



Civil Rights and Political Liberties Report

Civil Rights, Political Liberties, Non-discrimination

Sustainable Governance Indicators 2022

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Indicator

Civil Rights

Question

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

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

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

Finland

Score 10

Civil rights are widely respected and protected in Finland. Finland is one of three countries that received the maximum aggregate score (100) in the category of political rights and civil liberties in Freedom House's 2019 Freedom in the World survey. The country's legal system provides for freedom of speech, which is also respected in practice. Furthermore, Finns enjoy full property rights and freedom of religion, with the government officially recognizing a large number of religious groups. Freedoms of association and assembly are respected in law and practice, while workers have the right to organize, bargain collectively and strike. In November 2014, after long and contentious discussions, parliament voted to provide marriage rights for same-sex couples, and adoption-rights legislation for same-sex couples became effective in March 2017.

On 16 March 2020, in the early stage of the COVID-19 pandemic, the government declared a national state of emergency that gave the government the authority to restrict people's fundamental rights. On 15 June 2020, the government stated that the COVID-19 epidemic could be managed using the regular powers available to authorities (Ministry for Social Affairs and Health 2020).

Within the first month of the COVID-19 emergency, Martin Scheinin, a professor of law, identified six distinct problems in the application of emergency powers. These were the lack of parliamentary scrutiny over the declaration of the state of emergency, cabinet confusion over the complicated structure of the Emergency Powers Act and failure to synchronize it with the revised Article 23 of the

constitution, the lack of expertise involved, the failure of parliamentary oversight efforts to utilize all available expertise, the risk that international human rights obligations would be neglected, and a number of exceptions and derogations (Scheinin 2020).

Later, in spring 2020, the government controversially declared that people over 70 years old should remain indoors, and it was reported that those breaking the order could face sanctions. However, it was later found that the government had no mandate to issue such an order. During the fall of 2020, the government focused on delegating measures to contain the spread of the virus to regions and municipalities, thereby avoiding the need to declare another state of emergency.

Notwithstanding these issues, popular trust in institutions has remained fairly strong. A think tank, the Finnish Business and Policy Forum (EVA), conducted a survey in June 2020, which investigated the impact of the COVID-19 crisis on the level of trust felt by Finns toward 30 different institutions or actors influential in society. A majority of Finns stated that they trusted the government (60%) and the parliament (52%). Trust in the government had increased 33 percentage points compared to a survey made in 2018. Trust in the parliament had increased by 17 percentage points. These were the biggest shifts in trust in the survey's history, and were possibly generated by a general sense of fear (Finnish Business and Policy Forum 2020).

Citation:

"Freedom House" (<https://freedomhouse.org/>).

Finnish Business and Policy Forum, 2020. Coronan and Political Views. Finnish Business and Policy Forum (EVA). Accessed, 28.12. 2020. <https://www.eva.fi/en/blog/2020/06/11/covid-19-crisis-had-anexceptional-impact-on-finnish-political-views/>

Ministry of Social Affairs and Health, 2020. Corona Virus Informations. Accessed, 28.12. 2020.

<https://valtioneuvosto.fi/en/information-on-coronavirus/ministry-of-social-affairs-and-health>

Scheinin, Martin, 2020: The COVID-19 Emergency in Finland: Best Practice and Problems, *VerfBlog*, 2020/4/16. Accessed 18.12. 2020. <https://verfassungsblog.de/the-covid-19-emergency-in-finland-bestpractice-and-problems/>, DOI: 10.17176/20200416-092101-0.

Norway

Score 10

State institutions respect and protect civil rights. Personal liberties are well-protected against abuse by state and non-state actors. People cannot be detained without a formal charge for more than 24 hours. A court decision is needed if a suspect is to be held in prison during an investigation, a question given more serious consideration in Norway than in many other countries.

Access to the courts is free and easy, and the judiciary system is generally regarded by the general public as being fair and efficient. However, if one loses a case brought to the court, one risks having to pay the full cost of the proceedings. This may deter citizens from bringing cases to court, in addition to the prohibitive fees that lawyers may charge. For those with an extremely low income there is a state program for

funding costs, and most labor union memberships (which are widespread) include an insurance against high expenses.

Canada

Score 9

The state shows a high degree of respect for civil rights in Canada, and courts offer strong rights protection as they consider the Canadian Charter of Rights and Freedoms. The COVID-19 pandemic raised several rights issues as provincial governments made face coverings compulsory in public places, restricted mobility (interprovincial but also in some instances intra-provincial), implemented a curfew (in Québec only), and implemented a so-called vaccine passport whereby only citizens having had two valid doses of a vaccine against COVID-19 could eat in restaurants, work out in a gym, go to a movie theater, etc... The federal government closed the border for much non-essential international travel and mandated quarantines for Canadians coming back into the country as well as visitors. The federal government chose not to invoke emergency powers to tackle the pandemic, boosting instead the frequency of intergovernmental meetings with the provinces (Lecours et al., 2020). Most of these measures enjoyed broad support, but a vocal minority saw in the measures an unreasonable infringement upon their rights. A 2020 Royal Society of Canada briefing on rights and the pandemic makes the point that rights have limits but that governments must have a reasoned justification for infringement as they declare public health measures (p.5). Canada's Human Rights Commissions (present at the federal level, in all ten provinces, and in two territories) played a strong rights advocacy role during the pandemic (De Silva, 2020).

Citation:

Colleen Flood, Vanessa MacDonnell, Bryan Thomas and Kumanan Wilson, *Reconciling Civil Liberties and Public Health*

in the Response to COVID-19. Royal Society of Canada, 2020. https://rsc-src.ca/sites/default/files/CL%20PB_EN.pdf

André Lecours, Daniel Béland, Nikola Brassard-Dion, Trevor Tombe and Jennifer Wallner, "The Covid-19 Crisis and Canadian Federalism," Ottawa: Forum of Federations and Center on Governance of the University of Ottawa, occasional paper 48, 2020. <http://www.forumfed.org/wp-content/uploads/2020/10/OPS48.pdf>

Emmett Macfarlane, "Public Policy and Constitutional Rights in Times of Crisis," *Canadian Journal of Political Science*, vol. 52, no.2, 2020, 299-303.

Nicole Da Silva, "A Human Rights Approach to Emergency Response? The Advocacy of Canada's Human Rights Commissions during the COVIS-19 Crisis," *Canadian Journal of Political Science*, vol. 53, no.2, 2020, 265-271.

Denmark

Score 9

According to section 29 of the Danish constitution, "Any Danish subject who is permanently domiciled in the Realm, and who has the age qualification for suffrage as provided for in sub-section (2) of this section shall have the right to vote at Folketing elections, provided that he has not been declared incapable of conducting his own affairs."

According to section 31 of the Danish constitution, “The members of the Folketinget shall be elected by general and direct ballot.” More specific rules are laid down in the election act. The election act stipulates that “franchise for the Folketinget is held by every person of Danish nationality, who is above 18 years of age, and permanently resident in the realm, unless such person has been declared legally incompetent.” The rule on legal competence applies to the Folketing (section 29 of the constitution), but – according to a decision made by parliament in 2016 – not to local, regional or European Parliament elections. Any person above the age of 18 (since 1978) and “permanently resident in the realm” is thus entitled to vote.

Citation:
Folketinget, Parliamentary Election Act of Denmark,
http://www.ft.dk/~media/Pdf_materiale/Pdf_publicationer/English/valgloven_eng_web_samlet%20pdf.ashx
(accessed 16 April 2013).

Zahle, Dansk forfatningsret 1.

“Umyndige udviklingshæmmede kan ikke sådan lige få stemmeret til folketingsvalg,”
<https://www.mm.dk/tjekdet/artikel/umyndige-udviklingshaemmede-kan-ikke-saadan-lige-faa-stemmeret-tilfolketingsvalg> (accessed 7 November 2018).

“2.000 danskere er frataget stemmeret.”<https://politiken.dk/indland/art5793960/2.000-danskere-er-fratagetstemmeret>
(Accessed 7 November 2018).

Estonia

Score 9

Civil rights are widely respected and government does not interfere in the activities of the courts. Equal access to the law and equal treatment by the law are legally guaranteed. The courts are seen as independent by 64% of citizens and by 57% of enterprises, which is well above the EU average. Time needed to resolve civil, commercial and administrative cases shows the second lowest figure in the European Union. The same is true for the number of pending cases. (European Commission 2021)

Primary legal advice is free for citizens, dependent on the discretionary decision of the court. Estonia is one of the few EU member states where the right to legal aid is not linked to the income of the applicant. The court fees, at the same time, can be rather high, which places low-income persons in a worse position. Moreover, in consumer cases, the court fee is proportionally much higher in low value claims compared to high value (over €6,000) claims.

Besides the courts of law, the chancellor of justice plays an important role in ensuring civil rights. She ensures that authorities and officials performing public duties do not violate people’s constitutional rights and freedoms, and that persons held in detention are not treated in a degrading, cruel or inhumane way. Individuals can bring concerns directly to the Chancellor’s Office or send a letter detailing the issue of concern.

Citation:
European Commission (2021) The 2021 EU Justice Scoreboard.
https://ec.europa.eu/info/sites/default/files/eu_justice_scoreboard_quantitative_factsheet_2021_en.pdf (accessed 23.12.2021)

Germany

Score 9

In general, all state institutions respect individual freedoms and protect civil rights. Civil rights are guaranteed by the Basic Law and their modification is possible only by a two-thirds legislative majority. Some provisions concerning basic human rights are not alterable at all. The court system works independently and effectively protects individuals against encroachments by the executive and legislature. According to the Freedom House (2021) Civil Liberties Index, Germany is considered to be free but there are concerns cited with regard to issues such as politically motivated crime (see “Internal Security Policy”), data protection (see “Data Protection Authority”) and free speech, the latter of which results from a majority of Germans expressing that they are cautious about publicly stating their opinion.

Citation:
Freedom House (2021): Freedom in the World 2021, German, <https://freedomhouse.org/country/germany/freedom-world/2021> (accessed: 14 January 2022).

Ireland

Score 9

The Irish constitution enshrines the full range of fundamental civil rights associated with a liberal-democratic state. Article 38 establishes the right to a fair trial; Article 40 the rights to life, liberty, property, freedom of expression and equality before the law; Article 41 contains provisions for the protection of the family. In November 2012, the 31 amendment to the constitution strengthened provisions regarding the rights of the child.

On 25 May 2018, a referendum on the 31st Amendment of the Constitution of Ireland, which proposed permitting the Irish parliament (the Oireachtas) to legislate for abortion, was passed by 66.4% of voters. It was signed into law by the president on 18 September 2018.

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

Following the passage of the European Convention on Human Rights Act (2003) by the Irish parliament, the rights interpreted and developed by the European Court of Human Rights are directly enforceable before the Irish courts. The Criminal Justice

(Legal Aid) Act 1962 established an extensive system of free legal aid to promote equal access to the law and the courts. Access to free legal aid in certain civil cases was established by the Civil Legal Aid Act (1995).

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

The Protected Disclosures Act 2014 came into force in July 2014. This offers legal protections for workers who report concerns about wrongdoing in the public, private and non-profit sectors. The law covers all employees, contractors, agency workers, members of the police force (An Garda Síochána), and members of the Defense Forces.

Sweden

Score 9

Civil rights and legality are core values in Swedish governance. The constitution has a chapter devoted to human rights, and legal certainty is an essential guideline for the public administration. However, there are causes for concern. For example, instances of extortion have increased dramatically since 2017. This is partly due to organized crime, with the construction industry, restaurants and small retail establishments being hit the hardest (Brottsförebyggande rådet, 2021).

The pandemic crisis has highlighted the debate on civil rights, individual freedoms and collective security. One of the factors underpinning the Swedish response to the pandemic was the protection of civil liberties enshrined in the constitution, which disallows curbing the mobility of Swedish citizens and residents inside the country or imposing a state of emergency during peacetime. This thus excluded curfews and lockdowns, and generally required the government to rely on voluntary measures (see Petridou, 2020; Petridou and Zahariadis, 2020; Sparf and Petridou, 2021; Zahariadis et al., 2021). Whereas in most other European countries, presenting proof of vaccination is de rigueur, in Sweden this has been a measure applied only in large gatherings. The logic of the government regarding measures has been one of proportionality, as outlined by a relevant memo issued by the Ministry of Health and Social Affairs (Socialdepartementet) in December, 2021. The same memo specifically states that civil liberties and political rights will always be upheld, including the right to assemble and demonstrate, the rights of religion and mobility, and so on (Regeringskansliet, 2021).

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

police have prioritized tackling organized crime and, in 2019, the government, under heavy criticism from the center-right opposition, rolled out a program addressing the issue of organized crime. In December 2021, the minister of justice proposed further measures to combat organized crime, since the problem is proving persistent, and the situation has worsened in Sweden's 61 so-called vulnerable areas.

The issue of organized crime and the attendant questions of civil rights infringement are sure to factor strongly into the elections debate during 2022.

Citation:

Brottsförebyggande rådet. 2021. "Hot och Påverkan mot Samhället." <https://bra.se/statistik/statistik-utifran-brottstyper/hot-och-paverkan-mot-samhallet.html>

Petridou, Evangelia. 2020. "Politics and Administration in Times of Crisis: Explaining the Swedish Response to the COVID-19 Crisis." *European Policy Analysis*, 6(2), 147-158.

Petridou, Evangelia & Nikolaos Zahariadis. 2021. "Staying at Home or Going out? Leadership Response to the COVID-19 Crisis in Greece and Sweden." *Journal of Contingencies and Crisis Management*, 29(3), 293-302.

Regeringskansliet (Government Offices of Sweden). (2021). "Regeringens Åtgärdsplan för Införande av Smittskyddsåtgärder."

<https://www.regeringen.se/4ae7b3/contentassets/fe45c162544819deb7a1c52a24364/regeringens-atgardsplan-for-inforande-av-smittskyddsatgarder-2.pdf>

Sparf, Jörgen, and Evangelia Petridou. 2021. "Sweden: Country Report." University of Stavanger, Report no.98.

Zahariadis, Nikolaos, Evangelia Petridou, Theofanis Exadaktylos, & Jörgen Sparf. 2021. "Policy Styles and Political Trust in Europe's National Responses to the COVID-19 Crisis." *Policy Studies*, 1-22.

France

Score 8

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

The situation has improved considerably in recent history for several reasons. France's judicial system now acts in the shadow of international courts which prosecutes national violations of the rule of law. The European Court of Human Rights and the Court of Justice of the European Union play an incremental but decisive role in this progress. Secondly, the independence of the judiciary is ultimately well protected, and judges have become much more assertive, as demonstrated by the verdicts handed down to former presidents Chirac and Sarkozy in relation to the financing of parties and electoral campaigns.

With the proclamation of a state of emergency by the government following the terrorist attacks of 13 November 2015 and its extension until 1 November 2017 by the parliament, the question of possible infringements of civil rights has become an

important issue. The Council of Europe has been informed about this measure, which implies a possible breach of human rights, according to article 15 of the European Human Rights Convention. Up to now, infringements have been rather limited, and the administrative courts have exerted control of the individual or collective measures adopted by the government in spite of pressures from right-wing political parties and the police to further restrict the rights of persons suspected of supporting terrorist activities. Numerous observers have argued that the repression of the Yellow Vest protests entailed a disproportionate use of force. However, the use of violence by protesters also reached a level rather rare even by French standards. Emergency laws and limitations on rights were again imposed due to the COVID-19 emergency. Most of the laws and government decisions were brought either to the Constitutional Council or to the Council of the State, which fully used the emergency procedures available to them. The Constitutional Council must make decisions within a month, while administrative courts can immediately suspend a measure in advance of a full examination that requires more time (*référé Liberté*). However, this usually takes only a matter of days. The system has been intensively used (and abused) by pressure groups and lawyers. On the whole, it can be said that fundamental rights were well protected in spite of the exceptional situation created by the pandemic.

Latvia

Score 8

Civil rights are generally respected and protected. There is a provision for freedom of speech, although it criminalizes incitement to racial and ethnic hatred. It is forbidden to glorify or deny the Holocaust, crimes against humanity, or war crimes against the country perpetrated by the Soviet Union or Nazi Germany. There are no government restrictions on academic freedom or cultural events, and freedom of religion is granted.

In cases of infringement, courts provide protection. Individuals have equal access to and are accorded equal treatment by the courts. However, a significant court overload creates difficulties in obtaining timely access to justice.

There are concerns over poor conditions in the country's prisons and detention facilities, lengthy pretrial detention periods, and the general accessibility of the court system. The 2017 Ombudsman report rated the overall prison infrastructure as being antiquated and advanced plans for the construction of a modern prison in the city of Liepāja. This project has now started and is expected to conclude by the end of 2025.

