017, 6,415 cases were initiated, a 27% increase as compared to 2016. In 2018, this figure decreased to 5,818. A considerable number of matters have been investigated and resolved on the initiative of the ombudsman himself, who may conduct onsite investigations when needed.

Citation:

<https://www.oikeusasiamies.fi/en/web/guest/the-parliamentary-ombudsman-of-finland>

"The Parliamentary Ombudsman's 2017 Annual Report presented to the Speaker of the Parliament,"

https://www.oikeusasiamies.fi/en_GB/-/oikeusasiamies-luovutti-kertomuksensa-vuodelta-2017-eduskunnan-puhemiehelle

<https://www.oikeusasiamies.fi/documents/20184/39006/summary2018/1820f84c-019d-4f69-a36b-f16bcb61a147>.

Iceland

Score 10 The Parliamentary Ombudsman (Umboðsmaður Alþingis), established in 1997, investigates cases both on its own initiative and at the request of citizens and firms. It is independent, efficient, and generally well regarded. The office has 19 staff members, including 10 lawyers. In February 2019, Gallup reported that 55% of respondents expressed confidence in the Parliamentary Ombudsman compared with 18% confidence in parliament.

Citation:

The Parliamentary Ombudsman (Umboðsmaður Alþingis),

<http://www.umbodsmaduralthingis.is/category.aspx?catID=30>. Accessed 21 December 2018.

Gallup, <https://www.gallup.is/nidurstodur/thjodarpuls/traust-til-stofnana/>. Accessed 20th October 2019.

Norway

Score 10 Norway has a parliamentary ombudsman whose task is to investigate complaints from citizens concerning injustice, abuses or errors on the part of the central or local government administrations. The ombudsman is also tasked with ensuring that human rights are respected and can undertake independent investigations. Every year, the ombuds office submits a report to parliament documenting its activities. In general, the ombudsman is active and trusted. However, the ombudsman has recently expressed concerns that he and his office risk losing funding and the public ear, as too few of his recommendations are taken seriously and implemented.

Poland

Score 10 The Polish ombuds office, the Commissioner for Citizens' Rights, is an independent state organ and is accountable exclusively to the Sejm. The commissioner is elected for five years and can be re-elected once. The office has substantial investigative powers, including the right to view relevant files or to contact the prosecutor general and to send any law to the Constitutional Court. Because of its strong engagement for citizens' rights ever since its creation in 1987, the ombuds office has traditionally been accorded a good reputation. However, the effectiveness of the ombuds office has suffered insofar, as the institution has been assigned new tasks in the field of anti-discrimination policy, but did not achieve more funds to perform the tasks properly.

The current Ombudsman Adam Bodnar, a lawyer appointed in September 2015, has become a very active defender of civil and political rights. He was responsible for appealing the Anti-Terror Law, as well as new laws on high-ranking civil servants, the Constitutional Court and the media to the Constitutional Court. He has also been fighting for the rights of his own office, since the Sejm passed a law in 2016 that

makes it easier to remove the serving commissioner. In 2018, Bodnar was awarded the Rafto Prize for human rights work awarded by the Norwegian Rafto Foundation and, in 2019, the rule of law prize awarded by the U.S.-based foundation World Justice Project. The changes in the judicial system clearly impede his work because he cannot be sure that the Constitutional Tribunal would present objective judgments. Hence, he has declared that he will withdraw several cases in the meantime.

Bodnar's term of office will end in September 2020. However, as a new commissioner can only be elected with the consent of the Senate and the opposition holds a small majority in the Senate (51 seats), the PiS cannot install their own candidate through the Sejm only. If no new commissioner is found acceptable, Adam Bodnar will remain in office.

Citation:

Grzelak, A. (2018): Choosing between two Evils: the Polish Ombudsman's Dilemma, in: Verfassungsblog, May 6 (<https://verfassungsblog.de/choosing-between-two-evils-the-polish-ombudsmans-dilemma/>).

Sweden

Score 10

It is fair to say that Sweden invented the ombudsman institution. Sweden currently has seven ombudsmen who focus on the following: legal matters, gender equality, consumer matters, discrimination, discrimination on the basis of sexual orientation, matters related to disability and matters related to children.

The ombudsman for legal matters (JO), which has been around the longest, is appointed by the parliament, while the government appoints the other ombudsmen. Some of them are their own agencies.

Assessing the effectiveness of the ombudsmen is a difficult task. Their mission is not only to follow up on complaints but also to form opinion in their area of jurisdiction. Their position in the political system and in society appears to be quite strong.

Australia

Score 9

A Commonwealth Ombudsman was established in 1977. Its services are available to anyone who has a complaint about an Australian government agency that they have been unable to resolve. Its charter states that it will investigate complaints where appropriate, deal with complaints in an impartial and effective way, achieve fair outcomes, seek appropriate remedies and promote improved administration by Australian government agencies. Its services are free of charge. There are further ombudsmen in all six states and the Northern Territory, which operate on similar principles, as well as a variety of issue-specific ombudsmen.

Citation:

<http://www.ombudsman.gov.au/>

<http://www.smh.com.au/business/consumer-affairs/private-health-insurance-ombudsman-turned-aggrieved-customers-back-to-medibank-20160622-gpovtk.html>

<https://www.smh.com.au/business/small-business/a-very-unusual-case-financial-ombudsman-service-s-failings-laid-bare-before-royal-commission-20180528-p4zhwo.html>

Belgium

Score 9

The independent federal ombuds office was established in 1995. The goal of the office is to have direct contact with citizens and inform them of the administrative process if need be and collect complaints against the administration. Parliament elects members of the ombuds office, but after their election, ombudsmen are totally independent and autonomous from government. The office makes a public report to parliament every year (6,892 complaints and information demands were addressed in 2015, in comparison with 7,018 in 2014). However, the ombudsman's role is only informative and deals with facilitation or advocacy; it has no coercive power.

Some difficulties occur when a complaint touches upon an issue which concerns both federal and regional or community authorities. Regional authorities have their own ombuds offices, also established in the 1990s and early 2000s. Hence, some overlap occurs.

Citation:

<http://www.federaalombudsman.be/homepage>

Czechia

Score 9

The Office of the Public Defender of Rights serves as a vital protector of civil rights. It delivers quarterly reports and annual reports on its activities to the Chamber of Deputies, including recommendations on where laws could be changed and report on not fulfilled recommendations. The office also annually evaluates the extent to which these recommendations were followed. It produces detailed reports on cases it investigates, indicating when laws have been transgressed to the extent that the damaged parties have a solid basis for seeking redress. In the last quarter of 2018 and the first three quarters of 2019, the office received about 7,947 complaints, of which 5,563 (70%) were within the Defender's mandate. A total of 5,533 complaints were settled. Among its various tasks, the Defender monitors efforts to repatriate asylum-seekers.

Greece

Score 9

The Ombuds Office is one of the most well-organized public services in the country. The Greek ombudsperson is appointed by a group of high-ranking parliamentarians and obliged to report to the parliament by submitting an annual report.

The ombudsperson receives and processes complaints from citizens who are frequently caught in the web of the sprawling Greek bureaucracy. Depending on the complaint at hand, the Ombuds Office can intervene with the central, regional and local bureaucracy. The staff of the Ombuds Office can pressure the government to change existing legislation and also inform the prosecutor's office of any uncovered criminal offenses committed by administrative employees and officials. The Ombuds Office remains popular with Greek citizens, who turn to it in the frequent instances when they are treated unfairly or improperly by public services.

Citation:

Information in English on the Greek "ombuds office" is available at <https://www.synigoros.gr/?i=stp.en>

Luxembourg

Score 9

The Ombuds Office launched in May 2004, and residents have sought guidance from this government office since. The service is typically used more by foreigners than by nationals. In 2017, the ombudsman dealt with 1,149 requests (compared to 743 in 2015). Like ombuds offices elsewhere, the ombudsman can issue recommendations to government and parliament, but cannot take issues to court. In addition, the ombudsman is responsible to the parliament.

Luxembourg nationals have plenty of recourse when problems with the government administration arise, but the situation is not as simple for foreigners. Even though the country's labor market is the most transnational in the European Union, there are still numerous obstacles for migrants. Thus, the ombudsman has for years dealt with a number of migration issues.

Among the existing institutions that offer ombuds services (the Ombuds Office, the Office for Children's Rights, the Office for Equality Rights (based on EU directives 2000/43 and 2000/78) and the Human Rights Commission), the Ombuds Office is best equipped in terms of budget and staff and is most frequently used. The office has a good track record of finding solutions to problems, has issued a number of recommendations and monitors the implementation of the office's recommendations. Since 2017, the ombudsperson has been Claudia Monti.

Citation:

"WELCOME TO OMBUDSMAN.LU." <http://www.ombudsman.lu/index.php?page=accueil&lang=en>. Accessed 23. Oct. 2019.

New Zealand

Score 9

New Zealand was the fourth country in the world to establish an Office of the Ombudsman (in 1962). Ombudsmen are officers of Parliament. Each ombudsman is appointed by the governor-general on the recommendation of parliament. Ombudsmen are responsible to parliament and independent of the government. Their

overall purpose is to investigate, review and inspect the administrative conduct of public sector agencies and provide advice and guidance in order to ensure people are treated fairly in New Zealand. The office is highly effective in terms of formally or informally resolving complaints. In 2018-2019, 11,886 complaints were received, of which 11,793 had been completed by the time the annual report was published.

Citation:

Office of the Ombudsman, Annual Report 2018/19 (<http://www.ombudsman.parliament.nz/resources-and-publications/corporate-documents/annual-reports>)

Bulgaria

Score 8

There is a national ombuds office (the Ombudsperson of the Republic of Bulgaria), which is not part of parliament, but is elected by parliament for five years. The Ombudsperson is independent in its activities and is subject only to the constitution, laws and international treaties adopted by Bulgaria. Other than putting arguments to the relevant administrative body and making its opinion public, however, the office has no formal powers.