In 2019, the European Court of Human Rights ruled in favor of an inmate who had been prevented from attending his father's funeral due to sexual discrimination, as men that have been found guilty of a serious crime are automatically placed in the highest security category, while women found guilty of a comparable crime are placed in less restrictive, only partially closed prisons.

Citation:

1. Freedom House (2021) Latvia: Civil Liberties, Available at: <https://freedomhouse.org/country/latvia/freedom-world/2021>, Last accessed: 05.01.2022.

2. Ombudsman of Latvia (2017), Annual Report, Available at: http://www.tiesibsargs.lv/uploads/content/legacy/2017_annual_report_summary_1523624612.pdf, Last accessed: 05.01.2022

3. Ombudsman of Latvia (2016), Annual Report, Available at: http://www.tiesibsargs.lv/uploads/content/lapas/tiesibsarga_2016_gada_zinojums_1_489647331.pdf, Last accessed: 05.01.2022.

4. European Court of Human Rights (2019) Prison sentence law which prevented male inmate from attending father's funeral led to sexual discrimination, Available at: <https://hudoc.echr.coe.int/app/conversion/pdf?library=ECHR&id=003-62935078211154&filename=Judgment%20Ecis%20v.%20Latvia%20-%20male%20prisoner%20banned%20from%20attending%20funeral%20suffered%20discrimination.pdf>, Last accessed: 05.01.2022

5. Ministry of Justice (2021) Liepāja Prison, Available (in Latvian): https://www.tm.gov.lv/lv/liepajas-cietums?utm_source=https%3A%2F%2Fwww.google.com%2F, Last accessed: 10.01.2022.

Luxembourg

Score 8

Civil rights are officially protected in Luxembourg. All state institutions respect these rights, with a few exceptions. Four institutions are in charge of protecting civil rights: the Constitutional Court, an advisory board on human rights, the National Commission on Data Protection and a parliamentary ombudsman. However, the judiciary system's slow processing of cases has led to concerns over due process and equitable treatment. The European Court of Human Rights in Strasbourg has reprimanded the country on several occasions because of delays in court proceedings. The mediation law grants a maximum of four months for processing, with the aim of speeding up administration procedures. The influence and the number of complaints to the ombudsman's office continues to grow. The institution of the Ombudsman was launched in 2003. The Ombudsman has the mandate to mediate in disputes between citizens and public authorities. Thus, in some cases, a problem can be resolved before it goes to trial.

In the Global Freedom Index 2021, Luxembourg scored 97 out of a possible 100, with a weighting of 38 out of a possible 40 for political rights, and 59 out of a possible 60 for political liberties.

Citation:

"Rapport annuel Ombudsman 2020." Ministère de la Famille, de l'Intégration et de la Grande Région (2021). <https://www.ombudsman.lu/EN/MGDL-001.php>. Accessed 14 January 2022.

"Freedom in the world: Luxembourg 2021." Freedom House (2021). <https://freedomhouse.org/country/luxembourg/freedom-world/2021>. Accessed 14 January 2022.

Meyers, Paul-Henri/Lorig, Wolfgang H. (2019): Luxembourg, in: Arthur Benz/Stephan Bröchler/Hans-Joachim Lauth (eds.), *Handbuch der europäischen Verfassungsgeschichte im 20. Jahrhundert. Institutionen und Rechtspraxis im gesellschaftlichen Wandel*, Band 5: seit 1989, Bonn, S. 393 - 416.

New Zealand

Score 8

New Zealand has a well-institutionalized liberal democracy with fully implemented and protected civil rights. Based on the Bill of Rights Act 1990 and the Human Rights Act 1993, the Human Rights Commission actively promotes compliance with civil and human rights by public bodies and in society. The 2021 Freedom in the World Report – published by the U.S.-based think tank Freedom House – awards New Zealand an almost perfect score of 59/60 on the “civil liberties” dimension (Freedom House 2021).

However, this does not mean that there are no infringements of citizens’ civil rights in New Zealand. For one, the powers of the Government Communications Security Bureau (GCSB) to conduct surveillance on New Zealanders has recently been the subject of scrutiny by civil rights, internet and legal groups, including the New Zealand Law Society. New Zealand continues to be an active member of the so-called Five Eyes network, a government-level alliance that shares intelligence information on a global scale. In September 2021, following a knife attack carried out by Sri Lankan national that injured seven people, parliament passed into law counterterrorism powers that criminalize the planning of terror attacks and expand the ability for police to conduct warrantless searches. Critics including the Privacy Commissioner raised concerns about the new laws, stressing that “the warrantless search for a very sort of vaguely defined offense can be subject to abuse” (Manch 2021).

In August 2020, the Wellington High Court ruled that the early stages of New Zealand’s level-4 lockdown (nine days between 26 March and 3 April) had been unlawful. While the measure was a “necessary, reasonable and proportionate response” to the pandemic at that time, the requirement was not mandated by law and was contrary to the NZ Bill of Rights Act, the court stated. A law change on 3 April then made the lockdown legal (Mitchell 2020). Similar cases have been taken to the High Court over vaccine mandates for employment (in the case of the police, and in the education and healthcare sectors). In the case of the police, the High Court determined that the government mandate is an unjustified incursion on the Bill of Rights, indicating that the justice system functions as an important institutional check on the executive, especially during times of crisis.

Freedom House (2021) Freedom in the World 2021: New Zealand. <https://freedomhouse.org/country/new-zealand/freedom-world/2021#CL>

Davison (2017) “Spying reforms allowing GCSB to spy on Kiwis pass into law with little opposition.” New Zealand Herald. https://www.nzherald.co.nz/nz/spying-reforms-allowing-gcsb-to-spy-on-kiwis-pass-into-law-with-little-opposition/2BAP2DBBZZTM2V6R7LTT6GBASY/?c_id=280&objectid=11822634

Manch (2021) “Parliament passes counterterrorism laws, criminalizing terror planning and expanding warrantless search powers.” Stuff. <https://www.stuff.co.nz/national/politics/126530458/parliament-passes-counterterrorism-laws-criminalising-terror-planning-and-expanding-warrantless-search-powers>

Mitchell (2020) “High Court rules some of Covid-19 level 4 lockdown was unlawful.” RNZ. <https://bit.ly/35Tg27T>

Portugal

Score 8

The Portuguese constitution of 1976 defines broad categories of rights and guarantees for the population in articles 12 – 23 and 24 – 27. This is generally also the case in practice. However, poorer elements of society, as in any country, tend to lack the educational, legal and other means to take full advantage of these guarantees. Moreover, the justice system continues to be very slow, which also reduces its ability to effectively protect citizens.

During the previous review period, the government of Portugal passed a law – the National Strategy for Equality – to increase the social and political rights of citizens. The law includes several strategic objectives to be achieved by 2030 and three action plans to implemented by 2021. The law focuses on promoting gender equality, preventing domestic violence, and combating discrimination on the grounds of sexual orientation and gender identity.

In 2020, two interim reports were published on the Strategy for Equality’s plan for combatting violence against women and domestic violence, and on its plan for combatting discrimination on the grounds of sexual orientation and gender identity. In both cases, the reports noted that 88% of planned measures had been implemented. However, the impact of these educational measures will take time to percolate through to changes in attitudes and behaviors.

Citation:

CIG, Portugal mais Igual, available online at: <https://www.cig.gov.pt/estrategia-nacional-para-a-igualdade-e-a-nao-discriminacao-2018-2030-portugal-igual/>

<https://dre.pt/home/-/dre/115360036/details/maximized>

Switzerland

Score 8

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

In December 2012, a parliamentary attempt to give the Federal Supreme Court the right to abstain from applying federal law if the federal law was incompatible with the constitution failed. The main argument was that in a direct democracy, the Constitutional Court should not be authorized to declare federal laws void as a whole. Thus, Switzerland, for different reasons but in a manner similar to the

Scandinavian countries, the Netherlands and United Kingdom, does not possess a comprehensive judicial power of constitutional review.

Conflicts between human rights and direct democracy have emerged, particularly in recent years. One such concern was represented by the successful 2004 popular initiative for the life imprisonment of particularly dangerous criminal offenders without any opportunity for re-examination. This conflicts with the European Convention for the Protection of Human Rights and Fundamental Freedoms. This convention guarantees periodic reviews in which the necessity for continued imprisonment can be evaluated.

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

The ban on the construction of minarets, approved in a popular vote in 2009, represents a particularly problematic decision. The basic claim of proponents was that minarets signify the potential aggression and power claims of Islam, which need to be suppressed as a strategy for keeping the peace. However, it is evident that the popular initiative was clearly aimed against Islam and the Islamization of Europe. Legal scholars tend to argue that the decision violates the freedom of worship and the non-discrimination rule. Another initiative launched by the People's Party, which prohibits Muslim women from covering their faces in public, was accepted in June 2021. Once again, Muslims were targeted and their right to self-determination was challenged or even withdrawn completely.

The acceptance in 2009 of an initiative to deport foreign criminals is also seen as problematic in terms of respect for fundamental rights.

The major underlying problem is the claim by many political actors that the people have an unrestricted right to decide any matter through popular vote. This conflicts with the basic rule of any liberal democracy that there are limitations to the will of the majority, such as human rights standards and protections for minorities. Switzerland's public debate on the limits to majority rule (through popular vote) shows little cognizance of these traditional limitations to majoritarian rule. This has become very obvious in recent debates over the conflicts between international law and Swiss citizens' decision-making rights in popular votes. Although anxiety over the ebbing of popular sovereignty extends beyond conservatives, this latter group in particular feels uneasy with the internationalization of law and some recent interpretations of human rights that have been made by professional lawyers. In the right-wing populist and conservative view, the internationalization of law and

international court decisions against the results of Swiss referendums contradict Switzerland's legislative culture, which is characterized by the principle of subsidiarity and guided by the idea that popular decisions have the highest degree of legitimacy. Consequently, in the summer of 2016, the country's strongest political party, the Swiss People's Party, had collected sufficient signatures for an initiative aiming to give federal law precedence over international law. This initiative was rejected on 25 November 2018.

Switzerland proved to be particularly resilient in terms of upholding political rights and democratic standards. The Pandemic Violations of Democratic Standards Index by the V-Dem projects ranks Switzerland second out of 144 countries with regard non-violations of democratic standards during the pandemic (measured for March 2020 – June 2021) (Edgell et al 2021, 2022).

However, the acceptance in June 2021 of the Federal Act on Police Measures to Combat Terrorism represents an additional threat to civil rights in Switzerland. This law gives the federal police ("fedpol") the power to issue, outside of any judicial decision, several preventive measures in order to prevent a "potential terrorist" from acting in the future. What exactly is considered a terrorist is not defined clearly within the framework of the law, which opens the door to potential abuses. In addition, it directly targets children from the age of 12, in violation of the rights of children enshrined in the Convention on the Rights of the Child. The preventive measures consist, for example, of electronic monitoring, contact ban, perimeter ban and house arrest. The bar association of the canton of Geneva released a statement against this law, arguing that it represents a clear violation of many fundamental rights as well as international conventions, such as the U.N. Convention on the Rights of the Child and the European Convention on Human Rights. Many human rights associations, such as Amnesty International, have also explicitly opposed the law, and underlined its threat to civil liberties, activism and basic human rights.

Citation:

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Austria

Score 7

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

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

Access to the courts in Austria has become increasingly difficult as a result of legal fees that have reached exorbitantly high levels, particularly in the civil branch of the judiciary system. While the state does in some cases provide financial assistance, in many cases, the fees required to access the Austrian judicial system constrain or altogether block access for people with limited means.

As in many other countries, the anti-coronavirus measures introduced by the government included many serious (though temporary) restrictions of key civil rights, such as the right to gather for demonstrations, which have been accompanied by inconclusive court reactions. The series of four complete lockdowns between March 2020 and late 2021 marked the most severe challenge to civil rights. The government's plans to introduce mandatory coronavirus vaccination by February 2022 was another hot issue on an evolving agenda.

Citation:

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Czechia

Score 7

The government and administration of Czechia respect and protect its citizens' basic civil rights. As indicated by complaints lodged with the European Court of Human Rights and the Public Defender of Rights, Czechia's ombudsman, the main problem is the length of legal proceedings. The relatively high number of complaints compared to other East-Central European countries shows that Czech citizens are

increasingly aware of their civil rights and have the financial, cultural and social resources to pursue these rights. The fight against COVID-19 led to a number of temporary limitations on civil rights, including a temporary ban on citizens' ability to leave the country in the spring of 2020. However, the requirements of legality, necessity, proportionality and time-boundedness were largely upheld.

Lithuania

Score 7

It is relatively easy for all residents to gain Lithuanian citizenship, and civil rights are officially protected by the constitution and other legislative provisions. However, there are some problems regarding effective protection of citizens' rights. According to the U.S. Department of State, Lithuania's most significant human-rights problems include poor prison conditions, intolerance of sexual and ethnic minorities, and the lengthy detention of people awaiting trial. Additional problems include interference with personal privacy, domestic violence, child abuse, and libel and anti-discrimination laws that limit the freedom of expression. Lithuanian authorities do seek to prosecute or otherwise punish officials who committed abuses, and Lithuanian courts provide legal protection against illegitimate or unjustifiable interventions into personal life. On the Civic Empowerment Index, produced by the Civil Society Institute since 2007, Lithuania scored 41.3 out of 100 in 2020 – a relatively low level, and yet its highest to date. In the 2021 Freedom House report, Lithuania was given a score of 52 out of 60 on the issue of civil liberties.

Lithuanian society shows only an average interest in public affairs, while the social environment remains unfavorable for civic engagement. A total of 18% of the Lithuanian population indicated in 2014 that they had experienced violations of their rights, and again only 18% said they had taken action to protect themselves, indicating an insufficient degree of awareness of human rights.

The migrant crisis has brought difficult challenges for Lithuania. After essentially allowing free entry into Lithuania for migrants entering from Belarus claiming asylum status, the authorities changed their policy and in practice began denying access to migrants by erecting physical barriers and pushing back people who were trying to enter the country. This was done due to the perception that elevated migrant flows were being specifically engineered by Belarusian President Lukashenko as a form of "hybrid warfare," in a response to Lithuania's active stance promoting the democratic opposition in Belarus. Furthermore, the sheer number of actual and potential migrants led the authorities to believe that strict action was necessary, as it was feared that the situation would soon become physically unmanageable. At the same time, NGOs and several international organizations expressed concerns about both the strategy and tactics pursued, which in several respects were considered to be in violation of certain international agreements and human rights.

Citation:

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t/humanrightsreport/index.htm#wrapper

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Survey on the situation of human rights in Lithuania, <http://www.hrmi.lt/musu-darbai/tyrimai178/visuomones-nuomones-apklauso/>

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Malta

Score 7

The state generally respects human rights, and human rights are subject to judicial protection. Malta affords the highest possible level of protection to civil and political human rights, as enshrined in Chapter 4 of the constitution. These rights are legally enforceable before the courts, and the sphere of rights enjoyed by individuals has expanded greatly since independence, thanks to decisions by the Constitutional Court and the European Court of Human Rights. Delays in the administration of justice have often been the cause of complaints, but continued attempts to reform matters have brought improvements. Persons under interrogation have a right to be assisted by a lawyer. A new section in the Superior Court of Appeal has been created with the aim of increasing the system's efficiency and effectiveness. In respect to LGBTQ+ rights, Malta continues to occupy top spot in the European index of LGBTQ+ rights, which covers 49 countries. Greater focus on gender equality has improved matters considerably as has the transposition into domestic law of the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence (Istanbul Convention). However, NGOs representing women claim that the government was not fully compliant with the convention because the country adopted a gender-neutral approach to violence. The government has now committed to including femicide as an article within the law. A massive backlog of domestic violence cases leading to year-long court delays has been identified. There has been a similar development regarding disabled persons in Malta and a national disabilities strategy has been finalized. The civil rights of immigrants and asylum-seekers – including the removal of automatic detention, a shift to open reception centers and a more efficient processing system, improved rights enabling applicants to access their own files, and better family reunification measures – have improved, although one needs to truly assess the impact of COVID-19 restrictions on these measures, as a number of small riots at the main refugee centers indicates otherwise. In 2020, amendments to the Refugees Act formalized the Temporary Humanitarian Protection (THP) status, establishing it as a legal norm. THP is now included in the International Protection Act. It is granted to “an applicant for international protection who does not qualify for refugee status or subsidiary protection status, but who is deemed to qualify for protection on humanitarian grounds.” In 2021, 32 asylum-seekers filed a human rights violation complaint against the Maltese government,

alleging that in the spring of 2020 the cabinet decided to leave them for weeks on two tourist boats outside territorial waters as a precautionary measure against COVID-19. In May 2021, the government introduced a new policy denying asylum-seekers from safe countries the right to work for nine months after arriving in Malta. Human rights organizations described the policy as “discriminatory and inhumane.” A relatively high number of asylum-seekers have been accorded humanitarian protection status. However, the rate of recognition for actual refugee status remains low. Better access to housing and support for migrants to integrate with the community needs to be made available. A recent report highlighted the right to marry, as migrants who do not have residency permits face a number of barriers when wishing to marry. A Human Rights and Equality Commissioner has been appointed, and a new integration policy launched in 2019 ratified the relevant conventions on statelessness. A 2021 NAO report has reported positively on the administration of the prisons, which contrasts sharply with accusations of abuse made by journalists. The Council of Europe’s commissioner for human rights has also called for the decriminalization of abortion in Malta. There is a growing debate on this topic, though the issue remains very divisive. The UN Committee for the Rights of the Child has recommended that Malta’s marriage law be amended to forbid people between 16 and 18 from getting married. Freedom in the World 2021 allocated Malta a score of 55 out of 60 on civil rights and 35 out of 40 on political liberties. Shortcomings cited included the degree of government influence over state media, racial abuse against irregular immigrants and the continued prevalence of domestic violence.