The ombuds office's reports indicate an increase in the number of citizens contacting the office and the number of formal complaints filed with the office over recent years. Over the last four years, Ombudsperson Maya Manolova has been very publicly active, significantly raising the office's profile and degree of public recognition. However, Manolova resigned in September 2019, a year before the end of her term, to run for mayor of Sofia. Thus, parliament will have to elect a new ombudsperson.

Ireland

Score 8

The Office of the Ombudsman investigates complaints about the administrative actions of government departments, the Health Services Executive and local authorities. Ireland largely follows the Scandinavian ombudsman model. The ombudsman acts in the public interest as part of an overall system of checks and balances, as representing and protecting the people from any excess or unfairness on the part of government. The ombudsman reports to parliament at least twice a year.

Only twice in the 25-year history of the Office of the Ombudsman have its recommendations been rejected by government. In 2009, the ombudsman was invited to appear before the relevant parliamentary committee to explain her views on the matter. The fact that this sort of conflict has arisen so rarely, and when it did it attracted so much publicity, is evidence that the office generally operates effectively and has its findings accepted by parliament.

In addition to the main Office of the Ombudsman, there are separate ombudsmen for the national police force (the Garda Síochána Ombudsman Commission, GSOC),

financial services, children, insurance, the army, the press and pension issues. These offices are effective in listening to the concerns of citizens in their dealings with government agencies.

Israel

Score 8

The state comptroller also serves as the state ombudsman. Under this role, the office is authorized to investigate complaints raised by the public regarding ministries, local authorities, state institutions and government corporations. Citizens may file a complaint free of charge if they believe that they were directly or indirectly harmed by an act or an activity of the government; if an act is against the law, without lawful authority, or violates principles of good governance; or if an act is unduly strict or clearly unjust. The office is not obliged to investigate complaints against the president of the state; the Knesset, its committees, or its members if the complaint refers to acts related to official duties; or a number of other similar issues.

According to the state ombudsman's latest report in 2019, the number of complaints submitted has risen at a steady pace of 7% annually over the past three years. In 2019, a total of 14,461 complaints were submitted. Of these, 13,617 were within the state ombudsman's authority to review (i.e., they were against public institutions). Of those, 35.24% were found justified and thus properly processed. The report also mentions that even in this regard there is a rising trend over the past three years. In 2018, the state ombudsman finished processing 15,267 complaints (some apparently were submitted in the year prior). Of these, 12,967 were within the state ombudsman's authority to review of which 42.5% were rectified, 16.3% were complaints in which the submitter needed to provide more details or follow the complaint procedures of the respective institution before the ombudsman could handle the complaint, 12.3% were closed without a decision from the state ombudsman (e.g., the respective institution rectified the problem for the complainant, rendering the state ombudsman's involvement in the issue unnecessary) and 28.9% were found unjustified. In his latest report, the state ombudsman also included demographics about the submitters of complaints.

The other body to be mentioned is the Commissioner for Soldiers' Complaints. Though authorized to handle complaints regarding the IDF only (specifically, complaints about injustices done to soldiers or soon-to-be-soldiers by the IDF), the authorization to submit a complaint is very wide and covers a variety of issues. In 2018, the institution expressed a degree of independence previously uncharacteristic of it by publishing Commissioner Isaac Brick's 2017 and last report. In it, Brick criticized the IDF's lack of readiness for a potential future armed conflict. However, Brick has since left the office and has been temporarily replaced by Eitan Dahan, the Security System's internal comptroller, until an official commissioner can be appointed. In his 2018 report, the commissioner received 6,749 complaints (compared to 7,002 in the previous year), of which 61.31% were found justified.

Citation:

Comptroller and the Ombudsman official website: <http://www.mevaker.gov.il/sites/Ombudsman/Pages/default.aspx?AspxAutoDetectCookieSupport=1> (Hebrew).

Israel. The Commissioner for Soldiers' Complaints. Annual Report 46, 2017. Tel Aviv: The Security Ministry Press, 2018 (Hebrew): <http://www.nakhal.idf.il/1073-he/Nakhal.aspx>

Israel. The Commissioner for Soldiers' Complaints. Annual Report 47, 2018. Tel Aviv: The Security Ministry Press, 2019. Retrieved from: <https://www.mod.gov.il/nakhal/Pages/Reports.aspx> (Hebrew)

Israel. The State Ombudsman. Annual Report 45 for the Year of 2018. June 24th, 2019. Retrieved from <https://www.mevaker.gov.il/sites/DigitalLibrary/Pages/Publications/277.aspx> (Hebrew)

Lev Ram, Tal. "The Commissioner for Soldiers' Complaints to Liberman and Eizenkot: The IDF isn't Ready for War." Ma'ariv Online. July 13th, 2018 (Hebrew): <https://www.maariv.co.il/news/military/Article-661030>.

Limor, Yoav. "'The IDF is in Peak Preparedness, the Commissioner for Soldiers' Complaints is Wrong.'" Israel Hayom. September 19th, 2018 (Hebrew): <https://www.israelhayom.co.il/article/588377>.

Office of the Ombudsman brochure: http://www.mevaker.gov.il/he/Ombudsman/Guidecomplainant/Documents/ntz_english.pdf

"Security System Comptroller Eitan Dahan Appointed as Stand-In Commissioner for Soldiers' Complaints." In Maariv website. January 9th, 2019. (Hebrew)

"The Ombudsman yearly review number 43 for 2016," The State comptroller Website (Hebrew), <http://www.mevaker.gov.il/he/Reports/Pages/591.aspx>

The State comptroller and Ombudsman of Israel. Website: State [http://www.mevaker.gov.il/\(X\(1\)S\(5rxc1pa0jpc1qkpdphupj5p\)\)/En/Pages/default.aspx?AspxAutoDetectCookieSupport=1](http://www.mevaker.gov.il/(X(1)S(5rxc1pa0jpc1qkpdphupj5p))/En/Pages/default.aspx?AspxAutoDetectCookieSupport=1)

Ziton, Yoav, and Yaron Drukman. "The Complaints Commissioner Warns of Deficiencies in the Readiness for War: 'You Will Fall Off Your Feet from the Reports.'" In Ynet. June 25th, 2018 (Hebrew): <https://www.ynet.co.il/articles/0,7340,L-5296079,00.html>.

Ziton, Yoav. "The Outrage of the Harsh Report Over the IDF's Readiness for War: 'There were Negligence, Carelessness and Unacceptable Behaviour [lit. "Unworthy Culture"].'" Ynet. September 26th, 2018 (Hebrew): <https://www.ynet.co.il/articles/0,7340,L-5358401,00.html>.

Lithuania

Score 8

The parliament has several ombuds offices, including the general ombudsmen's office, with two appointed ombudspersons, and the special ombudsman's offices on Equal Opportunities and Children's Rights. These institutions supervise state institutions, with a particular focus citizens' human rights and freedoms. They engage in public advocacy on behalf of citizens, and initiate certain actions, but as a group the ombuds offices lack sufficient legal authority to act as a single national institution for human rights. In 2017, these offices became accredited by the United Nations as a national institution of human rights matching the Paris principles. The effectiveness of these ombuds offices has depended on the interplay of several factors. First, citizens have shown at best mixed interest in pursuing complaints through these offices, although the number of complaints remained high in recent

years (the highest number of complaints, 1,805, was registered in 2014, with about half of complaints typically recognized as valid). Second, the offices adopted a more proactive attitude toward investigations, focusing on the most significant violations of human rights (e.g., in prisons and other detention facilities). Third, although most of the offices' recommendations are implemented (up to 95%), some state and municipal institutions are sometimes unwilling to take adequate action in response to the recommendations.

Citation:

LR Seimo kontrolierių įstaiga, Lietuvos Respublikos Seimo kontrolierių – Nacionalinės žmogaus teisių institucijos – 2017 metų veiklos ataskaita, 2018.

Netherlands

Score 8

The National Ombudsman is a “high council of state” on a par with the two houses of the States General, the Council of State and the Netherlands General Audit Chamber. Like the judiciary, the high councils of state are formally independent of the government. The National Ombudsman’s independence from the executive is increased by his/her appointment by the States General (specifically by the Second Chamber or Tweede Kamer). The appointment is for a term of six years, and reappointment is permitted. Recently, irked by the critical attitude of the former ombudsman, parliament made a series of stumbles, first by nominating a former interest-group leader to the post, who resigned after much public criticism; then 13 months passed before the present ombudsman, a renowned judge, formally took over. The National Ombudsman office was established to give individual citizens an opportunity to file complaints about the practices of government before an independent and expert body. Where the government is concerned, it is important to note that the National Ombudsman’s decisions are not legally enforceable. The ombudsman publishes his or her conclusions in annual reports. The ombudsman’s tasks are shifting toward providing concrete and active assistance to citizens who – due to debt and poverty, digitalization and other problems with access to government regulation – have lost their way in the bureaucratic process. On such issues, the ombudsman’s reports have in recent years become harsher in their judgments, as was the case for his forerunner. The national ombudsman is assisted by deputies tasked with addressing problems facing children and veterans.

Citation:

De Nationale Ombudsman, Mijn onbegrijpelijke overheid. Verslag van de Nationale ombudsman over 2012.

De Nationale Ombudsman, Persoonlijk...of niet? Digitaal...of niet? (jaarverslag.nationaleombudsman.nl, consulted 6 November 2014)

<http://www.nationaleombudsman.nl/?gclid=CMPv8vGltrcCFcIz3godZH0AkQ>

Jaarverslag Nationale Ombudsman, 2017, Tweede Kamer, vergaderjaar 2017-18, 34 890, nr. 2

Ombudsagenda, 2019. (Nationale ombudsman, accessed 8 November 2019)

Slovenia

Score 8 In addition to the parliament's Commission for Petitions, Human Rights and Equal Opportunities, there is an independent ombudsman, who is accountable exclusively to parliament. The ombudsman is elected by parliament for a term of six years and reports regularly to the legislature. Like his predecessor, Vlasta Nussdorfer, who served from 2013 to 2019, he enjoys a good reputation and is quite effective in settling issues. As with previous ombudspersons, however, Svetina's role has been occasionally constrained by the lack of interest among members of parliament and ministerial inactivity.