Citation:

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Info Migrants 19/10/21 Malta 32 Asylum seekers file rights complaint against Malta

South Korea

Score 7

Despite the courts' relatively effective performance in protecting civil rights, and the election of a former human-rights lawyer as president, inadequate rights are accorded to certain populations such as migrant workers, refugees and sexual minorities. South Korea also maintains the possibility of the death penalty, though there has been a moratorium on executions since 1997. On a positive note, in November 2018 the Korean Supreme Court for the first time accepted "conscience or religious beliefs" as a justifiable reason for conscientious objection to the country's mandatory military service. Unfortunately, the government has to date been slow to offer alternatives to military service for conscientious objectors. In April 2019, the Constitutional Court strengthened women's rights, ruling that Korea's 65-year ban on abortion was unconstitutional. In October 2021, stronger workplace harassment penalties were adopted, and beginning in 2022, employees will for the first time be able to petition the Labor Relations Commission for relief and damages in gender discrimination and sexual harassment cases. Migrant workers and refugees continue to face considerable discrimination in Korea (see "Integration" and "Anti-Discrimination"). Personal data privacy has emerged as a sticky issue in the COVID-19 era. As in many countries, South Korea's COVID-19 response has raised questions regarding the correct balance between personal privacy and public safety. In the wake of MERS, South Korea amended legislation to allow authorities to access personal data without court approval during pandemics. This facilitated South Korea's successful COVID-19 contact-tracing system, which relies on personal data from mobile phones, GPS, credit cards and CCTV footage. Initially, much of this data was made available to the public, leading to discrimination against infected persons and sometimes against entire groups, such as churches and the LGBTQ+ community, because they were linked to specific infection clusters. Following critique by Korea's National Human Rights Commission, the government has since limited the information it publicizes to as to protect personal privacy.

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Freedom in the World 2021

<https://freedomhouse.org/country/south-korea/freedom-world/2021>

Spain

Score 7

Spanish state institutions generally respect and protect civil rights. The rights guaranteed by the constitution and ordinary legislation are enforced, and only few infringements occur in practice (e.g., concerning illegal immigrants). Courts provide effective protection even if systematic delays and a lack of adequate resources (both human and technological) are factors that undermine this effectiveness to some degree. The political conflict associated with Catalonia's bid for independence included the very debatable claim by Catalan nationalist forces that the central government and the courts had supported an abusive interpretation of the rule of law. But in fact the opposite was the case; individuals' rights are rigorously safeguarded in Spanish criminal proceedings. The trial of 12 Catalan independence movement leaders in 2019 was public, transparent and was carried out in compliance with the Charter of Fundamental Rights of the European Union and the European Convention on Human Rights.

During the period under review, parliament continued to debate the reform of the controversial 2015 law on public safety (gag law). A specific reform proposal was presented in November 2021. In November the coalition government tabled a proposal for the revision of several articles of the Code of Criminal Procedure, some reforms were able to be adopted during 2021 (e.g., Organic Law 3/2021 of 24 March, on the regulation of euthanasia; Law 8/2021 of 2 June on reforming civil and procedural legislation to support persons with disabilities in exercising their legal capacity; Organic Law 8/2021, of 4 June, on the comprehensive protection of children and adolescents against violence). The objective of Organic Law 8/2021 is to protect children and adolescents in their physical, mental, psychological and moral integrity against any form of violence, in order to ensure the free development of their personality. The law is a consequence of decisions of the United Nations, the European Union and the Council of Europe. Legal experts have welcomed these reforms, although it has been noted that additional autonomy and resources would be needed for the implementation of the reforms.

During the first nationwide state of emergency, the excessive and disproportionate use of force by law enforcement officials to ensure compliance with lockdown rules was reported. But there also was a 60% increase in women calling the support helplines to report gender-based violence as compared to the same period the previous year. Online consultations with women seeking safety during the lockdown increased by 586%.

The Constitutional Court has the function of protecting civil rights. In 2021, it declared the two state of emergency decrees (approved in 2020 to deal with the COVID-19 pandemic) to be unconstitutional, because they did not provide sufficient guarantees for the protection of civil rights.

United States

Score 7

The traditional legal protection from intrusion by the state has been compromised significantly as a result of the anti-terrorism measures following the attacks of 9/11. The Patriot Act has taken a more balanced approach than is generally recognized, even though some surveillance and investigative procedures have opened the way for abuse. The more significant compromises of privacy protections have resulted from actions taken by the Bush administration, which include the National Security Agency being able to order widespread wiretapping and internet surveillance, entirely without statutory authority.

In December 2018, Congress passed a bipartisan bill, the First Step Act, under discussion for several years that reduced excessive sentences for many nonviolent offenses, such as minor drug offenses. The burden of such sentences had fallen heavily on blacks and Latinos. During the COVID-19 pandemic, the First Step Act played a direct role in the many requests by federal inmates for their compassionate (health-related) release.

The Biden Administration and the Justice Department's Civil Rights Division have launched several major investigations. For example, investigations into three major police departments. Furthermore, the Justice Department also has launched an investigation into Georgia's prison system for alleged civil rights legislation. This all indicates a clear departure from the policies of the Trump Administration.

Citation:

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<https://scholar.harvard.edu/jfeldman/blog/roland-fryer-wrong-there-racial-bias-shootings-police>

Australia

Score 6

Australia is the only major established democracy which does not have a bill of rights. Civil rights are protected through a significant body of legislation and by the constitution, which contains certain implied rights which are subject to interpretation by the High Court. This was perhaps made most clear to the Australian people when state and territory governments imposed severe lockdown restrictions that were ruled by courts to be legal.

While Australia's record of protecting human rights is internationally regarded as strong, criticism continues to be voiced regarding treatment of the indigenous population and the respect accorded to asylum-seekers' civil rights. Both major parties support the policy of offshore processing of asylum-seekers, which is of course denying them rights enjoyed by Australian citizens.

Concerns have been raised about counterterrorism legislation. The Anti-Terrorism Act 2005 includes a variety of individual powers, including detention for up to 14 days, and restrictions on the movement, activities and contacts of persons subject to “control orders,” whether or not those persons have been accused or convicted of any offense. The coalition government has implemented four further tranches of legislation since October 2014. These include the Telecommunications (Interception and Access) Amendment (Data Retention) Act 2015, which requires telecommunications service providers to retain and secure telecommunications metadata for two years. 22 agencies, including the Australian security intelligence organization, state police forces, the Australian crime commission and the Australian taxation office are able to view the data without a warrant. The act is opposed by a wide range of groups, including human rights organizations and civil liberties groups, on the basis that it represents an excessive encroachment on Australians’ privacy. Most recently, the Australian Citizenship Amendment (Allegiance to Australia) Bill 2015 grants the government explicit powers to revoke Australian citizenship from dual citizens convicted of engaging in terrorist-related activities. The bill has also been criticized for being unconstitutional and for allowing possible retrospective application.

In late 2017, the government announced new laws making it a criminal offense to be in possession of instructional terrorist material or to engage in terrorism hoaxes, and reached agreement with the states and territories to develop national facial biometric matching capability. And in December 2018, the government passed legislation that imposes new requirements on organizations to assist law-enforcement and security agencies with requests to access information, introduces new computer access warrants that enable law enforcement to covertly obtain evidence directly from a device, and increases the power of law enforcement to access data through search and seizure warrants. Opponents argue that these measures represent unjustified infringements on civil liberties.

Citation:

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Belgium

Score 6

There is an anti-discrimination law in Belgium that dates from 1981. It is framed in opposition to both racism and xenophobia, and has been interpreted in a broad sense.

Belgian courts operate independently of political interests, and regularly challenge political decisions. Tensions between judges and politicians can even be said to have increased in recent years. Civil rights have traditionally been well-protected.

As in all countries, the COVID-19 crisis called for strong action that in some cases included the suppression of individual liberties. Liberty of movement, the right of association and the right to demonstrate have all been constrained during infection peaks. This very sensitive tension between public safety and liberty was present in all democratic countries. Belgium was among those countries that put more weight on safety. As far as one can tell, this did not damage the demand for civil liberties, nor the independence of the judiciary. Yet amid a global trend of the erosion of democratic rights, caution and continuous monitoring of the situation are called for.

Among the points requiring attention, the judicial system has been chronically underfunded. Judicial delays and independence are among the indicators that ought to improve with time. This was already a sticking point in earlier periods, to an extent that damaged Belgium's position in both the World Economic Forum (WEF) and World Bank rankings.

A small number of citizens with dual citizenship who have engaged in activities deemed to be terrorist (especially in Syria) have been stripped of their Belgian nationality, and have therefore lost access to basic associated rights.

Citation:

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Chile

Score 6

The state and the courts efficiently protect civil rights. However, the huge income gap in the population, as well as prevalence of discrimination against indigenous people and women, leads to inequality in the exercise of those rights. Anti-terror legislation – which dates back to 1984 and violates international conventions signed by Chile – has in recent years been applied in conflicts involving ethnic minorities, such as the Mapuche community in the southern region of Chile, generating human rights violations. There have been multiple cases in which detainees in the Mapuche conflict have been held significantly longer than average, independently of any results of an investigation. Two severe incidents were revealed during 2018 (the “Catrillanca case” and “Operation Huracán”) involving the infringement of rights and perpetration of criminal offenses by the government and police officials within the context of the Mapuche conflict.

Enacted in November 2016, Law No. 20,968 modified the competences of the military justice system defined by Law No. 20,477. Henceforth, no civilian – perpetrator or victim – will be prosecuted by military courts. The new law also introduced the crime of torture into the criminal code.

In response to the mass protest of October 2019, President Piñera declared a state of emergency that included a one-week curfew in several regions and the deployment of soldiers in the streets. Reports subsequently emerged that state forces – in particular the police (Carabineros) – had committed severe human-rights violations during protests and after arrests were made.

According to statistics from the Public Prosecutor’s Office and the National Institute for Human Rights (INDH) compiled by Amnesty International (AI), as of March 2021, there were more than 8,000 victims of state violence and more than 400 cases of eye trauma resulting from police actions during the protests that began in 2019. Former president and current High Commissioner of the United Nations’ Office for Human Rights (OHCHR) Michelle Bachelet sent a team to investigate the incidents. The resulting report concluded that certain human rights violations, in particular the improper use of “less lethal” weapons and cases of ill treatment, had recurred repeatedly, and had involved the same alleged perpetrators and victims. One indicator of the violent reaction of the police during the mass protests were the 400 people who ended up with eye trauma as a result of projectiles fired by the security forces. As stated in their annual report for 2019, the INDH filed six individual complaints alleging homicide and 12 complaints on behalf of 20 victims alleging attempted homicide.

As for the limitation of rights, during the so-called state of catastrophe some rights such as freedom of movement and the freedom of assembly were restricted (for instance, a night curfew was declared from March 2020 to October 2021). Courts can review emergency measures, but the declaration of a state of exception itself cannot be subjected to judicial review, according to the constitution (Cofre 2020).

In addition, as stated by a report on Human Rights in Chile in the context of the pandemic, the right to confer privately with an attorney was seriously limited during the COVID-19 pandemic. Moreover, the report indicates that there is no official protocol for implementing the necessary means for this right to be respected. (Observatorio Ciudadano 2020).

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Cyprus

Score 6

The constitution guarantees civil rights for all, but, despite some positive steps, significant problems persist. These problems include human trafficking, the treatment of asylum-seekers, economic and irregular migrants, and forced labor. Compliance with EU and international rules and standards remains deficient.

The U.S. Department of State placed Cyprus in Tier Two, considering that “it does not fully meet the minimum standards for the elimination of trafficking.” The 2020 report of anti-traffic group of experts (GRETA) of the Council of Europe points to numerous problems. GRETA stresses the need to do more to combat human trafficking, provide legal advice and establish a support fund to compensate victims of trafficking. It also calls for special care when dealing with cases involving the abuse of children. Labor inspectors should be trained so they can prevent abuse of domestic workers and detect human trafficking, while authorities should review issues which make asylum-seekers vulnerable to trafficking.

Overcrowding in prisons was alleviated during COVID-19 with the release or placement in open detainment of detainees. The ombudsman reported lower numbers of complaints by detainees for abuse or maltreatment. In other 2020 reports the Ombudsman’s Office observes that the treatment of asylum-seekers and conditions in detainment centers were very problematic.

Sectors of the economy where migrant workers are employed are not regularly visited by labor inspectors, as noted in the U.S. State Department report for 2020. A study for the Ombudsman’s Office reported cases of abuse, violence and overexploitation of foreign domestic workers. Despite the positive action of NGOs to mitigate problems, they are often targeted by officials with vague baseless allegations of illegal activities. Generally, official narratives have increased the society’s negative stance toward immigrants.

A radical change in official narratives and practices are needed, along with a new culture of respect for all humans. The high AROPE rate for non-native persons points to their vulnerability and the urgency of protection.

Citation:

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3. Ombudsman’s report on foreign domestic workers, December 2020, [http://www.ombudsman.gov.cy/ombudsman/ombudsman.nsf/All/2358C433C1A0F629C2258646002B79DA/\\$file/Domestic%20workers%20.pdf](http://www.ombudsman.gov.cy/ombudsman/ombudsman.nsf/All/2358C433C1A0F629C2258646002B79DA/$file/Domestic%20workers%20.pdf)

Greece

Score 6

Civil rights are protected by and included in the constitution (passed in 1975, and amended in 1986, 2001, 2008 and 2019) and the criminal code. Individuals are free to express their personal views on political or other sensitive topics without fear of surveillance or retribution. Judges are tenured and cannot be removed nor transferred by incoming governments. Courts guarantee the protection of life, freedom and property and protect all individuals against illegitimate arrest, exile, terror, torture or unjustifiable intervention into personal life. Greek citizens enjoy equal access to the law and are treated equally by the law. Restrictions imposed on the movement of persons and activities of businesses in the period under review were deemed constitutional by the courts, as was the compulsory vaccination of hospital staff and the staff of disaster management units.

Notably, despite intense political conflict throughout the previous decade, Greek democracy has continued to function and the courts have administered justice, albeit with very significant delays. Judges are unable to handle the constant overflow of cases, which have piled up for several years.

There are rare cases of officials failing to uphold the law as far as protecting human rights is concerned. Independent control mechanisms, such as free media, NGOs and social movements, are very sensitive to human rights violations. Such cases, which have occurred in reception camps for migrants and in prisons, have acquired wide publicity, but have taken a long time to be processed by the courts system. Despite delays, courts eventually sanction violations of human rights. For instance, the conviction and imprisonment of the leaders of the neo-Nazi party Golden Dawn, in October 2020, for the assassination of a left-wing rap singer in 2013, marked an improvement in the administration of justice.

In the meantime, the living conditions of migrants and asylum-seekers, stranded in reception centers (camps) on Greek islands, improved to some extent. After a deadly fire in 2019 in the Moria refugee camp on the island of Lesbos, the government

passed new legislation to reorganize the camps, and began actively relocating refugees and migrants to better and smaller camps around mainland Greece. In 2021, the government also built new camps on large Greek islands (Lesbos and Samos) that face the coast of Turkey, the usual departure point of refugees and migrants.

In summary, the state protects civil rights, but organizational and bureaucratic obstacles in practice stand in the way of the comprehensive protection of these rights, particularly with regard to migrants and refugees.

Citation:

The Council of the State (Greece's highest administrative court) decided in November 2021 that the compulsory vaccination of medical doctors and nurses, as well as the staff of emergency units of disaster management (the EMAK units), was constitutional.

The new law on reorganization of refugee camps is L. 4636/2019.

Information in English on the Secretariat for the Protection of Unaccompanied Minors is available at <https://migration.gov.gr/en/grammateies/eidiki-grammateia-prostasias-asynodeyton-anilikon/>

Iceland

Score 6

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

However, there are exceptions to this rule. Most importantly, in 2007, the United Nations Committee on Human Rights (UNCHR) issued a *de facto* (if not *de jure*) binding opinion stating that, because of its discriminatory nature, the management system of Iceland's fisheries constituted a violation of human rights. Furthermore, the UNCHR instructed the government to change the system and to pay damages to those whose rights had been violated. The government responded by promising to pass a new constitution with a provision declaring the country's natural resources to be the property of the nation. The UNCHR later dropped the case, saying that Iceland's promise of a new constitution was partly sufficient. However, the parliament has not ratified the new constitution, which was accepted as the basis for a new constitution by 67% of the voters in a national referendum called by parliament in 2012. No progress has been made since then.

The European Court of Human Rights (ECHR) has heard several petitions by Icelandic citizens recently that their civil rights have been violated. In almost all cases, the ECHR has ruled in favor of the petitioners, casting doubt on the ability of Icelandic courts to protect civil rights effectively. Following a number of similar ECHR rulings in recent years, Icelandic courts have demonstrated an increased tendency to acquit defendants in politically motivated libel cases. In December 2020, the European Court of Human Rights (ECHR) confirmed its ruling that Iceland violated Article 6 of the European Convention on Human Rights, which is meant to ensure a person's right to a fair trial, in the appointment of judges to the Court of Appeal. The minister of justice's appointment of four judges to the court breached

the procedure established by Icelandic law. The minister failed to give sufficient reasoning for appointing different judges from those that had been selected by a selection committee and resigned from office.

The 2021 parliamentary election led to numerous citizen complaints to parliament. The police levied fines against five members of the electoral board in one of the six constituencies for dereliction of their duties. These fines are yet to be paid, which may result in indictments against the board members. A number of complaints concerning alleged irregularities surrounding the election as well as the vote count were presented to local police as well as to the OSCE, which did not send representatives to observe the election. For the first time in Iceland's history, disappointed parliamentary candidates have appealed the legitimacy of the election results to the ECHR, claiming that the vote tallying broke the law.

Citation:

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Gylfason, Thorvaldur (2016), "Constitution on Ice," in *Iceland's Financial Crisis: The Politics of Blame, Protest, and Reconstruction*, eds. Valur Ingimundarson, Philippe Urfalino, and Irma Erlingsdóttir, Routledge, London.

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Italy

Score 6

The legal system includes detailed constitutional provisions and a series of ordinary laws that provide an articulated protection of a broad set of rights. Strongly independent courts serve in principle to guarantee their implementation. In practice, however, inefficiencies in the judicial administration, the heavy backlog of many courts and the consequent length of judicial procedures can make the protection of civil rights (both personal and property) less effective. After years of discussion, and upon the request of supranational institutions, Italy finally introduced a law against torture (law n. 110, 14 July 2017). However, the law has been criticized by UN authorities for being too restrictive.

The legal protection of the rights of immigrants, especially if they are illegal, is far from satisfactory. Some cases of police violence are reported. Actions by the security agents of the various authorities (including the state police and prison surveillance personnel) sometimes seem to contradict the principles of the rule of law. Immigrants and homosexuals sometimes experience discrimination.

The set of restrictive law-and-order policies (Law Decree 4/10/2018 n. 113 and Law Decree 14/06/2019 n.53) dealing with matters of immigration and public demonstrations approved by the first Conte government under the political influence of Lega leader Salvini and criticized by the president of the republic were mellowed by the second Conte government (Law Decree 21 October 2020, n.130).

The Draghi government has corrected the norms introduced by the first Conte government concerning statute-of-limitations rules with the purpose of reducing the duration of judicial procedures.

Citation:

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<https://www.gazzettaufficiale.it/eli/id/2020/10/21/20G00154/sg> (accessed 30 December 2021)

Japan

Score 6

Civil and human rights are guaranteed under the Japanese constitution. However, courts are often considered overly tolerant of alleged maltreatment by police, prosecutors or prison officials. Moreover, existing laws give prosecutors and the police substantial leeway. Arrested suspects can be kept in prison for 23 days without a formal charge being lodged, with a further 10 days of detention possible with a routine court request. Assistance by lawyers during interrogation can be denied. Interrogations can last for up to eight hours per day. Supporters of Japan's justice system point to its high confession rate, which has produced a record number of convictions. However, there is clearly a dark side to this.

LDP-led governments have made little effort to address such issues. Critics have demanded – to date unsuccessfully – the creation of independent agencies empowered to investigate claims of human-rights abuses. There is no national or Diet-level ombudsperson or committee tasked with reviewing complaints. Citizens have no legal ability to take their complaints to a supra- or international level. Unlike 35 other UN member states, Japan has not signed the so-called Optional Protocols to the International Covenant on Civil and Political Rights.

In response to the ILO international harassment guidelines of 2018, Japan revised its legislation on the issue of workplace harassment in 2019. The Comprehensive Labor Policy Promotion Act, aimed at eliminating sexual harassment, harassment against women and workplace bullying came into effect in June 2020. While the law mandates employers to take actions aimed at preventing workplace harassment, there is no punishment for employer non-compliance.

Japan has been widely criticized for its harsh prison conditions, and for being one of the few advanced countries that continues to apply the death penalty. Prisoners are given only a few hours' notice before executions, and families are usually informed afterward.

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Netherlands

Score 6

The Netherlands formally guarantees and protects individual liberties, and all state institutions formally respect and – most of the time – effectively protect civil rights. The Netherlands publicly exposes abuses and reports them to the UN Human Rights Council or the European Union. It cooperates with the monitoring organizations of all international laws and treaties concerning civil liberties signed by the Dutch government.

However, there are developments worthy of grave concern. The right to privacy of every citizen tops the list of preoccupations. Dutch citizens are more at risk than ever of having their personal data abused or improperly used. In addition, current policies regarding rightful government infringement of civil rights are shifting from legally well-delineated areas like anti-crime and terrorism measures toward less clearly defined areas involving the prevention of risky behavior in areas such as healthcare and travel (coronavirus demonstrations). Increased monitoring and digital surveillance technologies disproportionately target those most dependent on state support, creating inequalities in policing and fraud control. After U.N. Special Rapporteur for Human Rights Philip Alston criticized the Dutch government (and parliament) for its use of an algorithmic system (Systeem Risico Indicatie) to detect social-benefits fraud, a new law (Wet Gegevensverwerking Samenwerkingsverbanden) even aims to expand the system to link data from across all government and many private databases to generate an individual fraud-risk profile. This law awaits approval in the Senate. Most recently it was discovered that the tax authorities used a secret list (Fraude Signalerings Voorziening) of some 250,000 people suspected of possible tax fraud, without informing them that they had been listed as potential “frauds.” Being listed implied that citizens could be excluded from regular public support for debt restructuring and repayment, insurance contracts, and loans (like mortgages).

Human Rights Watch has criticized recent Dutch legislation restricting the number of locations for hosting asylum-seekers, as well as the long wait times for asylum decisions and family-reunion procedures. The Council of State was criticized for

failing to sufficiently uphold the rights of asylum-seekers in appeals to government decisions. On the other hand, the Dutch government withdrew a bill that would have criminalized illegal residence, allowing authorities to put those lacking residence permits in jail. There were concerns about racial profiling by police officers and white Dutch citizens interfering in protests against the traditional “Black Pete” (“Zwarte Piet”) figure in traditional St. Nicholas festivities. However, Frisian pro-Black Pete activists – who stopped anti-racist protesters by blocking a highway – were condemned for disturbing the public order, with this verdict upheld in a higher appeals court. But public ambiguity around racial profiling remains after a judge decided in a case brought by Amnesty International to allow military police officers at the border (e.g., Schiphol Airport) to use racial profiling in surveilling incoming “strangers.”

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Slovakia

Score 6

In Slovakia, civil rights are largely respected. However, the integrity of the judiciary and the long duration of court proceedings remain a problem, as do police discrimination and the mistreatment of the Roma population. New problems have emerged since conservative forces (including several Christian churches) have formed an alliance. Promoting traditional “family values” and opposing “gender ideology,” it has sought to restrict women’s rights and LGBTQ+ rights. These attempts have been supported by Sme-Rodina, one of the parties in the new center-right government, as well as by a number of members of parliament from OĽaNO, the leading party of the governing coalition. In September 2020, for instance, a group of OĽaNO members of parliament led by conservative Member of Parliament Anna Záborská submitted a law for stricter abortions in parliament. During the COVID-19 pandemic, some fundamental civil rights were temporarily restricted. When the first case of COVID-19 in Slovakia was detected in early March 2020, the Pellegrini government limited the freedom of movement and imposed a 14-day quarantine on all arrivals from abroad. People had to stay in state-owned facilities under poor conditions until testing negative for the virus. Despite the Constitutional Court’s suspension of an earlier amendment of the Act on Electronic Communications that gave the public health authority access to location tracking data in the fight against the pandemic, the governing coalition amended the Act in summer 2020 in a similar vein.

Slovenia

Score 6

In Slovenia, civil rights are largely respected. Citizens are effectively protected by courts and by independent institutions like the ombudsman against infringements of their rights. Some problems exist with regard to the integrity of the judiciary. By contrast, the duration of court proceedings, which was very long in the past, has been drastically reduced and the number of unsolved cases dropped from 42,424 cases with a waiting time of over three years in 2016 to only 18,408 cases in 2020, reaching the lowest levels since the 1990s.

Though civil rights are largely protected, there have been attempts by public authorities to undermine civil society. The prime minister has shown an increasingly hostile attitude toward civil society organizations. The government has campaigned against these organizations and sought to restrict their access to public funding, in effect contributing to the shrinking of civil society spaces.

Citation:

Annual Report on Efficacy and Effectiveness of Courts, 2020, available at https://www.sodisce.si/mma_bin.php?static_id=2021050412351310.

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United Kingdom

Score 6

In the United Kingdom, civil liberties have long been protected despite the absence of a written constitution and an accompanying bill of rights. The country thus shows that effective protection is possible if support for civil rights is firmly rooted in society and therefore is expected of the government of the day. However, UK citizens have been afforded additional rights of protection from the European Court of Human Rights (ECHR). Events of the last decade such as terrorist attacks have also demonstrated that the balance between state interests and individual rights can be more easily tilted if there are no institutional protections at hand. Various anti-terrorism acts (2000; 2001; 2005; 2006; 2008) have given the UK government more and harsher instruments to fight terrorism. For most citizens, these anti-terrorist measures are not an issue, but for the very small minority that they affect, they can be a source of dismay. In the past, governments had objected to rulings from the ECHR, to the extent that some government ministers advocated a UK withdrawal from the court. The absolute national sovereignty of British courts was a crucial argument to the campaign to leave the European Union.

While courts and public pressure have from time to time succeeded in stopping practices like the indefinite detention of non-nationals, the state has usually succeeded in reintroducing them after some time under a different name, for example, when replacing “control orders” with “terrorism prevention and

investigation measures.” However, it does so under quite intense media scrutiny. The files leaked by former U.S. National Security Agency (NSA) subcontractor and system administrator Edward Snowden disclosed a degree of digital surveillance in the United Kingdom that far exceeded expectations. The Government Communications Headquarters (GCHQ), with its Tempora and MUSCULAR programs, as well as the NSA/GCHQ PRISM joint venture, tracks and evaluates a very large share of national and international electronic communications. But despite the initial media outcry, public opposition to these programs has been relatively mild. Furthermore, wider society is well aware of the proactive tradition of its national intelligence services and criticism tends to be limited outside the context of libertarian pressure groups. The most sustained opposition today comes from communication firms whose servers were hacked by government agents to access private data. An upshot of this episode was the introduction of the new Investigatory Powers Act in 2016, with regulations coming into force in 2018.

There have been several legal challenges to the government approach, often initiated by NGOs such as Liberty or Privacy International. In October 2016, the Investigatory Power Tribunal, which is the only court that hears complaints against the intelligence agencies (i.e., MI5, MI6 and GCHQ), ruled that the mass collection of private data as committed by the security services between 1998 and 2015 failed to comply with Article 8 of the European Convention of Human Rights and was therefore illegal. After being declared unlawful by the Court of Appeal, significant parts of the Investigatory Powers Act 2016, better known as the “Snoopers’ Charter,” will need to be overhauled by legislators. However, as Computer World reported in summer 2019, the courts have supported the government position on, for example, the right to appeal judgments of the tribunal.

The government has announced plans to replace the Human Rights Act with a new bill of rights following the United Kingdom’s departure from the European Union, but has yet to do so. Besides new regulations, there is also the need to decide the future standing of court decisions based on EU law. In December 2021, the government published a consultation, which will last until spring 2022, on its proposals to replace the Human Rights Act with a bill of rights.

The governments of the four nations of the United Kingdom chose to impose lockdown and restrictions, although there were some (relatively minor) differences among them in the application the measures. There was a lively public debate on their scope and duration, and many Conservative members of parliament pushed for the restrictions in England to be ended sooner than the government wanted. On the whole, public opinion supported the actions taken during the first year of the pandemic. According to YouGov, some three-quarters of respondents approved of the actions in this period. From March 2021, however, approval fell quite sharply, dropping to below 40% in January 2022.

Citation:

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to_the_IPA_codes_consultation.pdf

<https://www.computerworlduk.com/security/draft-investigatory-powers-bill-what-you-need-know-3629116/>

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Bulgaria

Score 5

The Bulgarian constitution and legislation provide a comprehensive framework guaranteeing civil rights and their protection. In practice, rights are generally respected by state agencies and citizens have legal recourse in cases involving infringement. Cases are also regularly heard at the European Court of Human Rights. Citizens actively use the administrative-justice process to challenge the actions of state agencies, and the courts regularly side with citizen plaintiffs.

The courts generally uphold efforts to protect property rights, despite recent attempts to amend legislation that would permit violations of property rights go unchecked. Even when the government and public prosecutors took illegal action against former government beneficiaries and their relatives (2019 – early 2021), the courts have upheld the constitutional protection of property rights.

The most frequent and serious rights violations are the overuse of force by law-enforcing government bodies, especially against Roma. The Commission for Protection against Discrimination has observed more frequent complaints about hate speech in media, online publications and social networks. Citizens regularly report failures to investigate and protect rights related to some types of crimes, especially crimes against property.

Croatia

Score 5

Civil rights are formally protected by the constitution and other laws, but not always respected in practice. The ombudsman and specialized ombudspersons play an important role in the protection of human rights. However, the ombudsman's recommendations are not always carefully followed up on. The need to reduce the backlog of civil, commercial and enforcement cases is still pressing, and the demonization of human rights' advocates has continued.

After much of political controversy, the Croatian parliament ratified the Istanbul Convention in 2018. However, data for 2019 show an increase in the number of family-related violence cases, most of which encompass male offenders. These cases

are also more shocking in terms of the brutality displayed. Prevention initiatives and the penal system have been too inert in tackling the issue. The government endorsed stiffer penalties for offenders, while attacks on social workers will now be treated as criminal offenses. It remains to be seen whether the stiffer penalties will deter serious offenders and molesters in light of the very slow and inefficient judiciary.

In terms of the freedom of expression and access to justice, Croatia still posts unsatisfactory results. However, in other walks of life, such as protecting civil and political rights (especially of gay people and minority nationalities), Croatia has made steady improvements or maintained relatively high standards. According to the Othering and Belonging Institute at UC Berkeley's 2019 Inclusiveness Index, Croatia ranks a very credible 13 out of 132 countries worldwide.

Citation:

Human Rights House Croatia (2018): Human Rights Defenders in Croatia: Obstacles and Challenges. Zagreb (<https://humanrightshouse.org/articles/human-rights-in-croatia-overview-of-2018/>).

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Israel

Score 5

By law, the effort to safeguard civil rights is constituted in the Basic Law: Human Dignity and Liberty, which protects the right of each citizen to privacy, property, dignity, life and so forth. This basic law is meant to carry the spirit of the law and is procedurally protected from nullification. However, provisions from the law can be overruled under specific urgencies stated by the government and the courts. Much of the work of protecting civil rights in Israel is done through judicial review, which operates independently from the legislator and the executive branches. Civil rights claims are voiced through the media, NGO activities, appeals to the Supreme Court, legislative amendments and appeals to government bodies that investigate public complaints.

Yet, there is a gap between the formal guarantees of equal civil rights and the reality of unequal opportunities. Such a gap exists mainly when there is a conflict between civil rights and other core social values (e.g., religious identity, security, and communal rights). According to the Association for Civil Rights in Israel (ACRI), the government and members of parliament have extensively promoted initiatives that infringe on basic democratic principles, such as minority rights, freedom of speech and the activity of civil society organizations. In particular, the ACRI has expressed concern about the central role played by the Knesset in these initiatives. While not all legislative proposals were adopted, those that were have influenced public discourse on and attitudes toward democracy, human rights, minority groups and the rule of law, among other things.