United Kingdom

Score 8 The system of ombudsmen has been expanded over the last years. There are now four different ombudsmen that handle complaints about the civil service in each country within the United Kingdom, namely the Public Services Ombudsman for Wales, Scottish Public Services Ombudsman, Northern Ireland Ombudsmen and Commission for Local Administration in England. Further, there is a Parliamentary Health and Service Ombudsman (PHSO) who mainly deals with complaints concerning the National Health Service in England and a Housing Ombudsman who looks at complaints about social housing. However, all ombudsmen's offices are limited in staff, resources and access to information. For example, ombudsmen have no formal power to see cabinet papers.

A parliamentary consultation in 2015 recommended the merger of ombudsmen into one integrated office of the Public Service Ombudsman (PSO). A draft of that bill was published by the government in December 2016, and was examined by the Housing, Local Government and Communities Committee in an inquiry published in March 2017. It has, however, still not come into force.

Citation:

<https://www.gov.uk/government/consultations/public-service-ombudsman>

France

Score 7 Parliament has no ombuds office but plays a key role in the functioning of the (former) Ombudsman office. Until 2011, the médiateur (ombudsman) could intervene in cases of procedural faults and administrative problems at the request of individuals but only through the mediation of a parliamentarian. The purpose was to try to solve as many problems as possible through the intervention of elected representatives, and to ask the ombudsman to step in only if the issue could not be addressed or solved in a satisfactory way. In 2011, the office was merged with other

independent authorities to form a new body (Le Défenseur des Droits). This new agency is active and respected having demonstrated its independence vis-à-vis the administration and government. However, it has not affected the role of parliamentarians in the process and they continue to channel citizens' requests.

Germany

Score 7

The standing parliamentary petitions committee is provided for by the Basic Law. As the “seismograph of sentiment” (annotation 2 Blickpunkt Bundestag 2010: 19; own translation), the committee deals with requests and complaints addressed to the Bundestag based on every person's “right to address written requests or complaints to competent authorities and to the legislature” (Basic Law Art. 17). It is able to make recommendations as to whether the Bundestag should take action on particular matters. Nonetheless, its importance is limited and largely symbolic. However, the committee at least offers a parliamentary point of contact with citizens. According to its 2019 report, some 13,189 petitions were submitted, an increase of about 15% compared to the year before. Two additional parliamentary ombudsmen are concerned with the special requests and complaints made by patients and soldiers.

Citation:

<https://www.bundestag.de/dokumente/textarchiv/2019/kw20-de-petitionsbericht-641584>

Malta

Score 7

The ombudsman is elected by a two-thirds majority of the House of Representatives, and is held in high esteem by the public. A recent Venice Commission report stated that the institution was independent, autonomous and credible. The appointment of three commissioners (on the environment and planning, health and education) to investigate complaints as well as the office's wide-ranging powers to initiate inquiries considerably increased its standing as a watchdog for good governance. A secondary function of the ombudsman is to act as a catalyst for improving public administration. The ombudsman has stated that in pursuing these initiatives he has generally found collaboration from ministries, government departments and public authorities and that there have even been cases where public authorities have sought his advice. The Ombudsman Office, however, is not empowered to deal with human-rights complaints and its recommendations are not binding. A recent clarification confirmed that the office has jurisdiction over complaints emanating from the armed forces of Malta. In his 2017 report, the ombudsman drew attention to the lack of jurisdiction his office has over privatized entities, particularly in the health and energy sectors, and the need for a remedy. He also drew attention to the problem of obtaining information from government on sensitive issues. In a recent report presented to parliament, the ombudsman reiterated the same issues, while complaining of the lack of respect accorded to office by the public administration. In his 2018 case notes presented to parliament, he also complained that parliament was failing to act on investigative reports handed over for remedial action. The

ombudsman has further recommended that the office be granted a constitutional mandate and be accorded the same protection as that of the auditor general; that parliament be obliged to debate its reports; that a deputy ombudsman be appointed to strengthen the office; and that the remit of the office be extended, allowing it to investigate the public administration's administrative actions, inactions, decisions and processes.

Citation:

Aquilina, K. Strengthening the Ombudsman's office. Times of Malta 14/08/12

On the Strengthening of the Ombudsman Institution: A Proposal by the Office of the Parliamentary Ombudsman January 2014 Ombudsman.org.mt

The Parliamentary Ombudsman The Independent 27/11/2016

Ombudsman against making his own recommendations enforceable by law The Independent 04/01/2016

Parliamentary Ombudsman Annual Report 2016

Parliamentary Ombudsman Annual Report 2018

Ombudsman Case notes 2018 Edition 38

Ombudsman Plan 2020

Portugal

Score 7

There is a judicial ombudsman (Provedor de Justiça), which is situated in the judicial system. It serves as the advocate for citizens' interests. It was created in 1975 and has displayed an increasing level of activity.

The ombudsman's office report (relatório) for 2018 to the parliament reports that the office received 48,129 requests for assistance and initiated 9,338 processes, which is an increase of 20% over the previous year. According to the report, its level of activity is the highest it has been since its creation in 1975. The ombudsman, Maria Lucia Amaral, who has been in the position since 2017 is also head of the National Institute for Human Rights and the National Mechanism for the Prevention of Torture, both of which exist in fulfillment of U.N. agreements.

Slovakia

Score 7

In addition to the Petitions and Complaints Office of the National Council, there is an independent ombudsman, the Public Defender of Rights, who is accountable exclusively to the Council. The Public Defender is elected by the Council for a term of five years and reports regularly to it. The current ombudsperson – Mária Patakyová, a law professor at Comenius University in Bratislava nominated by Most-Híd – was appointed in 2017. Like her predecessor, Patakyová has taken her advocacy role seriously. In 2018, she announced that she would focus on education rights and the right to compensation for Roma women subject to unlawful sterilization. As in previous years, Patakyová participated in the Pride Parada in Bratislava in 2019 and has actively defended LGTBI rights. She also participated actively in the United Nation's Orange the World campaign: Generation Equality Stands against Rape! on 25 November 2019. Moreover, she supports measures that will allow Slovak citizens living abroad to vote in all elections, not only in parliamentary elections.

Spain

Score 7

Article 54 of the constitution regulates the Office of the Ombudsperson (Defensor del Pueblo) as a high commissioner's office whose holder is appointed by the parliament to respond to requests, and to protect and defend basic rights and public freedoms on behalf of all citizens. He or she is authorized to supervise the activities of the government and administration, expressly forbidding any arbitrariness. The ombudsperson is elected by both the Congress and the Senate for a five-year period (thus avoiding coinciding with the legislative term of four years) by a qualified majority of three-fifths. The office is not subjected to any imperative mandate, does not receive instructions from any authority, and performs its functions autonomously. The officeholder is granted immunity and inviolability during his or her time in the post.

Almost 75% of the recommendations made by Spain's Ombudsperson are accepted by the public administration. However, its advocacy role is slightly limited by two factors: 1) a lack of resources, and 2) inadequate departmental collaboration. Since 2017, there has been only an acting ombudsperson, since political parties have been unable to agree on an appointee. Several autonomous communities also have their own ombuds offices.

Citation:

Ombuds office (2019), Informe 2018

<https://www.defensordelpueblo.es/informe-anual/informe-anual-2018/>

El Pais (2019), El Defensor del Pueblo critica la descoordinación entre ministerios con competencias migratorias, https://elpais.com/politica/2019/06/11/actualidad/1560257063_308589.html

Canada

Score 6

The federal government, unlike some provinces, does not have an organization called an ombuds office, but it does have certain organizations that are functional equivalents. These include the Access to Information Office and the office responsible for the protection of whistleblowers. However, the advocacy role of these organizations is limited. There are two ombuds offices with special mandates, the Office of the Ombudsperson for the Department of National Defense and the Canadian Forces, and the Federal Ombudsperson for Victims of Crime. Other mechanisms that more informally fulfill an ombuds role include departmental units responsible for investigating appeals of decisions related to social programs such as employment insurance and pensions, and the offices of members of parliament, which frequently act as champions for the interests of individual constituents. In 2019, the Trudeau administration announced the creation of a third ombuds office, the Ombudsperson for Responsible Enterprise. The office will be responsible for Canadian businesses both domestically and abroad.

Mexico

- Score 6** During its process of political liberalization, Mexico established an Ombudsman's Office in 1992. The office is generally respected, and the ombudsman can, and sometimes does, criticize government policy. In 2007, the ombudsman publicly advised President Calderón not to use the army in counter-narcotics activities. Calderón nevertheless sent troops in, which provoked an ongoing discussion on the army's domestic tasks. More recently, the limited de facto power of the institution has become visible particularly in the field of domestic security (e.g., drug crime, human rights abuses). In short, while Mexico has an independent and respected Ombudsman's Office, it is not necessarily powerful, particularly against the backdrop of an unprecedented spread of violence in recent years. Under the new government of López Obrador, the ombudsman is a loyal MORENA supporter, which has led to criticism of the office's lack of independence.

United States

- Score 6** Congress does not have an ombuds office, as such. Its members, who cultivate close ties with their state or district constituencies, effectively function as a collective ombuds office. Members of Congress each have several staff members who deal full-time with constituents' requests for service. The total number of staffers engaged in constituency service is at least in the range of 2,000 to 3,000 individuals. A weakness of this arrangement is that it is somewhat informal and the coordination and management of staffers is left up to the individual congressional office. Government agencies do not suggest that clients encountering difficulties contact their senator or representative for assistance, and the constituency-service staff does not develop specialized expertise, except for the most common categories of request. In addition, because the acquisition of experience is massively disaggregated, without any systematic collation of information from the 535 congressional offices, congressional staff are less able to identify general policy or administration problems than an actual ombuds office would be. Congress retains this inefficient organization for dealing with citizens' problems because it enables the legislators to gain individual political credit for providing services.