Throughout the COVID-19 crisis, political and civil rights have been curtailed at various points. Beyond that, Israel relied mainly on emergency regulations to

determine its policies. These regulations were made under Basic Law: The Government, which enables the government to pass regulations during a state of emergency. Israel has been in a state of emergency since its founding in 1948 (Gross & Kosti 2021). Emergency regulations can change Knesset legislation, temporarily expropriate legislation or set different conditions for a limited period of three months. Israel has used emergency regulations throughout its history, including during routine periods. However, the use of emergency regulations throughout the COVID-19 period has been higher and more widespread than during any other crisis in the history of the State of Israel, including during wars and military operations. In response to demands by the attorney general and the Supreme Court to cease using of emergency regulations, the Knesset legislated the Coronavirus Law (Gross & Kosti 2021), which grants the government the authority to declare a state of emergency due to the coronavirus and issues regulations to set restrictions accordingly.

Citation:

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Romania

Score 5

Civil rights are guaranteed by the constitution and are generally respected in practice. Romania responded to a European Court of Human Rights decision by adopting a new civil procedure order, which came into effect in February 2013. However, court

protection has continued to suffer as a result of long and unpredictable proceedings. There is no equal access to the law since well-positioned individuals, including politicians, are given preference by the courts. More specific concerns have been raised concerning the disproportionate use of preventive detention (often in conflagration of European legal standards), the poor conditions in Romanian prisons, and the large-scale surveillance activities of the Romanian Intelligence Service. NGO legislation introduced by the governing coalition in 2017 has weakened civil rights watchdog organizations.

Hungary

Score 4

The Orbán governments have formally respected civil rights. However, the rule of law has suffered from the government's politicization of the courts, its failure to protect Roma and other minorities from harassment and hate speech, and its attempts to criminalize the (former) left-wing elite. The Prosecutor General has acted as a shield protecting Fidesz affiliates and initiating fake legal processes against opposition actors, damaging their economic situation and private life.

During the COVID-19 pandemic, the Orbán government has restricted civil rights. While the temporary travel restrictions and curfews were broadly in line with the European mainstream, the government has also adopted a number of more controversial measures. The so-called Coronavirus Defense Act (also known as the Authorization or Enabling Act), which came into force on 21 March 2020 has inserted two new crimes into the Criminal Code. Anyone who "claims or spreads a distorted truth in relation to the emergency in a way that is suitable for alarming or agitating a large group of people" can be punished with up to five years in prison. In addition, anyone who interferes with the operation of measures that the government takes to fight the pandemic could also face a jail sentence of up to five years. While both provisions have not been invoked on a large scale, they have had an intimidating effect.

The government's disrespect of civil rights has also been shown by the Pegasus scandal. In July 2021, it turned out that about 300 Hungarian citizens, including journalists, lawyers, politicians, former state officials and businesspeople, most of them critical of the government, were targeted by Pegasus spyware between 2018 and 2021. While the government has denied any wrongdoing, there is strong evidence that it has been responsible for the surveillance.

Poland

Score 4

There is not much trust in the government's respect for civil rights due to its grip on the judiciary and frequent attacks on the Commissioner for Human Rights, and the xenophobic, discriminatory and offensive rhetoric used by prominent members of the

government against minorities, women activists and other people who do not fit into their worldview. In addition, the legislation on NGO financing enacted at the end of 2017 has made it more difficult for NGOs to monitor respect for civil rights. Access to public money is controlled by a new institution, the National Freedom Institute – Center for the Development of Civil Society. NGOs who try to defend civil rights are also increasingly confronted with hate speech, criticism of their activities and lawsuits. With the ongoing judicial reforms, the unlawful installment of government-friendly judges, the transferal of critical judges to other courts against their will and especially the Disciplinary Chamber of the Supreme Court, which allows the government to accuse judges out of political motivation, courts are not always able to protect civil rights. The judgment of the Constitutional Tribunal from October 2021 that several articles of the Treaty of the European Union would not be compatible with EU law is another impediment to the protection of civil rights. This was also demonstrated in a judgment by the European Court of Human Rights in May 2021, which found that the Constitutional Tribunal had not sufficiently protected a plaintiff's rights. However, there are still many independent judges who try to defend the rule of law and civil freedoms.

In the course of the Belarus border crisis, an amendment by the minister of the interior and administration in August 2021 changed regulations concerning the temporary restriction or suspension of border traffic at certain crossings. This action was framed as a security issue, but was understood by several experts as a means to legalize the pushback of immigrants, which would violate the Geneva Convention. Moreover, a motion by President Duda to prolong the state of emergency for another 60 days was passed by parliament. However, the parliamentary vote did not meet the required procedures, since only half of the members of parliament were present. Massive civil rights concerns have also been prompted by revelations in January 2022 that the government had used the Israeli Pegasus spyware to spy on opposition politicians, lawyers and public prosecutors.

Turkey

Score 3

While Article 10 of the constitution guarantees equality before the law, and Article 12 enshrines fundamental rights and freedoms, concerns over shortcomings in judicial proceedings remain, including limited access by defense attorneys to prosecution files, lengthy pretrial detentions, and excessively long and catch-all indictments.

Article 148 of the Turkish constitution states that anyone who believes his or her human or civil rights, as defined in the European Convention on Human Rights (ECHR), has been infringed upon by a public authority has the right to apply to the Constitutional Court, after exhausting other administrative and judicial remedies. Individual applications must be filed within 30 days after the notification of the final proceeding that exhausts other legal remedies. Since September 2012, the

Constitutional Court has accepted individual petitions, if the right to a fair trial has been violated. Between September 2012 and December 2020, a total of 295,038 individual applications were received and 257,108 applications were concluded by the court. However, the court found that in only 14,027 applications had at least one right been violated.

The European Court of Human Rights received a total of 9,104 cases against Turkey in 2020. Among the 6,520 cases in which a verdict was rendered, the court ruled that 95 of them had involved a violation of the law. Historically, Turkey is the country that has been most frequently condemned by the court for violating the freedoms of thought and expression, and ranks second after the Russian Federation on all issues. Additionally, according to the 2020 report of the OHAL Transactions Review Commission, which addressed issues related to the post-2016 coup attempt state of emergency, 112,310 out of 126,630 cases were brought to conclusion.

Citation:

Euronews. “AYM 257 bin bireysel başvurudan sadece 14 bin 765’ini esastan inceledi, yüzde 95 hak ihlali buldu “, January 17, 2021. <https://tr.euronews.com/2021/01/17/aym-257-bin-bireysel-basvurudan-sadece-14-bin-765-ini-esastan-inceledi-yuzde-95-hak-ihlali>

Adalet Bakanlığı. 2021. “Avrupa İnsan Hakları Mahkemesi 2020 Yılı İstatistikleri Değerlendirme Notu,” [https://inhak.adalet.gov.tr/Resimler/Dokuman/10220211651521-%20Avrupa%20İnsan%20Hakları%20Mahkemesi%20\(AİHM\)%202020%20Yılı%20İstatistik%20Değerlendirme%20Notu.pdf](https://inhak.adalet.gov.tr/Resimler/Dokuman/10220211651521-%20Avrupa%20İnsan%20Hakları%20Mahkemesi%20(AİHM)%202020%20Yılı%20İstatistik%20Değerlendirme%20Notu.pdf)

TRT Haber. “OHAL Komisyonu’ndan faaliyet raporu: Müracaatların yüzde 89’u sonuçlandırıldı,” February 5, 2021. <https://www.trthaber.com/haber/gundem/ohal-komisyonundan-faaliyet-raporu-muracaatlarin-yuzde-89u-sonuclandirildi-553942.html>

Mexico

Score 2

In principle, Mexico guarantees most civil rights via its legal and constitutional systems. Nevertheless, access to the court system and protection against violations are both highly unequal. Overall, the rule of law is weak, and there is widespread impunity the rule, which undermines the effectiveness of formally guaranteed rights.

The tension between formal rights and effective guarantees plays out especially forcefully in the field of security. Since 2006, more than 250,000 men and women have been killed in the “war on drugs.” In 2019, the homicide rate reached an average of 94 murders per day. The government has lost control of many parts of Mexico.

The Mexican military and other security forces are notorious for violating human rights, and the courts do not provide adequate protection to citizens victimized by the military or police. Since the beginning of the drug war in 2006, Mexico’s Human Rights Commission has received more than 10,000 complaints of abuse by the military. Federal prosecutors have opened more than 9,000 investigations, without a single conviction. By mid-2019, around 40,000 people are reported to have disappeared.

The security situation has deteriorated persistently over the course of President López Obrador's term, with the number of homicides increasing to its highest level since the state began keeping systematic records on crime and violence. Against the background of escalating violence, it has generally been impossible to effectively hold the security forces to account for abuses. Human Rights Watch has spoken of a "human rights catastrophe" inherited by President López Obrador when he started his term. Despite the promise to solve the violence problem, the government is continuing to lose the battle against the cartels.

Citation:

<https://www.hrw.org/americas/mexico>

<https://www.hrw.org/news/2018/10/29/mexico-torture-and-historical-truth>

https://www.elconfidencial.com/mundo/2019-06-25/mexico-desaparecidos_2087378/

Indicator

Political Liberties

Question

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

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

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

Estonia

Score 10

Political liberties are an important part of Estonia's constitution and they are widely respected in society. There are 11 political parties, which collectively cover the entire spectrum of mainstream political ideologies are registered and active. The Estonian Trade Union Confederation (EAKL), which is comprised of 20 branch unions, represents employees' interests in collective-bargaining agreements and protects employees' rights in employment relations. It also consults employers on developing a sustainable labor market and participates in policymaking. Civil society groups organize open forums to discuss important social and political issues. One such forum, the Arvamusfestival (Opinion Festival) is held annually since 2013. There is no state church in Estonia and religious freedom is guaranteed through the presence of 10 religious associations. During COVID-19, restrictions on public events and gatherings have been modest compared to many other European countries. Some peaceful protest meetings against the COVID-19-related restriction were held in 2020–21.

Finland

Score 10

Political liberties are effectively protected in Finland. Finland is one of three countries that received the maximum aggregate score (100) in the category of political rights and civil liberties in Freedom House's 2021 Freedom in the World survey. Finnish law provides for freedom of speech, and this freedom is upheld in practice. Finns also enjoy freedom of religion, freedom of association and assembly, and the right to organize, bargain collectively and strike. A large majority of workers belong to trade unions, although the share of membership in trade unions has been

decreasing. Women enjoy rights and liberties in Finland equal to those of men. Since the criminal code covers ethnic agitation, courts are regularly faced with the delicate task of weighing the principle of freedom of speech against the principle of forbidding hate speech. In September 2018, the Court of Appeal in Turku upheld a ban on the Nordic Resistance Movement, a National Socialist organization, which is also active in Denmark, Norway and Sweden. The ban has subsequently been appealed to the Supreme Court of Finland. The constitution guarantees members of the indigenous Sami population, who comprise less than 1% of the population, cultural autonomy and the right to pursue their traditional livelihoods.

New Zealand

Score 10

Political liberties are effectively protected under the Bill of Rights Act 1990. Those who believe that their rights have been infringed upon can file a suit before the High Court. Although the bill has the status of ordinary law and can be amended or repealed by a simple majority of parliament, every effort has been made to protect and enhance the integrity of the bill as a fundamental feature of New Zealand's constitutional arrangements. In addition, the New Zealand Council of Civil Liberties is an active, non-governmental organization that promotes these liberties. In its 2021 Freedom in the World report, U.S.-based think tank Freedom House awarded New Zealand an almost perfect score of 59/60 on the dimension of "civil liberties" (Freedom House 2022). After the right-wing terrorist attack on a mosque in Christchurch in March 2019, the New Zealand government set up a dedicated investigative unit to find and prosecute "hate speech" online. Under existing terrorism legislation, the shooter's 74-page manifesto was classified as "objectionable," making it a crime to hold, share or quote from. While critics argue that these steps threaten the freedom of expression, supporters of the government's actions point to the radicalizing effects of extremist online content (RNZ 2019).

Citation:

Freedom House (2022) Freedom in the World 2022: New Zealand. <https://freedomhouse.org/country/new-zealand/freedom-world/2022>

RNZ (2019) "Government announces \$17 million to target violent extremist content online." <https://www.rnz.co.nz/news/political/400957/government-announces-17-million-to-target-violent-extremist-content-online>

Sweden

Score 10

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

Austria

Score 9

Human rights, and civil and political liberties are guaranteed effectively by the Austrian constitution. The Austrian standard of recognition accorded to such liberties and rights is very high. This is reflected in the high score granted by Freedom House in 2021, according to which Austria scored 56 out of a possible 60 points.

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

As a consequence of the significant number of people coming from Muslim-majority countries over recent years, the acceptance of Islam has become less politically secure than in the past. In late 2017, the government introduced a ban on face veils in elementary schools. However, this was ruled unconstitutional by the Austrian Constitutional Court in 2020.

The fear that significant Muslim elements use their position in the educational system to preach a fundamentalist form of Islam, which promotes violence and resistance to gender equality, combined with the existence of an apparently very small but internationally well-connected network of radical Islamists, is feeding a debate concerning the status of Islam. In early 2021, the government introduced plans for a new “Islam law,” with tighter controls and more severe penalties for violations.

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

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

Canada

Score 9 The state and the courts generally show a high degree of respect of, and protection for, political liberties in Canada. The Canadian Charter of Rights and Freedoms provides a guarantee of “fundamental freedoms” in its section 2, thereby giving courts justiciable norms for the protection of political liberties. Citizens have ample room to express their political opinions in a variety of venues and to participate in politics through extra-parliamentary means such as lobbying and demonstrating in addition to having the right to vote in, and stand for, elections.

Czechia

Score 9 Political liberties are protected, respected and used in Czechia. This applies to freedom of speech, freedom of association and assembly, and freedom of religion. The country has a vibrant and politically active civil society, which played a major role in keeping the government accountable during the COVID-19 pandemic. COVID-19-related restrictions on assembly during the repeated states of emergency in 2020 and 2021 largely met the requirements of legality, necessity, proportionality and non-discrimination. For some time, the number of participants allowed to attend a protest was temporarily limited to 100, with social distancing and masks required. These rules were largely followed. In November 2020, the Million Moments for Democracy initiative creatively reacted to the restrictions and organized its first online protest (on YouTube), which attracted over 50,000 participants. When the restrictions were not respected by anti-mask and anti-vaccination protesters, the police acted professionally. The police also sided with the citizens when asked by Minister of Health Adam Vojtech (ANO) to prevent large-scale anti-government demonstrations for health reasons in June 2020. Czechia managed to organize the regional and Senate elections in October 2020, and the parliamentary elections in October 2021 amidst the pandemic.

Denmark

Score 9 The Danish constitution protects the political rights and liberties, including freedom of speech, freedom of association and freedom of assembly. Elections are free. The government is accountable to the elected parliament.

Freedom House usually gives Denmark top scores for civil liberties and political rights. Problems in Denmark mostly concern ethnic tensions, especially involving the country’s Muslim population, and alleged abuse of power by the police.

Recent human rights reports from Amnesty International include critiques concerning the treatment of refugees and asylum-seekers, such as the return of asylum-seekers, individual cases of denied asylum, the “management of asylum cases which fails to insure the best interests of the child, and the detention of asylum-seekers and vulnerable persons while awaiting deportation.”

The 2015 – 2016 report from Amnesty International mentioned a recent judgment by the Eastern High Court that the police had unlawfully removed and detained protesters during an official state visit by Chinese officials in 2012. A new investigation of this case has been started, as new information has become available.

Citation:

Amnesty International Annual Report: Denmark 2016/2017, <https://www.amnesty.org/en/countries/europe-and-central-asia/denmark/report-denmark/>

Amnesty International, Denmark 2017/2018, <https://www.amnesty.org/en/countries/europe-and-central-asia/denmark/report-denmark/> (Accessed 3 October 2018)

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

France

Score 9

Political liberties are presently well protected in France. This situation can be explained by several factors. The fact that these liberties are considered to be the legacy of the French Revolution sets them in a quasi-sacred position. The protections were granted and solidified by the highest administrative court during the Third and Fourth Republics. Recently, the Constitutional Council has played an increasingly active role in striking down laws that could jeopardize these liberties. The expansion of the court’s powers stemmed from its 1971 decision to protect the right of association from governmental intervention. However, history has shown that the status of such liberties could be diminished in times of crisis or military conflict.

A controversial and still not fully resolved issue is related to the interpretation of the separation of religious and public life (*laïcité*). The ban on religious signs and symbols in all places of public administration and institutions is, in theory, applicable to all religious affiliations but concerns mainly the Islamic community. There is a growing uneasiness among the population about the public display of “differences,” an issue that right-wing and extreme-right parties are particularly vocal about. Indeed, an increasingly illiberal attitude has been evident in public opinion, manifesting in the rejection of differences based particularly on religious beliefs (e.g., Halāl food, public religious demonstrations and wearing burkinis on public beaches).

Germany

Score 9

Due to Germany's historical experience with National Socialism, political liberties are highly protected by the country's constitution and the Constitutional Court. Freedom of expression is protected by the constitution (Art. 5), although there are exceptions for hate speech and Nazi propaganda, such as Holocaust denial. With the exception of cases where individuals are deemed to be actively seeking to overturn the democratic order, the right to assemble peacefully is guaranteed (Basic Law, Art. 8) and is not infringed upon. All exceptions are applied very restrictively. For example, even extreme parties such as the far-right National Democratic Party (NPD) currently have full freedom to operate. The Bundesrat appealed to the Federal Constitutional Court seeking to prohibit the NPD but the court did not ban the NPD in his judgment from January 17, 2017.

The freedoms to associate and organize (Basic Law, Art. 9), as well as academic freedom, are generally respected. Non-governmental organizations operate freely. Every person has the right to address requests and complaints to the competent authorities and to the legislature (Basic Law, Art. 17). Freedom of belief is protected by the constitution (Basic Law, Art. 4).

Greece

Score 9

The constitution extends strong protections to political liberties, including the right to vote, to think and speak freely, to assemble and demonstrate, to organize in collectives such as unions and associations and to submit petitions requiring a timely response by the competent authorities. Political liberties in 2020 and 2021 were well protected, as reported by international observers (e.g., Freedom House).

In 2020 and 2021, despite the risk of spreading the COVID-19 virus, mass protests organized by trade unions, by opposition parties and by the anti-vaccination movement were regularly held and were not suppressed by police forces. During the COVID-19 pandemic, in 2021, an amendment to the Penal Code made the spread of fake news on public health matters punishable and tightened penalties for disseminating fake news. The amendment was passed by the government majority in parliament, against the votes of the opposition and disagreement expressed by a few NGOs.

In the period under review, small anarchist groups in large cities sporadically attacked government buildings and the property of private companies, with whom they politically disagreed. As was the case in the past, small radical leftist groups infrequently closed down university or high school buildings by occupying them in protest against government measures they opposed.

In this context, the government regarded the issues of safety and security as taking a high priority. In the period under review, the police evacuated privately owned buildings and rooms in state university buildings, which had been used by the aforementioned groups in Athens and other cities. However, the government's intention to establish a special police force to patrol university campuses was delayed.

Greece's largest recognized minority population, the Muslim minority of Western Thrace, has full political rights; four members of the community won seats in the last parliamentary elections (2019). However, based on international treaties which recognize only religious minorities in Greece (the Treaty of Lausanne, 1923), the authorities have rejected some ethnic minorities' attempts to register associations with names referring to their ethnic identity. Since 2010, documented immigrants who reside in Greece have been allowed, under certain conditions, to vote in municipal elections.

The constitution guarantees religion freedom, but prohibits proselytization. However, the restriction is rarely enforced. For years, successive governments were reluctant to allow the establishment of places of Muslim worship. Finally, in 2019, the Muslim community of Athens started using a state-funded and state-run mosque.

Citation:

Freedom House Greece Profile 2021 <https://freedomhouse.org/country/greece/freedom-world/2021>

Stricter penalties on disseminating fake news, a crime sanctioned in Greece's Penal Code (article 191), were provided in 2021, through Law 4855/2021 (article 36)

Ireland

Score 9

Freedom of speech, freedom of assembly, and the right to form unions and associations without religious, political or class discrimination are enshrined in the Irish constitution. These rights have been protected and upheld by the Irish courts over the years, subject only to restrictions regarding sedition, blasphemy and breaches of the peace. In October 2014, the government accepted the constitutional convention's recommendation that a referendum be held on removing the offense of blasphemy from the constitution. On 26 October 2018, the amendment to remove the offense of blasphemy from the Irish constitution was passed by a margin of 64.85% to 35.15%. Notwithstanding this constitutional change, the Defamation Act 2009 has not been repealed, even though section 36 of the act carries a maximum fine of €25,000 for the utterance of material that is "grossly abusive or insulting in relation to matters held sacred by any religion." However, only the Director of Public Prosecutions can instigate proceedings under this act and given its wording many constitutional lawyers believe it is unworkable.

Sinn Féin, the political wing of the formerly illegal Irish Republican Army has become increasingly involved in mainstream Irish politics since the late 1990s. Its share of the national vote has grown steadily from 1.6% in 1992 to 24.5% in 2020, while the number of seats it occupies in parliament grew from zero to 37 during this time. No political group is presently excluded from access to the airwaves or the print media.

Italy

Score 9

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

During the pandemic crisis, only limited restrictions were applied to the rights to assemble and hold political rallies.

Latvia

Score 9

Political liberties are effectively protected and upheld. The right to speak, think, assemble, organize, worship, and petition without government interference or restraint is recognized and protected. However, new challenges to the freedoms of speech, assembly and organization are emerging. For example, freedom of assembly is regularly tested by organizations applying to the Riga city council for permits. In most instances, permits are granted without fail. Sensitive political issues, however, have led the city council to deny permits. There is a right of appeal to the courts and a rapid consideration schedule to ensure timely decisions.

Citation:

Freedom House (2021) Freedom in the World: Latvia, Available at: <https://freedomhouse.org/country/latvia/freedom-world/2021>, Last accessed: 10.01.2022.

Lithuania

Score 9

Lithuanian institutions generally respect the freedoms of assembly and association. Lithuania obtained a very high score on the issue of political rights (38 out of 40) and a high score on civil freedoms (52 out of 60) in the Freedom of the World Report published by Freedom House. Lithuanian political parties operate freely, with the Communist party being the only banned grouping. Non-governmental organizations

may register without serious obstacles, and human-rights groups operate without restrictions. In 2010, an appeals court ruled that Lithuania's first gay-pride parade could go ahead on the basis of the right to peaceful assembly. This parade (a controversial issue in this majority Roman-Catholic country) was initially banned by a lower court due to concerns over potential violence. Another gay-pride parade was allowed to be held in the center of Vilnius in 2013. The freedom of religion is also largely upheld in practice, but certain government benefits are granted only to traditional religious communities. Workers may form and join trade unions, strike, and engage in collective bargaining, but slightly less than 10% of the country's workforce is unionized. According to the Freedom House report, "strikes are relatively uncommon due to strict regulations, a lack of strike funds and the absence of a culture of industrial action." The Supreme Court has ruled that the right to strike can be used only after other measures provided for in the Labor Code have been exhausted. A new labor code that came into force in 2017 provides additional instruments for the organization of strikes.

In 2021, there was a substantial uptick in protest activities. In May of that year, around 15,000 people protested against the country's vaccination policy and plans to introduce legalize same-sex partnerships. In August, protests against pandemic management policies in front of the parliament turned violent – a policeman was injured, and members of parliament had to be evacuated. The city of Vilnius refused to grant permission to hold several protests in defense of traditional family values and against pandemic policies, citing concerns over public health and safety, but courts overruled these decisions.

In September 2021, an LGBTQ+ march took place in the municipality of Kaunas. Kaunas' mayor stated that in his opinion, an event of that nature should not take place on the main avenue of the city, but the courts stated that the organizers had the right to organize the march.

The 2021 freedom rating of Lithuania by the Freedom House is available at <https://freedomhouse.org/country/lithuania/freedom-world/2021>

Luxembourg

Score 9

In the Democracy Index Report 2020, Luxembourg was ranked 13th worldwide (with an average score of 8.68 out of 10) and was regarded as a full democracy. The three-top ranking countries were Norway (9.81), Iceland (9.37) and Sweden (9.26).

No infringements of citizens' rights to speak, assemble, organize, worship or petition occurred during the period under review. Political freedoms are guaranteed. All groups of society are depicted in the media and can be heard. Xenophobia and anti-Semitism are consistently punished by the courts. There are restrictions on civil servants' freedom of expression, even when a civil servant represents civil society. Sanctions against civil servants were lifted by the courts during the period under review.

However, the 2020 report “Coronavirus Pandemic in the EU – Fundamental Rights Implications,” which was drafted by the EU Agency for Fundamental Rights and the University of Luxembourg, stressed that the coronavirus outbreak has generally limited the citizens’ access to courts, and seriously affected particular groups such as homeless, older people and detainees.

Citation:

“Democracy Index 2020. In sickness and in health?.” *The Economist* (February 2021). https://pages.eiu.com/rs/753-RIQ-438/images/democracy-index-2020.pdf?mkt_tok=NjlyLUxNRS03MTgAAAAAYVax8IwqLIZVtbRhWvTRSBdAuvQeFuFanG6c5odTKThe813J-OVEjC6czHiW. Accessed 14 January 2022.

“Coronavirus pandemic in the EU – Fundamental Rights Implications. Country: Luxembourg.” European Union Agency for Fundamental Rights (FRA) & University of Luxembourg. (4 May 2020).

Norway

Score 9

Political liberties are protected by the constitution and the law. The right to free expression was strengthened through a constitutional amendment in 2004. Limitations to freedom of speech (such as regarding hate speech/discrimination) are regulated by law. All citizens may comment on legislative proposals in hearing procedures. In 2014, the Sámi minority was granted explicit rights to their own language and cultural expressions. Norway has ratified all international conventions on human and civil rights. The European Convention on Human Rights is incorporated into national law. The right to free worship and other religious activities are ensured. The historical tradition of a privileged, state-owned Lutheran church was ended in 2017, and now, all religious communities are treated equally. Political liberties are respected by state institutions.

Portugal

Score 9

Under the regime that ruled Portugal until 1974, there were virtually no political liberties. The basic goal of the political transition was to achieve and guarantee political liberties. Portugal has been successful in this regard, and widely agreed-upon political liberties are now in place and respected. The basic legislation in the constitution, and subsequent regular legislation, guarantees these political liberties. They function generally well. If there are any lapses, they are due more to bureaucratic inefficiency rather than a conspiracy by the Portuguese government.

However, these lapses can be quite serious. For instances, it was revealed in 2021 that the Lisbon city government had shared the protest organizers’ personal details with the entities that were being protested against. For example, this led to information about activists protesting against their governments being shared with those governments’ embassies, including the embassies of Russia, China, Iran and Saudi Arabia, among others. In consequence, the National Authority for Data

Protection (Comissão Nacional de Protecção de Dados, CNPD) fined the city government €1.2 million, criticizing the municipality's "evident disorganization."

Constitutional restrictions forbid the existence of racist and fascist organizations. Likewise, the penal code criminalizes discriminatory propaganda, as well as the promotion or denial of genocide and racial discrimination. This does not in practice preclude the emergence of such groups, such as the Portugal Hammerskins; but they are very small, and generally well controlled by the police.

While the pandemic led to a declaration of a state of emergency, the associated legislation does not allow for the restriction of political freedoms. The law on the state of emergency stipulates that "the meetings of statutory bodies of political parties, unions and professional associations will in no case be prohibited, dissolved or submitted to prior authorization" during a state of emergency (Article 2 of Law 44/86).

Portugal has a very permissive framework for religions, and the right to worship is protected for every religious community.

Citation:

DN (2021), "Dados enviados à Rússia. Câmara de Lisboa multada em 1,2 milhões de euros," available online at: <https://www.dn.pt/sociedade/dados-enviados-a-russia-camara-de-lisboa-multada-em-12-milhoes-de-euros-14491499.html>

Público (2021), "Câmara de Lisboa enviou dados para a Rússia 27 vezes. Israel, Angola e China também receberam informações," available online at: <https://www.publico.pt/2021/06/24/sociedade/noticia/camara-lisboa-enviou-dados-russia-27-vezes-israel-angola-china-tambem-receberam-informacoes-1967745>

Switzerland

Score 9

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

At the same time, Switzerland proved to be particularly resilient in terms of upholding political rights and democratic standards during the pandemic (see "Civil Rights").

The new anti-terror law can be considered a threat to political liberties and civil rights, as it enables authorities to take preventive action against so-called dangerous persons outside of criminal law. The new law creates a legal basis for preventive measures such as house arrest and contact bans. Amnesty International Switzerland writes that the anti-terror law is a dangerous breach of the principles of the rule of law. The law is not only directed against so-called terrorist threats, but can also be used to prosecute legitimate political protests. The vague definition of terror opens the door to police arbitrariness.

Citation:

https://www.swissinfo.ch/ger/abstimmung-schweiz-13-juni-2021_-resultate-anti-terror-gesetz/46694058

<https://www.amnesty.ch/de/laender/europa-zentralasien/schweiz/polizeigesetz>

United States

Score 9

The United States generally has a strong record of protecting political liberties. The protections cover all of the recognized political freedoms of speech, association, voting, and pursuit of public office, and extend even to extreme groups such as Communists and neo-Nazis. Religious freedoms are protected even for religious fringe groups. In contrast with most developed democracies, the United States' constitutional free-speech doctrine does not permit laws banning hate speech.

In one significant limitation to political rights, convicted felons are barred from voting in nearly all states, although usually not permanently. Florida passed legislature to restore voting rights for felons in 2018. Additionally, while the government allows protest demonstrations for all kinds of causes, even when they may become disruptive or disorderly, local police have sometimes confined demonstrators to locations far removed from the target events (e.g., during G-8, G-20 and WTO meetings).

Australia

Score 8

Political liberty is strongly protected by the courts, but is not unfettered. As in other Western countries, anti-terrorist legislation has raised a major challenge to political liberties. The Anti-Terrorism Act 2005 makes any act of sedition illegal, such as urging the overthrow of the government by violence or force, and outlaws any organization that advocates the use of violence or force for that end. One of the main criticisms of the legislation is that it lacks sufficient judicial oversight.

Freedom of speech, religion, the right to organize and the right to strike are not constitutionally guaranteed. However, various High Court judgments, and Commonwealth and state legislative provisions provide at least some protection in this regard.

Federal police raids on a journalist's home and a broadcaster's office in June 2019, purportedly to protect national security (but in fact very clearly motivated by political concerns), have been interpreted by many as an increased willingness by the government to suppress whistleblowers and restrict the media's ability to hold the government to account. Some also regard the design and administration of defamation laws as hampering political liberties, as they act in practice to protect governments, companies and powerful people from scrutiny.

Citation:

<https://humanrights.gov.au/>

<https://www.fairwork.gov.au/tools-and-resources/fact-sheets/rights-and-obligations/industrial-action>

<https://www.npc.org.au/news/statement-on-the-afp-raids/>

Belgium

Score 8

Belgium is a mature democracy in which political rights are generally well-protected. During the COVID-19 crisis, political liberties remained intact. Although some opposition parties occasionally spread “fake news” or discouraged the use of the Belgian “Coronalert” phone app under the argument that it could be used to track citizens, there was no attempt to limit the opposition’s freedom of speech.

Instead, civil liberties came under pressure during the crisis, with the government imposing restrictions on the right to assemble, and therefore to demonstrate. The high tension – not to say exhaustion – within police forces translated into periodic acts of violence, both from and against the police. While these were in no way part of a deliberate policy to restrict civil liberties, they resulted in a progressive erosion of norms. This trend, which probably started with the 2001 terror attacks in the United States and accelerated in the wake of the 2015 and 2016 attacks across Europe, is not entirely new.

By the end of 2021, there was greater awareness that public health measures could impact civil and political liberties. This had induced a more liberty-focused approach by the government, despite loud warnings by virologists and other epidemiological experts. Thus, if anything – and perhaps fleetingly – the needle seems to have been moving back toward political liberties.

Citation:

<https://www.brusselstimes.com/news/belgium-all-news/135719/vlaams-belang-tom-van>

<https://plus.lesoir.be/326867/article/2020-09-22/sante-en-lutte-itineraire-dun-deploiement-policier-qui-fait-mal>

https://www.rtb.be/info/societe/detail_manifestations-la-sante-en-lutte-le-droit-de-manifester-est-l-un-des-droits-les-plus-fondamentaux-en-democratie?id=1052196

World Bank: https://www.doingbusiness.org/en/data/exploreconomies/belgium#DB_ec

Bulgaria

Score 8

Political liberties are guaranteed in Bulgaria by the constitution and relevant laws. Bulgarians enjoy the freedom to express themselves, to assemble and organize themselves (also for explicitly political purposes), to practice their religious beliefs and to petition the government. Bulgarians have clearly established rights to speak freely, assemble and protest. The freedom of expression has suffered from the declining independence of the traditional media, but has been strengthened by the opportunities provided by the internet.

In 2020, these rights were confirmed by a number of protests that were allowed to take place without interference, and by the registration of a new party established by popular TV personality Slavi Trifonov.