Croatia

- Score 5** The institution of the People's Ombudsman was introduced with a special constitutional law in 1992, and the first ombudsman started his mandate in 1994. According to Article 2 of the Ombudsman's Act, the Ombudsman is "a commissioner of the Croatian Parliament for the promotion and protection of human rights and freedoms laid down in the constitution, laws and international legal acts

on human rights and freedoms accepted by the Republic of Croatia.” He or she is appointed by the Croatian parliament (Sabor) for a term of eight years and can be reappointed. In 2003, separate ombudspersons for children and gender equality were established. In 2008, an Ombudsperson for Persons with Disabilities followed. Croatia thus has a differentiated system of ombudspersons. In order to foster cooperation among them, a special agreement was signed by all ombudspersons in 2013.

In 2018, unlike in the previous year, the Sabor endorsed the annual reports of all ombudspersons. Lora Vidović, the current ombudsperson for human rights, made more than 200 recommendations for improving the enforcement of human rights. It is encouraging that the 2018 Annual Report states that 65% of recommendations issued by the People’s Ombudsman (PO) were taken into account by various state bodies, significantly more than in 2017. However, the PO listed five fundamental social problems that strongly affected the status of human rights in Croatia: poverty, lack of information about the rights, unequal access to the rights, lack of trust in institutions, and intolerance and lack of dialogue. Notwithstanding the parliamentary endorsement, however, many government institutions do not react promptly to the Ombudsman’s requests, with requests often left pending for considerable time. Even more worryingly, the Ombudsman Lora Vidović reported several times that the Ministry of the Interior had repeatedly denied her access to information relating to police treatment of migrants.

Hungary

Score 5

Hungary has an Ombudsman of Basic Human Rights, elected by parliament. The Ombudsman Office (AJBH) has been rather busy in small individual legal affairs, but it has not confronted the government about serious violations of civil and political rights. Unlike their much-respected predecessors, the former and acting ombudsmen, László Székely and Ákos Kozma, both appointed by the Orbán government, have not served as an effective check on the government and have not become important public figures.

Japan

Score 5

While there is no national-level ombuds office as such, both houses of parliament handle petitions received through their committees on audit and administrative oversight. Citizens and organized groups also frequently submit petitions to individual parliamentarians.

An important petition mechanism is located in the Administrative Evaluation Bureau of the Ministry of Internal Affairs and Communications. The bureau runs an administrative counseling service with around 50 local field offices that can handle

public complaints, with some 220 civil servants engaged in administrative counseling. In 2017, about 156,000 cases were addressed through this administrative counseling function. About 5,000 volunteer administrative counselors serve as go-betweens. A related mechanism is the Administrative Grievance Resolution Promotion Council, which includes non-governmental experts.

Citation:

Administrative Evaluation Bureau, News from Japan, accessed in November 2018 from Asian Ombudsman Association website <http://asianombudsman.com/>

Administrative Evaluation Bureau, Japanese Ombudsman System, March 2018

South Korea

Score 5

The South Korean parliament does not have an ombudsman office but the Ombuds Office of the Anti-Corruption and Civil Rights Commission of Korea (ACRC) may be seen as a functional equivalent to a parliamentary ombuds office. The Improper Solicitation and Graft Act, which was initiated by the ACRC, has had a huge impact in changing the culture. The commission's independence is guaranteed by law, but the standing members of the commission are all appointed by the president. Most ACRC members are drawn from the legal profession, which could limit its ability to serve proactively and independently as an ombuds office in diverse areas. People can also petition the government directly without approaching the parliament or the ombudsman. A Foreign Investment Ombudsman (FIO) system hears complaints by foreign companies operating in Korea. The FIO is commissioned by the president on the recommendation of the Minister of Trade, Industry and Energy, via the deliberation of the Foreign Investment Committee. The FIO has the authority to request cooperation from the relevant administrative agencies and recommend the implementation of new policies to improve the foreign-investment promotion system. It can also carry out other tasks needed to assist foreign companies in resolving their grievances.

Citation:

Anti-Corruption and Civil Rights Commission of Korea (ACRC), www.acrc.go.kr

Office of the Foreign Investment Ombudsman, ombudsman.kotra.or.kr

Cyprus

Score 4

The constitution does not provide for an ombuds office. Instead, it was established by Law 3/1991 as the Office of the Commissioner for Administration and Human Rights. The president of the republic appoints the commissioner upon the recommendation of the Council of Ministers, subject to prior approval by the parliament. The commissioner presents an annual report to the president, with comments and recommendations. Copies of the report, investigative reports and activity reports are made available to the Council of Ministers and to the parliament.

Excluded from the commissioner's oversight are the House of Representatives, the president of the republic, the Council of Ministers, ministers themselves, courts (including the Supreme Court) and other officials.

Citation:

1. Office of the Commissioner for Administration and Human Rights, http://www.ombudsman.gov.cy/Ombudsman/ombudsman.nsf/index_en/index_en?opendocument

Turkey

Score 4

A law establishing a Turkish ombudsman office, called the Public Monitoring Institution (KDK), was adopted in June 2012 and went into force in December 2012. The office is located within the Parliamentary Speaker's Office and is accountable to parliament. The ombudsman reviews lawsuits and administrative appeals (from the perspective of human rights and the rule of law) and ensures that the public administration is held accountable. In 2018, it received 17,585 new applications, almost similar to the previous year. It concluded 17,615 cases and adopted 677 full or partial recommendations. According to the KDK itself, two main obstacles hamper the efficacy of its work. First, the degree of compliance with its decisions has been low, with only 20% of its released decisions having been obeyed by public administrative bodies. Second, under the current law, the KDK cannot conduct inquiries on its own initiative. The EU Commission has pointed to the fact that the KDK still lacks ex officio powers to initiate investigations and to intervene in cases with legal remedies, which therefore curtail its effective impact.

Citation:

European Commission, Turkey 2019 Report, Brussels, 29.5.2019, <https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20190529-turkey-report.pdf> (accessed 1 November 2019)

T.C. Kamu Denetçiliği Kurumu 2018 Yılı Faaliyet Raporu, <https://www.ombudsman.gov.tr/idare-faaliyet-raporlari/kdk-faaliyet-raporu-2018/mobile/index.html#p=72> (accessed 1 November 2019)

Chile

Score 3

The congress does not have a formal ombuds office. Efforts to establish such an office failed twice under previous governments. However, the National Congress and its members listen informally (but not systematically) to concerns expressed by citizens and public advocacy groups, inviting them to congressional hearings. In general terms, direct-democratic elements in Chile are quite weak.

However, the first public and autonomous ombudsperson's office on a special issue was installed in 2018. In compliance with the act establishing the Office for the Defense of Children's Rights (18 April 2018), the Senate of the Republic of Chile, at the proposal of the Senate's Human Rights Commission, unanimously appointed the first children's ombudsperson.

:

Ombudsperson on Children's Rights

<http://www.ilo-defensordelpueblo.org/noticias-blog/236-chile-senado-de-la-republica-designa-la-primera-defensora-de-la-ni%C3%B1ez>

Italy

Score 3 Italy does not have a national ombuds office. Some functions are performed by regional ombudsman offices (difensore civico). Through questions and other oversight instruments, members of parliament perform with significant vigor an analogous advocate's function with regard to issues and complaints raised by citizens.

Citation:

Russo, F. & M. Wiberg (2010). Parliamentary Questioning in 17 European parliaments: Some steps toward comparison. *The Journal of Legislative Studies*, vol. 16(2), pp. 215-232

Latvia

Score 3 The parliament does not have its own ombuds office, but does have a committee for ethics and petitions. This committee fields all submissions from individuals and NGOs, including collective petitions which have reached the 10,000-signature threshold.

An independent ombuds office was created in 2007 following the reorganization of the Latvian National Human Rights Office. The ombuds office is charged with investigating citizens' complaints, monitoring human rights and proposing governmental action to address systemic issues. Since 2011, the ombuds office has been active in monitoring social care facilities for the disabled, closed institutions, access-to-justice failings, issues of equal access to free education, and discrimination against women as well as raised public awareness on hate speech. In 2018, the ombuds office received 1,716 complaints, 45 of which were investigated. The ombuds office reports annually to parliament.

Citation:

1. Ombudsman of Latvia Annual report (2018) Available at (in Latvian): http://www.tiesibsargs.lv/uploads/content/tiesibsarga_2018_gada_zinojums_1550749223.pdf, Last assessed 05.11.2019

Romania

Score 3 The Romanian Ombudsman was established in 1991 after the ratification of the country's first post-communist constitution and is appointed by both chambers of parliament for a term of five years. In mid-2019, Renate Weber replaced the very controversial Victor Ciorbea, who had ignored the concerns of ordinary citizens and championed those of politicians, as Romania's Ombudsperson. As was the case with Ciorbea, Weber is a lawyer. She was appointed for a five-year mandate, with the

possibility of being renewed only once. Weber was nominated by the junior ruling partner, ALDE. Observers hope that she will break with Ciorbea's legacy and strengthen the office by making it more independent from the Social Democrats.

Switzerland

Score 2

There is no ombuds office at the federal level in Switzerland. However, some cantonal administrations do have an ombuds office.

Indicator

Data Protection Authority

Question

Is there an independent authority in place that effectively holds government offices accountable for handling issues of data protection and privacy?

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 = An independent and effective data protection authority exists.
- 8-6 = An independent and effective data protection authority exists, but its role is slightly limited.
- 5-3 = A data protection authority exists, but both its independence and effectiveness are strongly limited.
- 2-1 = There is no effective and independent data protection office.

Estonia

Score 10

The Data Protection Inspectorate (DPI) is responsible for protecting citizens' privacy and personal data, and ensuring transparency of public information. The inspectorate works under the framework of the Personal Data Protection Act and the Public Information Act. The inspectorate is also responsible for ensuring compliance with the European Union's GDPR. The director general has can impose legally binding decisions and law-enforcement measures, and delegate powers to other officers of the inspectorate. The director general reports directly to the Constitutional Committee of the Riigikogu and to the chancellor of justice. As a law-enforcement agency, the DPI can issue proposals or recommendations to terminate infringements, issue binding precepts, impose coercive payments or fines, or apply for criminal proceedings. In addition, the DPI acts as an educator and consultant, answering citizens' queries and contributing to public awareness of data use.