In 2020, with the prosecutor general's consent, prosecutors and police investigators illegally videotaped more than a thousand peaceful protesters, many of whom as well as one journalist, were subject to police brutality. In the context of the protest, the prosecutor general himself initiated several investigations of protesters, referring to them as "national traitors."

Citation:

Vassileva, R. (2019): Framing and Raiding. Bulgaria's Kafkaesque Prosecutor's Office, <https://verfassungsblog.de/framing-and-raiding/> 09 June 2021

Iceland

Score 8

The 1944 constitution contains provisions protecting the freedom of the press as well as freedoms of organization and assembly. In the 2017 parliamentary election campaign, five parties declared support for ratifying the constitutional bill proposed by the Constitutional Council in 2011, namely the Social Democrats, the Pirate Party, the Left-Green Movement, Regeneration and Bright Future. The strongest opponent of the constitutional change has been the Independence Party, which – together with the Progressive Party, another party that is reluctant to accept the change – is part of the current cabinet coalition led by the Left-Green Movement. The continued failure of this coalition to ratify the new constitution with its many provisions promoting human rights seems assured.

The failure of parliament, despite four intervening parliamentary elections, to ratify the new constitution approved by 67% of voters in a 2012 national referendum called by parliament can be seen as an affront to political liberties. This is because the new constitution contains several provisions specifically designed to promote human rights, including the non-discriminatory allocation of fishing rights and electoral reform, two of the most contested political issues in Iceland since the 1970s and the 1850s, respectively.

Freedom House demoted Iceland from a freedom score of 100 in 2014 to 94 in 2020 and 2021, scoring Iceland 37 out of 40 for political rights and 57 out of 60 for civil liberties for a total of 94 out of 100.

Citation:

David A. Carrillo (ed.) (2018), *The Icelandic Federalist Papers*, Ch. 20, Right to Information and Freedom of Expression, Berkeley Public Policy Press.

Freedom House (2022), Iceland, <https://freedomhouse.org/country/iceland>. Accessed 3 February 2022.

The New Icelandic Constitution: How Did It Come About? Where Is It?, with a foreword by Vigdís Finnbogadóttir and introduction by Thorvaldur Gylfason, Iðunn, Reykjavík, 2018.

Japan

Score 8

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

In 2019, the organizers of the Aichi (Art) Triennale in Nagoya were strongly criticized by the authorities for some of the artwork presented, including the statue of a “comfort woman.” Public funds for the exhibition were recalled.

There are concerns that the anti-conspiracy laws – an amendment to the existing law against organized crime syndicates that expands the catalogue of offenses considered illegal – passed in 2017 in preparation for the 2021 Tokyo Olympics. Critics are concerned that this could undermine political liberties. Under these rules, “words” rather than simply “deeds” can be grounds for prosecution.

There is also concern that right-wing activism, including so-called hate speech, is on the rise, and that this might be supported by politicians associated with the government. Indeed, some senior LDP politicians have been linked to ultra-right-wing groups.

An anti-hate-speech law has been in place since 2016, but has run into problems in terms of implementation. In particular, conflicts exist between efforts to guarantee free speech and to allow the operation of open public services such as websites that enable public comments.

Citation:

Michael Hoffman, Is Japan slipping into prewar politics?, *The Japan Times*, 3 June 2017, <https://www.japantimes.co.jp/news/2017/06/03/national/media-national/japan-slipping-prewar-politics/>

Lacking direction from Tokyo, Japan’s municipalities struggle to implement anti-hate speech law, *The Japan Times*, 24 May 2018, <https://www.japantimes.co.jp/news/2018/05/24/national/lacking-direction-tokyo-japans-municipalities-struggle-implement-anti-hate-speech-law/>

Jeff Kingston, The Politics of Hate and Artistic Expression in Japan, *The Diplomat*, 14 September 2019, <https://thediplomat.com/2019/09/the-politics-of-hate-and-artistic-expression-in-japan/>

Netherlands

Score 8

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

Freedom House ranking of political liberties, consistently list the Netherlands as one of the top 10 most free countries in the world.

However, as everywhere else, the coronavirus crisis triggered numerous tensions between the government's constitutional task (Article 23, Dutch Constitution) of protecting and furthering public health and political liberties such as the freedom of assembly and demonstrations, the freedom of movement (lockdown, travel within and between countries), freedom of religion (number of attendees at religious services), the right to privacy (limits on visits to institutions of care for the elderly, number of visitors per day per household), access to the judiciary (limits on the number of court cases due to social distancing rules), etc. Across the board, legal specialists and the general public have judged that the tension between public health and political liberties was managed reasonably well by the government, within the limits created by necessity and the proportionality of the measures.

However, the freedom of assembly and demonstration in particular came under considerable pressure. The number and size of demonstrations is changing over time due to the influence of social media. Such tools enable the rapid mobilization of large numbers of protesters, while the polarized and radicalized messages in social media have resulted in a so-called cancel culture that undermines the freedom of thought and speech. The number of demonstrations in the Netherlands has doubled over the last five years. As the duration of the crisis increased, and public dissatisfaction with and protest against coronavirus policies rose (especially because of announcement of the evening curfew), this trend became even stronger. Uncharacteristic for this country, demonstrations ended in mass chaos, destruction of property, and violence between protesters and police in a significant number of cases.

Citation:

Freedom House, Freedom in the world 2021, Netherlands (freedom house.org, consulted 16 December 2021)

College voor Rechten van de Mens, n.d., Dossier: Coronavirus en mensenrechten

Elseviers Weekblad, 21 January 2021. De Haan, Demonstreren in coronatijd? Ook dan gelden maatregelen.

Trouw, Pols, 27 February 2021. Van klimaatmars tot coronaprotest: Nederlanders gaan steeds vaker de straat op

Slovakia

Score 8

In Slovakia, political rights are largely respected. Citizens can freely join independent political and civic groups. The murder of Kuciak and Kušnírová in February 2018 evoked the biggest protests since the Velvet revolution in 1989. The movement "For a Decent Slovakia," which emerged from these protests, continued to organize rallies in 2019. The murder has evidently bolstered sensitivity for political liberties and the need to protect civil liberties. This new sensitivity was a key factor in Zuzana Čaputová's presidential election victory in March 2019. During

the first years of the COVID-19 pandemic, the right to assembly was temporarily restricted – in November 2020, cinemas, churches and theaters were allowed to reopen whereas public gatherings remained restricted (Steuer 2021). However, these restrictions were clearly not directed against the political opposition.

Citation:

Steuer, M. (2021): Slovakia's Democracy and the COVID-19 Pandemic: When Executive Communication Fails, in: *VerfBlog*, March 8 (<https://verfassungsblog.de/slovakias-democracy-and-the-covid-19-pandemic-when-executive-communication-fails/>).

Slovenia

Score 8

In Slovenia, political liberties are constitutionally protected and guaranteed and are respected by government institutions. The rights to assembly and association, for instance, are guaranteed in Article 42 of the Slovenian constitution and can only be restricted in special cases. The fact that Slovenia has more civil society organizations per capita than most other countries testifies to the protection of the freedom of association. A 2018 law on NGOs has further strengthened the legal position of NGOs.

Since his inauguration, Prime Minister Janša has attacked civil society organizations with various restrictive measures and used hostile rhetoric against NGOs. In December 2020, the government took advantage of the coronavirus crisis in an unsuccessful attempt to abolish state funding for non-governmental organizations through its seventh anti-coronavirus stimulus package. Individuals, NGOs and other informal groups critical of the political situation in the country are often subject to disavowing campaigns. Among others, these target NGOs working in various civil society fields, including culture, human rights, environmental protection, non-discrimination and LGBTQ+ rights. The campaigns are often carried out through media and other communication channels close to the SDS.

Citation:

Civil Liberties Union for Europe 2021: EU 2020: Demanding on Democracy. Country & Trend Reports on Democratic Records by Civil Liberties Organisations Across the European Union. https://dq4n3btxmr8c9.cloudfront.net/files/AuYJXv/Report_Liberties_EU2020.pdf

Spain

Score 8

According to the most widely quoted comparative indices measuring the state of democracy, freedoms and the rule of law, Spain is considered to be a free full democracy (in the top 20). The country's institutions are generally effective at protecting political liberties, subject to special protection against government (or even private) interference, though there are occasionally incidents of infringement. According to Freedom House (2022), the rule of law prevails, and civil liberties are generally respected.

During the period under review, several protests took place against the 2015 law on public safety and an amendment to the Code of Criminal Procedure's Article 578, which affected freedom of speech by increasing the maximum penalty for "glorifying" terrorism or "humiliating" its victims to three years in prison. Although the coalition government also announced that it intends to revise the law in order to diminish penalties for crimes such as insulting the king, inciting terrorism and offending religious sentiments, the parliamentary debate still continued during the period under review.

Citation:

Freedom House (2022): Spain,

<https://freedomhouse.org/country/spain/freedom-world/2022>

United Kingdom

Score 8

Without a written constitution and the protection it affords, citizens of the United Kingdom have no fundamental rights in the sense of enjoying special protection against the powers of the executive and parliament. Citizens' rights in the United Kingdom can thus be said to be residual and negative in nature. Citizens can do anything not expressly prohibited by law, but there are no positive rights to assert against the government unless the government concedes them. In practice, UK citizens enjoy considerable freedoms, although rights to protest were somewhat circumscribed by a law requiring protesters to give advance notice to the police of a demonstration and restrictions on protests in sensitive locations. Even so, demonstrations do take place, sometimes without respecting the legal obligations. For example, the "flash" protests by Extinction Rebellion in 2019 and by a related group called Insulate Britain in 2021 were initially treated lightly by the police, but were subsequently more robustly policed, partly in response to public objections to the disruption caused.

Since disputes about political liberties always arise over contested issues, UK citizens have little recourse within the political system, especially when compared to continental European political systems. The Human Rights Act of 1998 (HRA) represented an attempt to create a "higher law" to which all other laws must conform. It offers individual and minority rights, and empowers judges to hold the executive to account and review acts of parliament. But its effectiveness is constrained by the fact that the government can temporarily annul the HRA, if it considers this necessary for the benefit of the country, and it remains contested.

The relative informality of civil rights in the United Kingdom is often justified by the strong tradition of a fair and open public discourse, which forms the very heart of the United Kingdom's political identity. However, in recent years, criticisms have been voiced that these informal foundations are being neglected or circumvented for political reasons. With the planned replacement of the Human Rights Act 1998

through a bill of rights, new rules will be set. The government announcement that it will to “restore common sense to the application of human rights,” and provide “a check on the expansion and inflation of rights without democratic oversight and consent” indicates that it intends to roll back existing regulations in this field. In line with further attempts to constrain judicial review (see section D4.2), the government aims to “restrain the ability of the UK courts to use human rights law to impose ‘positive obligations’ onto our public authorities without proper democratic oversight.” These plans are likely, though, to face stiff resistance and may struggle to be realized.

Citation:

https://consult.justice.gov.uk/human-rights/human-rights-act-reform/supporting_documents/humanrightsreformconsultation.pdf

Croatia

Score 7

In Croatia, political liberties are largely respected. There are laws that guarantee the freedom of assembly and the freedom of association. However, the Law on Public Assembly is more restrictive than in France or the United States, containing an obligation to outline the purpose of an assembly, and limiting spaces available for public assemblies. While the constitution guarantees freedom of expression, the criminalization of defamation, insult and shaming remains at odds with international standards. According to a survey conducted by the Croatian Journalists’ Association in 2021, at least 924 active lawsuits had at that time been filed against journalists and media. A total of 97% of these were civil actions against publishers, their editors and their journalists, seeking compensation for alleged damages to honor and reputation based on published texts and articles, while the remaining share of lawsuits related to currently active criminal proceedings.

Citation:

<https://www.hnd.hr/eng/cja-survey-at-least-924-lawsuits-against-journalists-and-the-media-currently-active-in-croatia>

Cyprus

Score 7

Political liberties and fundamental human rights are generally protected. NGOs and other associations flourish in Cyprus. The multiplication of communication channels facilitates the organization of petitions, protests and rallies. The Church of Cyprus dominates society and interferes in the education system, and is a source of pressure on the Greek Orthodox and other churches. In 2020, several religious minority groups complained about access to, facilities at and the state of places of worship, as well as interference with religious freedoms.

Professional associations and trade unions continue not only to enjoy easier access to public authorities than weaker groups and citizens of third countries, but they are

also better received. Third-country citizens need assistance from NGOs to understand and claim their rights.

Although libel has been decriminalized since 2003, both threats to sue and recourse to the courts are often used to silence critics. In 2020 and 2021, there have been isolated cases of interference and attacks on free expression by the authorities.

The blanket ban on public gatherings and demonstrations, introduced because of the COVID-19 crisis, was an extreme measure that violated people's rights. Moreover, it was not enforced in a coherent way, with the police able to exercise discretion when banning, cracking down on or tolerating public gatherings.

Taking into account the persistence of clientelist systems, founded on discrimination on the basis of party affiliation, we consider that citizens' liberties and rights are not fully respected.

Citation:

1. Department of State, 2020 Report on International Religious Freedom: Cyprus, <https://www.state.gov/reports/2020-report-on-international-religious-freedom/cyprus/>
2. Amnesty International, Cyprus: Police violence must be investigated and blanket ban on protest lifted, <https://www.amnesty.org/en/latest/news/2021/02/cyprus-police-violence-must-be-investigated-and-blanket-ban-on-protest-lifted/>
3. MPs grill Justice Minister for reporting parody account, Financial Mirror, 15 February 2021, <https://www.financialmirror.com/2021/02/15/mps-grill-justice-minister-for-reporting-parody-account/>

Malta

Score 7

The constitution of Malta and its chapter on fundamental human rights provide for a broad range of political liberties. The incorporation of the European Convention on Human Rights into the Maltese constitution as well as membership in the European Union has also enhanced political liberties in Malta. The Maltese judiciary serves as the ultimate guarantor of Maltese rights and liberties, and governments respect court decisions. Maltese citizens also have the right to take a case before the European Court of Human Rights (ECHR), and several individuals have done so with success. The Ombudsman also plays a part in the protection of political liberties. In 2021, the government proposed a constitutional amendment bill, which would grant judicial powers to administrative organs. However, the bill was said to be in breach of the separation of powers and rule of law doctrines, and was defeated. Maltese civil society organizations are demanding the revocation of a controversial legal notice (legal notice 456 of 2021), which allows the director general of the law courts to remove judgments from the courts' online portal at his discretion. A traditionally clientelistic and partisan approach to politics has in the past hindered the exercise of individual political liberties, although this seems to be less marked today, as the Maltese are strong users of social media, and frequently use these platforms to air their views on political issues. U-turns in Maltese politics because of these pressures have become more frequent, but the problem has not gone away. In the World

Economic Forum's Global Competitiveness Index 2019, there was an improvement in the country's score for transparency of government policymaking and this continues to be an important challenge. In Freedom House's Freedom in the World 2021 index, Malta scored 90 out of 100 points overall and 35 out of 40 for political rights. The report cited a number of problematic issues, including the difficulties faced by small parties in entering parliament, the shortcomings of the 2015 Financing of Political Parties Act, the shortcomings of the FOI act, the ineffectiveness of measures intended to investigate corruption, the lack of transparency in the allocation and terms of public contracts, and the influence still wielded by powerful economic interest groups in national politics. Emphasis was also placed on the positive ongoing constitutional reform process. The right to protest publicly is among the freest and safest in the world. Trust in the government remains high and well above the EU average. Excessive delays in court cases and the costs of such delays often deter people from seeking legal solutions, although the picture has improved sharply on this issue. Lengthy pre-trial detention remains a problem. The 2020 country report on human rights practices in Malta cited unlawful detention and continued allegations of high-level government corruption as significant issues. However, it also noted that the government was increasing efforts to identify, investigate and prosecute government officials who committed abuses. Nevertheless, Malta has one of the European Union's weakest systems for allocating legal aid and lawyers appointed under this system have at times been found to have failed to fulfill their duties. Legal aid lawyers are very poorly paid. The current threshold to be eligible for legal aid is also very low, though this has been increased to include individuals with an annual income of up to €13,000. Malta is one of 11 EU member states that do not provide third-country nationals with electoral rights.