:

Annual Report of Director General 2018. Executive summary <https://www.aki.ee/en/inspectorate/annual-reports> (accessed 22.10.2019)

Finland

Score 10

There are two data protection authorities in Finland: the Data Protection Board and the Data Protection Ombudsman. Affiliated to the Ministry of Justice, the Data Protection Board is the most important decision-making agency concerning personal data issues. The Data Protection Ombudsman supervises the processing of personal data according to the objectives of the Personal Data Act 1999. The office has about 40 employees, and can be called upon for guidance in private matters or to advise organizations.

Citation:

Ministry of Justice, "The Data Protection Board," <https://oikeusministerio.fi/en/the-finnish-data-protection-board>
Finlex "Personal Data Act (523/1999)," https://www.finlex.fi/en/laki/kaannokset/1999/en19990523_20000986.pdf
The Data Protection Ombudsman, <https://tietosuoja.fi/en>

France

Score 10

Data protection in France has a rather long history. The extremely active CNIL (Commission Nationale Informatique et Libertés) dates back to 1978. Its board of 17 members is appointed by the two chambers of the parliament. The board then elects its president. The CNIL enjoys the status of an Independent Regulatory Agency. It has five main functions, namely to: inform the public on personal data protection; support any person in relation to personal data protection; advise the legislator; control the use of personal data by private companies and public services; plan and prepare for the impact of technological developments on personal data. The CNIL has a relatively modest staff (215 persons), with a budget of €17 million, and received 8,360 complaints in 2017. The body has been very effective over the past 40 years, and its role is widely supported by the public and political elites. Since May 2018, a European regulation states that every company or public body dealing with personal data has to appoint a "data protection adviser." As of the date of writing, no information was available regarding fulfillment of this obligation.

Iceland

Score 10

The Icelandic Data Protection Authority (Persónuvernd) is a state-run authority, which monitors the processing of data to which the Act on Data Protection and the Processing of Personal Data No. 90/2018 apply. The authority deals with specific cases requested by public authorities or private individuals, or on its own initiative.

Citation:

The Icelandic Data Protection Authority (Persónuvernd), <https://www.personuvernd.is/information-in-english/greinar/nr/437>. Accessed 20th October 2019.

Switzerland

Score 10

Article 13 of the constitution establishes that every citizen must be protected against the abuse of data. Data protection legislation has been in force since 1993. There is a Federal Officer for Data Protection (Eidgenössischer Datenschutzdelegierter, EDÖB) whose office employed 24 people in 2018/19 (EDÖB 2019: 72). A 2011 evaluation of the Federal Data Protection Law attests to the effectiveness, independence and transparency of the EDÖB.

Citation:

<https://www.edoeb.admin.ch/edoeb/de/home/datenschutz/ueberblick/datenschutz.html>

Christian Bolliger, Marius Féraud, Astrid Epiney, Julia Hänni (2011). Evaluation des Bundesgesetzes über den Datenschutz. Schlussbericht im Auftrag des Bundesamts für Justiz. Bern/Freiburg: Büro Vatter/Institut für Europarecht, Universität Freiburg.

EDÖB, 2019: 26. Tätigkeitsbericht 2018/19. available at <https://www.edoeb.admin.ch/edoeb/de/home/dokumentation/taetigkeitsberichte/26-taetigkeitsbericht-2018-20190/epaper-tb-26.html>

Austria

Score 9 Since 2013, an office for data protection has existed, which replaced the former Data Protection Committee. The office is headed by a chairperson appointed by the data protection council. The office and its chairperson are not dependent on the government – they are not obliged to follow any specific government directive. Over the last few years, the independence of the office has never seriously been questioned. In 2018, following the European Union’s GDPR taking effect, the data protection authority was restructured and scaled up. Currently, the data protection authority has about 40 staff members and additional assistants to carry out its tasks.

Canada

Score 9 Canada’s data protection authority is the Office of the Privacy Commissioner of Canada. The legislation governing federal government use of private data is the Privacy Act. As an officer of parliament, the commissioner can audit suspected government breaches of the Privacy Act and act as an ombudsmen in relation to individual violations. Analogous structures exist at the provincial and territorial level.

Citation:
<https://www.priv.gc.ca/en>

Denmark

Score 9 Denmark has an independent data protection authority (Datatilsynet), which monitors the implementation and enforcement of data protection rules. The authority also deals with complaints, and gives advice to government institutions and companies. The council has a chairperson and six other members appointed by the minister of justice. The council first of all takes decisions about cases of a principal nature concerning personal data and the law concerning public institutions treatment of personal information.

The agency takes part in international cooperation, including in the European Union, and monitors the handling of data in relation to Schengen and Europol cooperation. Since 25 May 2018, when the European Union’s General Data Protection Regulation (GDPR) entered into force, the Datatilsyn’s director represents Denmark in the new European Data Protection Board (EDPB).

Citation:
Website: <https://www.datatilsynet.dk/om-datatilsynet/> (Accessed 8 October 2018).

Datatilsynet, Datatilsynets årsberetning 2017 (September 2018), https://www.datatilsynet.dk/media/6916/aarsberetning_2017.pdf (Accessed 8 October 2018).

Datatilsynet, Årsrapport 2017, https://www.datatilsynet.dk/media/6824/aarsrapport_2017_-_dat__soegbar__120318_endelig.pdf (Accessed 8 October 2018)

Databeskyttelsesrådet (EDPB), <https://www.datatilsynet.dk/internationalt/databeskyttelsesraadet-edpb/> (Accessed 9 October 2018).

Niels Fenger (red.), Forvaltningsret. København: Jurist- og Økonomforbundets Forlag, 2018.

Germany

Score 9

The Federal Commissioner for Data Protection and Freedom of Information (Bundesbeauftragter für den Datenschutz und die Informationsfreiheit, BfDI) has a long history, dating back to the end of the 1970s. Since January 2016, this institution has been an independent federal authority subject only to parliamentary and judicial control, no longer under the authority of the minister of the interior. The independence of the authority's head is highly protected. A dismissal is possible only with good reason, with standards similar to those that apply to the dismissal of a judge with lifetime tenure. The authority's budget and staff numbers have increased over time. Since 2016, its staff has increased from 90 to nearly 200 positions, with further increase expected. The authority's task is to oversee federal institutions' compliance with national and European data-protection rules.

Citation:

Die Bundesbeauftragte für den Datenschutz und die Informationsfreiheit (2019): 27. Tätigkeitsbericht zum Datenschutz für die Jahre 2017/2018, Bonn.

https://www.bfdi.bund.de/DE/Infothek/Pressemitteilungen/2019/16_27_TB.html

Greece

Score 9

The Hellenic Data Protection Authority (HDPa) is Greece's independent data protection office. The HDPa, established in 1997 through law 2472/1997, is also protected by the constitution. The HDPa grants individuals certain rights and imposes certain responsibilities on entities that process and store personal data. The president of HDPa (a high-ranking judge) and members of the authority are selected by the parliament for a four-year term. Generally, it is not a government-controlled authority. The HDPa implements EU and Greek law on personal-data protection and has been very active in carrying out its tasks.

Citation:

Information on the Hellenic Data Protection Authority in English is available at http://www.dpa.gr/portal/page?_pageid=33,40911&_dad=portal&_schema=PORTAL

Ireland

Score 9 The Irish Data Protection Act 2018 was signed into law on 24 May 2018 to coincide with the implementation of the General Data Protection Regulation (GDPR) on the following day, 25 May 2018. The GDPR replaced the existing data protection framework defined under the EU Data Protection Directive. The GDPR emphasizes transparency, security and accountability by data controllers and processors, while also standardizing and strengthening the right of European citizens to data privacy. In Ireland, the Data Protection Commission has been established to ensure the enforcement of the GDPR.

Lithuania

Score 9 An independent and effective data protection authority exists in Lithuania. The State Data Protection Inspectorate is responsible for the supervision and control of enforcement of legal protections for personal data. The status of the government agency gives the agency the legal and policy independence necessary for making regulatory decisions. With experience exceeding 20 years and a staff of about 30, the agency has adequate capacities and resources to focus on the implementation of the General Data Protection Regulation that came into force in 2018. However, despite the allocation of two additional positions, the State Data Protection Inspectorate was unable to recruit new staff in 2017 due to a shortage of financial resources. In addition, some observers argue that the Inspectorate should provide more information and advisory services regarding the management of personal data in public sector organizations and business enterprises.

Luxembourg

Score 9 The task of the National Data Protection Commission (CNPD) is to control and check the legality of personal data processing. The CNPD is legally required to carry out a number of duties, including: supervising and checking the legality of data collection and use, and informing relevant parties of their legal obligations for data processing; ensuring the observance of personal freedoms and fundamental rights, particularly with regard to privacy, and informing the public of their rights; receiving and examining complaints and requests for checks on the legality of data processing; and advising the government on the subject of data protection. The commission is also responsible for applying the provisions of the amended act of 30 May 2005 on the protection of privacy in the electronic communications sector, as well as the regulations deriving from that act.

Under the amended act of 2 August 2002, the CNPD has the power to investigate, which grants it access to processed data. Consequently, the CNPD can demand direct

access to the premises, excluding residential premises, where the data was processed and to the processed data.

Furthermore, the CNPD publishes an annual report regarding its performance, which is submitted to the government, parliament, the European Commission and European Data Protection Board. The CNPD is a collegiate body with three permanent and three substitute members.

It operates as a public institution under the supervision of the government minister responsible for data protection. Nevertheless, it is independent in the exercise of its functions.

Citation:

Commission nationale pour la protection des données. <https://cnpd.public.lu/fr.html>. Accessed 23 Oct. 2019.

Norway

Score 9

Norway has a special body, the Norwegian Data Protection Authority (DPA), to hold the government accountable for data protection and privacy issues, and protect individuals' privacy rights. The DPA is a public authority that was established in 1980. The main legislation directing the DPA's work is the Personal Data Act, which sets out the general principle that individuals should be able to control how their personal data is used. Through information, dialogue, the handling of complaints and inspections, the DPA monitors and ensures that public authorities, companies, non-governmental organizations and individuals follow data protection legislation.

Slovenia

Score 9

Following the establishment of the Information Commissioner on 31 December 2005, Slovenia has an independent and effective data protection authority. The commissioner supervises the protection of personal data and access to public information. The office is led by Mojca Prelesnik, previously the general secretary to the parliament, who was reelected for a second term in June 2019. The competencies of the Information Commissioner include: deciding on appeals against decisions by another body to refuse or dismiss a request for information; deciding on alleged violations of the right to access or reuse public information; supervising the implementation of legislation regulating the processing and protection of personal data; acting as an appellate body on individual complaints regarding a refusal to make personal information available to the respective individual.

There is also a government Office for the Protection of Classified Information. The office monitors the classification and protection of information, and it ensures the development and implementation of classified information protection standards across government agencies, local community agencies, holders of public authorizations, NGOs and commercial companies that hold classified information.

The office also issues permissions to access classified information and security certificates to legal persons.

Citation:

The Information Commissioner 2019 (<https://www.ip-rs.si/en/about/information-commissioner/>)

Sweden

Score 9 The Swedish Data Protection Agency (Datainspektionen) is charged with the task of protecting personal integrity. To that end, it handles complaints as well as conducts its own inquiries and inspections. It works closely with similar agencies in other EU member states and with EU institutions.

Citation:

<https://www.datainspektionen.se/other-lang/in-english/>

Belgium

Score 8 In May 2018, the Belgian federal government instituted the Data Protection Authority (Autorité de protection des données/Gegevensbeschermingsautoriteit). The authority's mission is to ensure that individual's privacy is respected when personal data is processed. To improve efficiency, various pre-existing but dispersed authorities and services were regrouped under and are now coordinated by the Data Protection Authority. The new authority is accountable to the lower house (House of Representatives) and its board of directors are politically appointed for 6-year terms.

While political appointments may partially limit its autonomy, the authority is designed to be an independent body that communicates advice and recommendations to the chamber. For instance, the authority issued negative advice regarding the government's proposal to incorporate citizens' fingerprint data into the Belgian electronic ID card.

Citation:

<https://www.autoriteprotectiondonnees.be/> (in French, with more information)

<https://www.dataprotectionauthority.be/> (in English, with limited information)

Czechia

Score 8 Data protection responsibilities rest with the Office for Personal Data Protection (Úřad pro ochranu osobních údajů, ÚOOÚ), an independent body established under a law passed in 2000. It is tasked with supervising the observance of the legal obligations laid down for processing personal data; maintaining the register of notified data processing operations; dealing with initiatives and complaints from citizens concerning any breach of the law; and advising the government on issues relating to personal data protection. The president of the republic appoints the president of the office, with candidates being nominated by the president of the

Senate, the upper house of parliament. The office regularly publishes an annual report on its website detailing its activities. Its effectiveness is limited by its relatively small budget and relatively small staff. In 2019, the Personal Data Processing Act 2019, the country's second data protection act, sought to implement the EU's GDPR. As a result, the scope of the ÚOOÚ's activities has widened. In October 2019, the ÚOOÚ proposed the introduction of a General Impact Assessment on Personal Data Protection (DPIA). This proposal was posted on its website for public discussion.

Italy

Score 8 The Italian data protection authority (Garante per la protezione dei dati personali) is an independent administrative authority set up under the Privacy Law (Law No. 675 of 31 December 1996). It has powers of inquiry and authorization, and can redress grievances. It can moreover inflict pecuniary sanctions.

Its four members are elected by the parliament for non-renewable seven-year terms. They cannot be re-elected. The authority has extensive powers and enjoys a high degree of independence.

Citation:

<https://www.garanteprivacy.it/documents/10160/0/Data+Protection+Code.pdf>

<https://www.garanteprivacy.it/web/guest/home/attivita-e-documenti/documenti/relazioni-annuali>

<https://www.garanteprivacy.it/documents/10160/0/Annual+report+2017+-+Highlights>

Malta

Score 8 Malta has an information and data-protection commissioner who is appointed by the prime minister in consultation with the leader of the opposition and who heads the country's data-protection authority, the IDPC, which is both effective and independent. As of March 2020, the IDPC is comprised of a total of 12 officers, including a commissioner, a deputy commissioner, a head compliance officer, the head of the legal unit, two legal counsels, one legal officer, an executive officer, a senior technical officer, a case officer, an administration and accounts officer, and two general-duty officers. The IDPC is currently recruiting a project administrator to manage an EU project on digital-protection awareness issues. The project will be funded by the European Commission. The IDPC is not subject to the Public Administration Act.

The IDPC website provides information about the protection the office provides in various fields. It also provides assistance to citizens who believe their privacy has been invaded. Malta also abides by EU legislation and decisions by the Advocate General of the European Court in this area, and in May 2018 transposed the EU General Data Protection Regulation (GDPR) into law. Since the law has taken effect, 100 breaches of the data-protection act have been reported, with 17 of these leading

to a fine. Maltese courts can also be called upon to adjudicate complaints relating to data privacy infringements. A recent ruling by the Information and Data Protection Appeals Tribunal clarified that the data-protection commissioner has the right to issue enforcement orders when a government ministry fails to issue certain information – in the case under review, information relating to government consultants’ contracts. In 2018, the office investigated 76 data-subject complaints, the largest share of which had to do with the unauthorized disclosure of personal information. The office also received 113 personal-data breach notifications that year. The office can issue fines, reprimands and warnings. As part of its regulatory function, the office is also responsible for the enforcement of the freedom of information legislation. In 2018, 22 complaints were received in this area, primarily from journalists.

Citation:

<https://idpc.org.mt/en/Pages/Home.aspx>

Data Commissioner has right to access contracts of government consultants – appeals tribunal

Economy Minister loses legal challenge. Times of Malta 29/01/19

DLA Piper GDPR data breach survey: February 2019

<https://www.dlapiper.com/en/uk/insights/publications/2019/01/gdpr-data-breach-survey/>

Information and Data Commissioner. Annual Report 2018

Spain

Score 8

The Spanish Data Protection Agency (Agencia Española de Protección de Datos, AEPD) is a public authority that acts fully independently of the public administration. According to Organic Law 15/1999, the director of this body is to exercise his or her functions independently and objectively, and is not to be subject to any instructions. The Advisory Board is made up of two members of parliament, a representative of the central administration, representatives of the autonomous regions that have their own data protection agencies, a local-administration representative, a member of the Royal Academy of History, an expert, a member representing users and consumers, and a representative from the private business sector. The AEPD carries out its investigations primarily at the request of citizens, although it is also empowered to initiate its own investigations. The agency communicates to the government through the Ministry of Justice.

So far there is no evidence that the agency is incapable of holding government offices accountable. Being integrated in a wider international and subnational network of agencies, the AEPD has the capacities and personnel resources to advocate data protection and privacy issues vis-à-vis the government and against vested interests.

On 5 December 2018, the Organic Law 3/2018 on the Protection of Personal Data and the Guarantee of Digital Rights was approved. With 93% parliamentary support, the law aligns Spanish law with the European Union’s General Data Protection Regulation (GDPR) and introduces novelties regarding the way in which citizens are informed about the processing of their personal data.

At the beginning of November 2019, the AEPD published guidelines on the use of internet browser cookies. The guidelines were drafted with the help of leading organizations in the marketing and online advertising industries. The AEPD requires that a person's consent be renewed at least once every 24 months.

Citation:

Agencia Española de Protección de Datos, <https://www.aepd.es/>

Organic Law 3/2018 on the Protection of Personal Data and the Guarantee of Digital Rights <https://www.boe.es/boe/dias/2018/12/06/pdfs/BOE-A-2018-16673.pdf>

United Kingdom

Score 8

The United Kingdom was among the early adopters of personal data protection legislation. The Data Protection Act 1984 set standards for the use of digital data by the government, private businesses and individuals. Since 1998 (following the Data Protection Act 1998), the data protection regime has been shaped by EU law. The United Kingdom has adopted the European Union's General Data Protection Regulations (GDPR) into primary law (through the Data Protection Act 2018) meaning that the approach to data protection and information governance developed by the GDPR will be maintained after the United Kingdom leaves the European Union.

The central body authorized to enforce data protection legislation in the United Kingdom is the Information Commissioner's Office (ICO). The ICO is a non-departmental public body which reports directly to parliament and is sponsored by the Department for Digital, Culture, Media and Sport (DCMS). The office has a wide array of data protection responsibilities defined by the Data Protection Act, the Freedom of Information Act and the General Data Protection Regulations, among other legislation. Given the devolution of powers, a similar function also operates in Scotland. The ICO publishes its actions and fines. The ICO recently received a lot of media attention for its inquiry into the business practices of the data processing firm Cambridge Analytica. However, the ICO has no authority over any security agency in the United Kingdom, which are rumored to be proactively collecting a wide range of UK citizens' personal data.

In October 2018, Elizabeth Denham, the UK Information Commissioner, was appointed the Chair of the International Conference of Data Protection and Privacy Commissioners.

Australia

Score 7

The Office of the Australian Information Commissioner (OAIC), an independent statutory agency within the attorney-general's portfolio, has responsibility for data protection and privacy as per the Privacy Act and other laws. Its responsibilities

include conducting investigations, handling complaints and providing advice to the public, government agencies and businesses.

The OAIC was established in 2010 by the Labor government. The Abbott government sought to abolish the agency on coming into office in 2013, but could not secure the support of the Senate. Coalition governments instead reduced the resources available to OAIC, resulting in its diminishing size and efficacy over time. Since 2016, there has been some reversal in the coalition government's position on OAIC and correspondingly marginal increases in funding.

In its 2016 – 2017 budget, the government announced that it would provide the OAIC with funding totaling AUD 15.4 million over the subsequent four years from. This represented a substantial increase over funding levels in 2014 – 2015 and 2015 – 2016, but was nonetheless considerably less than the AUD 10.4 million annual budget provided in 2013 – 2014. Consequently, current funding is unlikely to be adequate to provide effective advocacy for data protection and privacy issues given their growing importance in the digital era.

Citation:

<https://www.themandarin.com.au/88709-last-man-standing-information-and-privacy-commissioner-timothy-pilgrim-to-retire/>

Japan

Score 7

Based on the Act on the Protection of Personal Information, a Personal Information Protection Commission was established in January 2016. The commission is a cross-sectoral, independent government body overseeing the implementation of the act. The body's chairperson and commissioners are appointed by the prime minister, with the consent of both chambers of parliament. It is still difficult to judge whether this commission will be able to maintain independence from the government, and ultimately whether it will be effective. Recently, the Commission proposed tightening existing rules in a planned revision of the Personal Information Protection Law, for instance by making firms such as Google comply with the interests of Japanese citizens in the area of personal data protection.

Citation:

Akemi Suzuki and Tomohiro Sekiguchi, Data Protection & Privacy Japan, Getting the Deal Through lawyer and law firm network, September 2018, <https://gettingthedealthrough.com/area/52/jurisdiction/36/data-protection-privacy-japan/>

A step toward the restoration of privacy (Editorial), The Japan Times, 30 May 2018, <https://www.japantimes.co.jp/opinion/2018/05/30/editorials/step-toward-restoration-privacy/>

Fumiko Kuribayashi, Users in Japan to get more rights to stop abuse of personal data, The Asahi Shimbun, 26 April 2019, <http://www.asahi.com/ajw/articles/AJ201904260045.html>

New Zealand

Score 7

The Privacy Act 1993 came into force in July 1993. The Privacy Principles in the act may be superseded by a code issued by the Privacy Commissioner for particular sectors. There are currently six codes in operation: the Civil Defence National Emergencies (Information Sharing) Code, the Credit Reporting Privacy Code, the Health Information Privacy Code, the Justice Sector Unique Identifier Code, the Superannuation Schemes Unique Identifier Code and the Telecommunications Information Privacy Code.

The Privacy Commissioner administers the Privacy Act 1993. Between July 2018 and June 2019, the Privacy Commissioner responded to almost 8,000 public enquiries. During the 2018/19 reporting year, 894 investigation files were closed – a 26% increase on the 2017/2018 period. Some 87% of investigation files were closed within six months

In recent years, both the New Zealand Law Commission and the Office of the Privacy Commissioner have made recommendations for particular areas of reform (including mandatory breach notification and stronger enforcement powers) to bring New Zealand's privacy law in to line with other jurisdictions. The minister of justice introduced a bill amending the current Act in March 2018. The proposal includes stronger powers for the privacy commissioner, mandatory reporting of privacy breaches, new offenses and increased fines. The bill passed its second reading in early August 2019.

Citation:

Data Protection New Zealand. <https://www.linklaters.com/de-de/insights/data-protected/data-protected—new-zealand>

Office of the Privacy Commissioner 2018. Privacy Law Reform. <https://www.privacy.org.nz/the-privacy-act-and-codes/privacy-law-reform/>

<https://www.opengovpartnership.org/report/new-zealand-mid-term-report-2016-2018-year-1>

Privacy Commissioner (2019) Annual Report of the Privacy Commissioner 2019. (<https://www.privacy.org.nz/news-and-publications/corporate-reports/annual-report-of-the-privacy-commissioner-2019/>)

Poland

Score 7

In May 2018, a new act on data protection entered into force. This replaced the 1997-era law, and is supposed to help implement the EU General Data Protection Regulation. The law has renamed the supervisory authority in Poland, the Office of Personal Data Protection, which replaced the Inspector General for Personal Data Protection. The president of this office is appointed for a four year term by the Sejm, with consent of the second chamber, the Senate. The new president, Jan Nowak, came into office in May 2019. Like his predecessor, Nowak has acted quite independently. In August 2019, the president initiated ex officio proceedings against the Ministry of Justice and the National Council of the Judiciary, following

accusations that the bodies had collected and processed the personal data of judges and their families, and had shared the data with third parties. The effectiveness of the Office of Personal Data Protection has been limited by a lack of resources.

Portugal

Score 7 Since 1994, Portugal has had a National Authority for Data Protection (Comissão Nacional de Protecção de Dados, CNPD).

The CNPD plays an active role in data protection issues. However, budgetary restrictions, under the previous and current governments, are limiting the CNPD's ability to carry out its tasks. Indeed, the introduction to the most recent CNPD activity report for 2017 and 2018 notes that the authority "cannot ensure the full execution of its tasks" with the conditions it has been facing. One of the main reasons for this pertains to human resources. The CNPD has seen its staff numbers fall from 26 in 2016 to 22 in 2017 to 20 in 2018.

Though the problem has now been recognized and a new law on this issue was introduced in June 2019.

Citation:

Comissão Nacional de Protecção de Dados, Relatório de Atividades 2016, available online at: https://www.cnpd.pt/bin/relatorios/anos/Relatorio_2016.pdf

Comissão Nacional de Protecção de Dados, Relatório de Atividades 2017-2018, available online at: https://www.cnpd.pt/bin/relatorios/anos/Relatorio_201718.pdf

<https://www.dn.pt/.../parlamento-aprova-lei-sobre-aplicacao-do-regulamento-geral-da>

Slovakia

Score 7 Based on the 2013 Act on Personal Data Protection, the Office for Personal Data Protection was established in 2014. The office contributes to the protection of the fundamental rights and freedoms by supervising how personal data is processed. The effectiveness of the office has been limited by a lack of resources and a lack of clarity and differing interpretations of individual parts of Slovak data protection legislation. The amendment of the act on personal data protection in January 2018, which has aimed at incorporating the European Union's General Data Protection Regulation, has further aggravated the problems. The nomination of Soňa Pótheová, the head of the Office for Personal Data Protection since 2015, raised some public concerns, as she had been close to senior Smer-SD figures and companies owned by discredited oligarchs. Since coming to office, however, she has acted independently.

United States

Score 7 Numerous laws govern the handling of information by U.S. government agencies – in the interests of maintaining citizens’ privacy, protecting proprietary information of businesses, preventing identity theft, and for other purposes. Overall, these regimes may be relatively strict. However, while there is no national data protection authority, the U.S. Federal Trade Commission (FTC) over the past several years has made itself America’s de facto data protection authority through aggressive use of Section 5 of the FTC Act, which prohibits unfair or deceptive trade practices. The FTC took enforcement action to protect consumers against unfair or deceptive trade practices, including materially unfair privacy and data security practices. Many state attorneys generally have similar enforcement authority over unfair and deceptive business practices, including the failure to implement reasonable security measures and violations of consumer privacy rights that harm consumers in their states. In addition, a wide range of sector-specific regulators, particularly those in the healthcare, financial services, telecommunications and insurance sectors, have authority to issue and enforce privacy and security regulations, with respect to entities under their jurisdiction.

Citation:

see: International Association of Privacy Professionals (2019): The U.S. Doesn’t Have a National Data Protection Authority? Think Again...

<https://iapp.org/news/a/america-doesnt-have-a-national-data-protection-authority-think-again/>

Croatia

Score 6 The Croatian Personal Data Protection Agency (AZOP) established in 2004 was based on the Personal Data Protection Act adopted in parliament in 2003, by which the protection of personal data in the Republic of Croatia was regulated for the first time. The agency is a supervisory body tasked primarily with overseeing personal data protection. The agency monitors those who gather personal data collections that process personal data and warns them of unauthorized processing of personal data. The agency has the authority to order the removal of irregularities, it can temporarily prohibit the processing of personal data, order the deletion of personal data and prohibit their removal from the Republic of Croatia. The Croatian Law on Implementation of General Data Protection Regulation (GDPR) was passed in April 2018 in parliament. The new law prescribes the agency’s duty to publish website final and binding decisions, without anonymization of the offender’s data, if a data breach is committed in relation to data on children, special categories of personal data, an automated individual decision, in cases of profiling or if an offender is charged in excess of HRK 100,000. In order to get companies and state institutions to implement and reach compliance with the GDPR regulation, the agency organized in 2018 more than 30 advisory activities, involving nearly 2,000 representatives of the processing manager and personal data protection officers. In its annual report to

the parliament, the agency pointed out that a large number of companies essentially ignore GDPR compliance. This is mostly observable in the tourism and healthcare sectors. As a result, it requested that the Croatian Employers' Association be more involved in implementing the GDPR. Overall, AZOP remains rather ineffective in data protection since it is overwhelmed with administrative tasks and the processing of a large number of questions on behalf of various state agencies, which lack competent GDPR compliance officers. Therefore, due to the lack of enforcement capacity, serious offenders have been able to avoid financial penalties for breaching data privacy.

Cyprus

Score 6

The Office of the Commissioner for the Protection of Personal Data was established in 2002. Law 125(I)/2018 updated the legislation in accordance with EU regulations and directives. The Council of Ministers appoints the commissioner upon the recommendation of the minister of justice and public order. The qualifications for appointment are those required for a judge of the Supreme Court, a “lawyer of high professional and moral standard.” The commissioner’s authority is extended to both public and private persons, except on processing operations by courts when acting in their judicial capacity.

Violations of personal data by the authorities, politicians and political parties has always been an issue of concern. Though massive numbers of persons are affected by unsolicited messages and other encroachments, very few decide to file a complaint. Fines imposed on wrongdoers do not appear to deter repetition. The latest available activity report of the commissioner states that she received 346 complaints in 2017.

Citation:

1. Commissioner for the Protection of Personal Data – Activity Report 2017, [http://www.dataprotection.gov.cy/dataprotection/dataprotection.nsf/64DE4B83284311F7C225836700400096/\\$file/Ετήσια_Έκθεση_2017.pdf](http://www.dataprotection.gov.cy/dataprotection/dataprotection.nsf/64DE4B83284311F7C225836700400096/$file/Ετήσια_Έκθεση_2017.pdf)

Israel

Score 6

There are several authorities that are accountable for handling technical issues of data protection and privacy. First, there is the State Comptroller, who can inspect and scrutinize all governmental bodies in the respect to data protection and privacy, and has powers to hold government bodies to account if necessary. Though these powers for scrutiny are only occasionally exercised. Second, civilian sector operations are initiated and regulated by the Management of Security in Public Corpora Act 1998, which introduced a strong cybersecurity apparatus.

As concerns over the protection of information (specifically, personal and private information) have grown, the Protection of Privacy Act 1981 was introduced detailing legal requirements and standards regarding information databases safety

and security. Among other things, the act established the role of the Information Databases Registrar. The registrar is charged with officially registering and recording the different databases, and ensures that the owners of the databases comply with the law, and the relevant data and information security regulations. In 1986, the Public Council for the Protection of Privacy (also known as the Privacy Protection Council) was established. The council works with the registrar to publish an annual report on the activities and achievements of previous years, and consults on legislation. In 2006, the registrar's role was enhanced, and the registrar was made head of the newly established Legal Authority of Information Technologies and Privacy Protection (renamed the Authority for the Protection of Privacy, APP, in 2017). Administratively, the APP is located within the Ministry of Justice, and reports to the Ministry of Justice and the Knesset. According to the Protection of Privacy Act, one of the APP's roles is to monitor the compliance of public institutions with information security and privacy regulations.

As stated in the State Comptroller's latest report, the APP lacks the resources to properly accompany governmental projects. Since 2011, the APP has not been able to ensure the full compliance of public institutions with some of the Protection of Privacy Act's regulations concerning inter-institutional information transfers (i.e., public institutions must report to the APP if they transfer information between themselves). Consequently, the APP has limited authority to penalize non-compliance. In 2017, the Ministry of Justice proposed an amendment to the law to strengthen the APP. However, this initiative has been criticized by the National Cyber Directorate (NCD), which claims that the initiative would compromise the NCD's authority and undermine Israel's cyber defense operations. In addition, this initiative contradicts government policy, which is meant to make it the sole guiding national institution in the cyber defense field. While an amendment to the Protection of Privacy Act was passed following its first reading in the plenum in 2018, the comptroller's report attests that there have been no significant developments since then.

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Bulgaria

Score 5

The Personal Data Protection Commission was established in 2002. Bulgarian legislation treats personal-data administrators from the public and the private sector similarly, and the commission has equal powers with respect to both. The commission can regulate the implementation of the law, review personal-data administrators’ activities, provide critical assessments, propose changes and in case of infringements temporarily suspend administrator’s privileges. It can also be addressed by citizens with complaints about infringements of personal-data rights by government and private bodies.

While the competencies of the commission are thus relatively broad, it has limited resources in terms of funding and staff. The massive data breach experienced by the National Revenue Agency, which affected as many as half of the country's citizens and was revealed in July 2019, revealed severe limitations in government agencies' ability to protect personal data, while additionally exposing the ineffective nature of the commission's oversight.

Hungary

Score 5

The National Authority for Data Protection and Freedom of Information is responsible for supervising and defending the right to the protection of personal data and freedom of information under the Act CXII of 2011. So far, the office has not played a major role in the public debate, and there is no experience yet with the new European regulation in the field. The data protection issue has emerged from time to time at elections. It is well-known that Fidesz has collected data on the political orientation of citizens (the so-called Kubatov list on those who are supporting Fidesz) for campaign use. Rumor has it there is also a list of Fidesz's "political enemies," but it is unclear to what extent systematic data collection is involved in this case.

Latvia

Score 5

The Data State Inspectorate, established in 2001, operates in accordance with the Personal Data Protection Law and is based on a cabinet regulation of 2013, Regulations on the Data State Inspectorate. A new version of the law was proclaimed in 2018. The main goal of the inspectorate is to protect the fundamental rights and freedoms of citizens, particularly the privacy of individuals with regard to the processing of personal data. The law describes the Data State Inspectorate as an independent institution. Nevertheless, the inspectorate is subject to the supervision of the Ministry of Justice and the Cabinet of Ministers, and is financed from the state budget.

Citation:

1. Personal Data Processing Law (2018) Available at:<https://likumi.lv/ta/en/en/id/300099>, Last assessed: 05.11.2019
2. Data State Inspectorate (2018) Annual Report 2018, Available at: https://www.dvi.gov.lv/en/wp-content/uploads/2013/01/Annual_report_DVI_2018.pdf, Last assessed: 05.11.2019

Mexico

Score 5

Legislation on data protection in Mexico has been ineffective since 2010. The National Institute for Transparency, Access to Information and Personal Data Protection (INAI) is an autonomous constitutional body that oversees data protection. Implementation of data protection is limited, especially in remote areas,

for poor and uneducated people, and where security issues are involved. Thus, while there is an adequate institutional framework and organizational setup, the reality of data protection, particularly at the lower levels of government, is sobering.

Netherlands

Score 5

The Dutch Data Protection Agency (Autoriteit Persoonsgegevens, DPA) succeeded the “College Bescherming Persoonsgegevens” (CBP) in 2016, and simultaneously saw its formal competencies enhanced by the right to fine public and private organizations in violation of Dutch and since mid-2018 European data protection laws (the General Data Protection Regulation, GDPR).

Effective data protection is practically impossible since 2016 for a number of reasons: many capable personnel have left the DPA, even though the number of staff has increased; the new leadership is considered to be in disarray; the organization is under-financed; hardly any consequential fines have been imposed; “naming and shaming” appears to work, but oversight capacity is lacking; laws and regulations are frequently changing, and consequently monitoring and jurisprudence are constantly “in the making.” It looks like the DPA is evolving from a supervisory body to an organization that advises both public and private organizations, and individual citizens on privacy issues, and on how to deal with personal data in ways that (more or less) comply with ever changing regulations and interpretations. All in all, the DPA operates in self-contradictory ways (as both a “hard” inspectorate, and a “soft” advisory body that “names and shames,” and advises commercial and public data-users and data-providers) in a technologically turbulent environment. In 2019, the DPA found that most data leaks are caused through sloppiness in addressing documents and emails; that this occurs more in institutions of care than anywhere else; and that victims are usually individuals rather than entire categories of people. One exception led to a €460,000 fine for a hospital that had failed to protect its patient files sufficiently. Also in 2019, the DPA received an additional €3.4 million in funding for enforcement of the General Decree for Data Protection (Algemene Verordening Gegevensbescherming, AVG) and EU privacy rules.

Citation:

<https://www.hr-kiosk.nl/hoofdstuk/privacy/autoriteit-persoonsgegevens#on-rust>

https://nl.m.wikipedia.org/wiki/Autoriteit_Persoonsgegevens

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VPNGids.nl, Onderzoek Autoriteit Persoonsgegevens: Messte datalekken vinden plaats vanwege fouten in adressering (vpngids.nl, accessed 4 November 2019)

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Romania

Score 5 Romania updated its data protection legislation in accordance with EU GDPR policy in May 2018. The responsibility for protecting personal data rests with the National Authority for the Supervision of Personal Data Processing (DPA), which has limited resources. The position of the DPA's vice-president remained vacant until April 2019, when Mirela Nistoroiu was appointed by the ruling Social Democrat Party, in spite of her lack of specialized skills. The DPA President Ancuța Gianina Opre, named in 2013, has languished under corruption charges dating from 2009 when she was working for the National Authority for the Restitution of Properties.

South Korea

Score 5 South Korea's comprehensive Personal Information Protection Commission was established on 30 September 2011, and aims to protect the privacy rights of individuals by deliberating on and resolving personal data-related policies. Data protection is regulated by the Personal Information Protection Act (PIPA). Compared to the European Union's General Data Protection Regulation (GDPR), data protection rules are weak, and the issue remains a problem particularly in the private sector. For example, PIPA lacks the right to be forgotten and the right to refuse profiling. Maximum fines for violations are also much lower in Korea, set at €40,000 as compared to €20 million under the GDPR. Data security in the private sector remains a significant problem in Korea, where companies have been slow to adapt to international security and encryption standards. In November 2019, Korea started a trial run of an "open banking" system that would make it easier and cheaper for financial institutions to exchange information; however, some observers have raised concerns about the potential for data leaks.

Chile

Score 3 Chile still lacks an effective data-protection framework, although Article 19 of the constitution guarantees the right to privacy. In August 2019, the Commission of the Senate on Constitution, Legislation, Justice and Regulations gave the Chilean Transparency Council (Consejo para la Transparencia) responsibility for the issue of data protection. The related modifications to Law No. 19,628 on the protection of private life are expected to enter into force in 2020. As stated by the International Comparative Legal Guides, the Transparency Council is responsible for ensuring public sector compliance with data-privacy laws, but there is no regulatory authority in Chile that monitors private sector compliance. Thus, enforcement of the law is in this respect carried out by the courts, with affected individuals seeking to uphold their rights or win redress for violations on an individual basis.

Citation:

Commission of the Senate on Constitution, Legislation, Justice and Regulations:

<https://www.senado.cl/appsenado/index.php?mo=comisiones&ac=listado>

Chilean Transparency Council:

<https://www.consejotransparencia.cl/quienes-somos/>

<https://www.consejotransparencia.cl/comision-de-constitucion-del-senado-aprobo-al-consejo-para-la-transparencia-cpl-t-como-autoridad-a-cargo-de-la-proteccion-de-datos-personales/>

Chilean Constitution:

<https://www.leychile.cl/Navegar?idNorma=242302>

On data protection in Chile:

<https://www.derechosdigitales.org/wp-content/uploads/PVB-datos-int.pdf>

International Comparative Legal Guides:

<https://iclg.com/practice-areas/data-protection-laws-and-regulations/chile>

Turkey

Score 3

In 2016, the country ratified the Council of Europe Convention 108 on the Protection of Individuals with regard to Automatic Processing of Personal Data and its additional protocol dated 1981. The Personal Data Protection Authority is now operational and its nine-member board has been appointed. Of the nine members, five were appointed by the parliament and four by the president. Law No. 6698 on Protection of Personal Data dated 2016 does not fully align with the EU acquis. This concerns the powers of the Data Protection Authority, the balancing of data protection with the right to freedom of expression and information.

Regarding the protection of personal data, the Personal Data Protection Authority is now operational and its board has been appointed, but no legislative changes have taken place to ensure that the law is harmonized with the EU acquis, in particular the EU General Data Protection Regulation 2016/679 and Law Enforcement Directive 2016/680, which entered into force in May 2018. This concerns inter alia the application of data protection in law enforcement and the powers of the Data Protection Authority. Turkey has not signed or ratified the 2018 protocol amending the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (Council of Europe, CETS No 223).

Citation:

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