Citation:

Migrant Integration Policy Index. <http://www.mipex.eu/malta>
 Freedom in the World 2015 Malta
 COM (2014) 419 Final COUNCIL RECOMMENDATION on Malta's 2014 National Reform Program
 Judiciary criticizes proposals for reform of commission for the administration of justice Times of Malta 1/10/13
 Justice Reform Commission makes 450 proposals Times of Malta 2/12/13
<http://www.timesofmalta.com/articles/view/20160411/local/european-commission-justice-scoreboard-results-welcomed.608529>
 Times of Malta 28/09/16 Lawyers to be present during interrogation
 Legal and Reformers Network Malta: parties agree on legal aid for suspects facing police interrogation
 Access to Legal Assistance in Malta, Aditus 2017
 Times of Malta 27/10/17 Malta's Tribal Politics
 Times of Malta 11/11/17 Permanent secretary to be compensated because of political discrimination
 Global competitiveness report 2017-2018 World Economic Forum
 Malta Independent 31/07/16 55% of Maltese trust government in 2016 compared to 34% in 2012
 Times of Malta 23/02/18 Legal Aid system must work
 Freedom in the world: Malta 2018
 Freedom in the world: Malta 2019
 Global competitiveness report 2019 World Economic Forum
https://www.maltatoday.com.mt/news/data_and_surveys/87707/eurobarometer_migration_concern_grows_by_seven_points_trust_in_government_at_51#.YbSOhCOsRTI
 Times of Malt 11/01/22 Legal aid capping for civil cases increased to 13,000 annual income
 Times of Malta 31/01/22 Administrative offences reviewed Kevin Aquilina
 Times of Malta 02/12/2021 Removing online judgements breaches peoples right to know media tell PM
 2020 Country report on human rights practices in Malta US Department of State

Romania

Score 7

Romanians continue to exercise their political liberties through well-attended public demonstrations and assemblies. In June 2020, a coalition of academics, students and human rights groups pushed back against Law 617/2019, which looked to ban all educational institutions from “propagating theories and opinions on gender identity according to which gender is a separate concept from biological sex.” Both the University of Bucharest and the Babes-Bolyai University issued strong statements opposing the law, and a petition from the National Alliance of Student Organizations and the National Council of Students called on President Iohannis to block the law. Demonstrators also protested outside the Ministry of Health following the third fire in a hospital in as many months, while smaller demonstrations took place throughout the country as well.

Romanians also exercised their right to protest throughout the pandemic, opposing the government’s lockdown measures, despite health-related restrictions on public gatherings. In March 2020, several hundred protestors gathered and additional demonstrations have taken place throughout the pandemic. The Romanian government bent to public pressure, easing lockdown restrictions throughout the country, despite having some of the lowest vaccination rates in Europe and, as of late 2021, some of the highest infection and death rates in the world. In general, Romanians enjoy a well-respected right to political demonstration and civil liberties, with freedom of assembly guaranteed in the constitution.

Citation:

European Commission, “COMMISSION STAFF WORKING DOCUMENT 2021 Rule of Law Report Country Chapter on the rule of law situation in Romania Accompanying the COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS 2021 Rule of Law Report The rule of law situation in the European Union,” SWD(2021) 724 final, Brussels, 20 July 2021, https://ec.europa.eu/info/sites/default/files/2021_rolr_country_chapter_romania_en.pdf

South Korea

Score 7

Political liberties are protected by the constitution, but infringements do take place. The National Security Law is considered one of the main obstacles to freedom of expression, association and assembly, as it authorizes the National Intelligence Service (NIS) to punish persons and shut down groups if they are deemed to hold pro-communist views. In 2020, the National Assembly stripped the NIS of its authority to conduct criminal investigations into violations of the National Security Law (effective 2024). Some, however, criticize the amendment for not going far enough (i.e., by abolishing the National Security Law altogether) and/or for creating ambiguity that could be exploited by the NIS to increase its surveillance of citizens and NGOs that have dealings with foreigners involved in international financial transactions. Criticism notwithstanding, the intent of this reform is, as stated by

President Moon, to “completely separate powerful institutions from domestic politics and install systems to make any such institutions unable to wield omnipotent power.”

There are also some limits on the freedoms of association and assembly. Labor unions still face difficulties, including legal limits on their freedom to organize and engage in political activities. Businesses can sue labor unions for compensation for “lost profits” during strikes. Outdated regulations exist that can be used by union busters to curb the power and reach of labor unions. For example, in 2013, the conservative government shut down and for years refused to legalize the Korean Teachers and Education Workers Union (KTU), because it allowed employees who had been fired to remain members. In 2020, under the progressive Moon administration, the KTU finally regained its status as a labor union. Moreover, in 2021, 30 years after Korea joined the International Labour Organization (ILO), Korea finally ratified three core ILO conventions: No. 29 (Forced Labor), No. 87 (Freedom of Association and Protection of the Right to Organize), and No. 98 (Right to Organize and Collective Bargaining). The bill on ratifying Convention 105 (Abolition of Forced Labor) was withdrawn due to unresolved conflicts with domestic laws regarding prison labor.

The need to contain COVID-19 led to some restrictions and even bans on public demonstrations and other gatherings (e.g., church services) during the reporting period. Some groups, particularly those on the right wing of the political spectrum, accused the government of using the pretext of public health and safety to ban anti-government demonstrations.

Notwithstanding some suspension of some liberties in the interest of pandemic containment, Korea maintained its position as one of the few successful democracies in East Asia. It led the region’s rankings in the areas of press freedom and liberal democracy. Indeed, it was the only Asian country ranked in the top 10% of the 2020 V-Dem Liberal Democracy Index, and its liberal democracy score was higher than more than half of OECD members. In general, the frequency of infringements of political rights by the state declined under the Moon administration, and there is today greater space for and respect accorded to open political debate and diverging political opinions.

Citation:

Amnesty International Report 2019, <https://www.amnesty.org/en/location/asia-and-the-pacific/east-asia/south-korea/report-korea-republic-of/>

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Pak, Bo-ram. “(Lead) Assembly Passes Revised Spy Agency Law after Eliminating Opposition Filibuster.” Yonhap News Agency, December 13, 2020. <https://en.yna.co.kr/view/AEN20201213003751315>.

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Chile

Score 6

In general, political rights are protected by the constitution and legislation and enforced by government policy and practice. As indicated by Human Rights Watch, “Chile’s current constitution upholds the right to ‘express opinions and to inform, without any prior censorship, in any form and by any means.’ But the country’s Penal Code contains a variety of vaguely worded articles that threaten free speech.” The constitution protects the freedom of conscience, the manifestation of all beliefs and the free exercise of all religions that are not contrary to morals, good customs or public order. The creation of unions is defined in the Labor Code, especially Article 227.

Compared to other countries in the region, unions in Chile enjoy relatively high levels of trust. Nevertheless, police interventions have sometimes crossed the line from guaranteeing law and order into repression – especially during the more intense period of the student movement, during protests by Chile’s indigenous people and during the mass demonstrations of October 2019, all of which exposed the limitations on the right to protest. Furthermore, the biased media landscape limits equal access to information and the opportunity to communicate different political opinions and versions of conflict situations.

Citation:

Human Rights Watch

<https://www.hrw.org/news/2022/03/04/chile-needs-more-free-speech-not-less>, last accessed: 27 March 2022.

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Poland

Score 6

The Polish constitution does protect political liberties and all options for citizens to express themselves freely in public. However, under the PiS government, violations of these rights have increased and opportunities to use them have been impeded. First, the Law on Public Assembly has been more restrictive by privileging state-organized and regular public events over demonstrations organized by social actors. Since December 2016, assemblies of citizens cannot be held simultaneously and

place as gatherings organized by the public authorities or churches. This means that counter-demonstrations to periodic assemblies, typically devoted to patriotic, religious and historical events, are forbidden, which prioritizes governmental or government-supported assemblies. A second reason for concern is that the treatment of demonstrators by the police has worsened, as evidenced by an increasing number of interrogations and arrests and growing police violence. In addition, the ongoing changes in the court system make it more difficult to defend political liberties or act against violations of them.

During the COVID-19 pandemic, the selective treatment of demonstrations and demonstrators has continued. Demonstrations perceived as hostile to the government have been met with aggressive police activity. When entrepreneurs gathered in Warsaw every Saturday to protest against the government's crisis measures, the police used tear gas and arrested participants. The massive countrywide protests prompted by the anti-abortion ruling of the Constitutional Tribunal in late October 2020 were also met with disproportionate responses. In December 2020, Women's Strike leader Marta Lempert's allegedly positive coronavirus test was even disclosed by the national television TVP, a clear violation of her right to privacy. By contrast, right-wing demonstrations, even when directed against the government's containment measures, have been subject to fewer restrictions. In preparation for the country's national independence day on 11 November 2020, Prime Minister Morawiecki wrote a letter addressed to all citizens in which he called it a patriotic act to stay at home. At the same time, he refrained from backing Warsaw Mayor Trzaskowski, who banned the traditional far-right "march of independence" on that very day. When the march took place despite the ban, heavy rioting broke out that led to around 300 arrests and 35 police officers being injured. Notwithstanding these events, the government did not officially condemn the violence and nationalistic slogans. Government propaganda framed the events by blaming feminist groups for provoking hooligans to use violence and fight the police. In 2021, the government likewise made sure that the "march of independence" could take place.

Israel

Score 5

Israel's lack of a constitution means that the guarantee of political rights is confided to status of basic laws. Thus, they are not constitutional as such. For these and other reasons, the responsibility to protect political liberties still lies with the Israeli parliament. However, parliamentary activity has not been conducive to this task. In the last few years, many pieces of legislation and proposed legislation appear to undermine aspects of democracy and due process.

For example, the Disclosure Requirements for Organizations Funded by Foreign Political Entities Law, legislated in 2016, requires NGOs that receive more than half of their income from foreign governments to submit an annual report to the registrar of non-profit associations in the Ministry of Justice. This law was criticized for

applying almost exclusively to human rights and left-wing organizations: 25 of the 27 organizations in Israel that get more than half their funding from foreign governments are human rights organizations identified with the left.

Other problematic legislation prohibited people who have supported a boycott of the state of Israel from entering Israel. However, many problematic proposals did not win parliamentary passage or were eventually softened in part due to public opposition.

Citation:

Ben Shitrit, Lihi, "Israel's Shrinking Democracy." Carnegie Endowment for International Peace, 10.03.2016: <http://carnegieendowment.org/sada/63006>

Dahan, Tal, "Situation report: The state of human rights in Israel and the OPT 2016," The Association for Civil Rights in Israel, <http://www.acri.org.il/campaigns/report2016en/>

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"Israel minister pursues tougher anti-BDS law," Memo Middle East Monitor, 2/11/2017: <https://www.middleeastmonitor.com/20171102-israel-minister-pursues-tougher-anti-bds-law/>

Knesset Press Release "Knesset passes NGO transparency law," 12.07.2016, <http://main.knesset.gov.il/News/PressReleases/pages/press120716.aspx> (Hebrew)

"Project Democracy: The Arab minority," The Association for Civil Rights in Israel (October 2010): <http://democracy-project.org.il/he/wp-content/uploads/2010/08/democracy-minorities.pdf>

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

Gild-Hayo, Debbie, "Antidemocratic Legislation: Ramifications for Human Rights and the Work of NGO," ACRI, May 26, 2019, https://docs.wixstatic.com/ugd/0aad5_0c8b24f620e24b2eaa25249135148d47.pdf

Asseburg, Muriel, "Shrinking Spaces in Israel," SWP Comments, September 2017, https://www.swp-berlin.org/fileadmin/contents/products/comments/2017C36_ass.pdf

Mexico

Score 4

In many parts of the country, high levels of criminal violence undermine democracy. Public officials, especially at the local level, are frequently kidnapped, harassed and even murdered, while the murderers, usually linked to organized crime, enjoy impunity. While the lack of credible and capable legal investigations in such cases makes it impossible to know the true extent of the problem, there is considerable evidence that authorities are not merely inept. Rather, they are sometimes complicit in violating citizens' political liberties. The justice system has proven to be particularly ineffective in prosecuting powerful rights violators. For years, impunity for corruption-related crimes has been around 97-98%, and high-level politicians are rarely sentenced or impeached.

Citation:

Schedler, A. (2014). The criminal subversion of Mexican democracy. *Journal of Democracy*, 25(1), 5-18. <http://www.latinobarometro.org/lat.jsp>

Hungary

Score 3 While political liberties are guaranteed by the constitution and are formally respected, the Orbán governments have shown little respect for them. Similar to other countries, demonstrations were temporarily banned in 2020 and 2021 in context of the COVID-19 pandemic, even when other forms of public events and gatherings were already permitted. However, Prime Minister Orbán and other Fidesz leaders have defamed opposition activists as traitors to the Hungarian nation and as foreign agents paid by George Soros, similar to Putin’s style. The government has instituted burdensome registration and reporting requirements for NGOs. Moreover, organizations assisting asylum-seekers have been subject to the restrictive 2018 “Stop Soros” legislation. The Hungarian government has reacted slowly to a decision by the Court of Justice of the European Union in June 2020 that Hungary’s 2017 NGO law violates EU law. In November 2011, the Court of Justice of the European Union also ruled against the “Stop Soros” laws.

Turkey

Score 2 On 24 October 2019, the parliament passed the first law proposal prepared by the Ministry of Justice with the participation of related parties, which addresses the objectives and targets defined in the 2019 Judicial Reform Strategy. The law introduces important regulations to strengthen the rule of law. A provision added to the Anti-Terror Law provides that statements of opinion, which do not exceed the limits of reporting or are made for criticism, should not constitute a crime. Also, the maximum periods of pretrial detention have been revised. The period of pretrial detention is limited to six months if the offense is not within the jurisdiction of the higher criminal court, and one year if the offense falls within the court’s jurisdiction. For some offenses (e.g., terrorism), this period can be six months to one year, which can be extended for an additional six months for adults, if justification is provided. The period of detention allowed for children is shorter.

Although it is technically against law, President Erdoğan and other AKP officials publicly comment on most political hearings. The constitutional amendment on parliamentary immunities adopted in May 2016 lifted immunity for a large number of deputies, and resulted in the detention and arrest of several HDP members of parliament, including the two party co-chairs in November 2016. The subsequent emergency rule saw the further arrest of thousands of HDP members as well as 16 HDP lawmakers. In the case of Selahattin Demirtaş, the pro-Kurdish Peoples’ Democratic Party (HDP) co-chair and 2018 presidential candidate, who had been detained since 4 November 2016, the ECHR found Turkey guilty of stifling pluralism and limiting the freedom of political debate, and unanimously demanded that the Turkish government take all necessary measures to end the applicant’s pretrial detention.

The right to assemble and organize is largely restricted. During the period in question, the government largely exploited the pandemic to prevent mass gatherings. In particular, protests against the country's withdrawal from the Istanbul Convention and against the trustee rector appointed to Boğaziçi University, as well as Workers Day gatherings, were banned by the governorships on the grounds of "public health."

Citation:

Bianet. "Pandemi bahane: Eylem ve gösteri hakkı yok sayılıyor ". April 23, 2021. Accessed 4 April 2022. <https://m.bianet.org/bianet/insan-haklari/242924-pandemi-bahane-eylem-ve-gosteri-hakki-yok-sayiliyor> .

The Human Rights Watch, Turkey. 2021. <https://www.hrw.org/europe/central-asia/turkey>

Freedom House, Freedom in the World 2021, Turkey Profile <https://freedomhouse.org/country/turkey>

European Commission. "Turkey Report 2021. Commission Staff Working Document." October 19, 2021. https://ec.europa.eu/neighbourhood-enlargement/turkey-report-2021_en

Indicator

Non-discrimination

Question

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

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

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

Ireland

Score 9

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

In 2012, a referendum was passed to amend the constitution to explicitly recognize the rights of children and generally provide enhanced protection to children

In May 2015, a referendum legalizing same-sex marriage was passed by a vote of 62% in favor, 38% against. The thirty-fourth amendment to the constitution (Marriage Equality Act) was signed into law on 29 August 2015.

Norway

Score 9

Equality of opportunity and equality before the law are firmly established in Norway. There is an ombudsperson for civil rights and one for the right to non-discrimination based on gender, disability, ethnicity and sexual orientation. As of 2021, Norway

also has an ombudsperson tasked with protecting the elderly from ageism. The Sámi minority living in the north have a limited right to self-rule, though there still are some unsettled issues over the use of natural resources in this area.

Men and women are nearly at par in terms of education levels. Women's labor-force participation rate is comparatively high among OECD countries. Women earn on average 87.5% of what men do. However, once specifics such as hours worked, occupation, education and seniority are taken into consideration, it is difficult to verify significant differences between the earnings of men and women. This finding does not per se imply that there is no gender discrimination whatsoever in the labor market (e.g., men may be more readily hired for high-paying occupations). In 2017, several instances of gender-based discrimination were disclosed as a result of the #metoo campaign. That being said, affirmative action in favor of women has been used extensively in the labor market, particularly within the public sector. Even so, the labor market remains by international comparison strongly segregated by gender and occupation.

Some discrimination against non-Western immigrants seems to persist. In some areas of the economy, immigrants find it comparatively difficult to find work and are generally paid lower wages. Unemployment rates are also substantially higher among immigrant populations than that seen among native Norwegians. Although discrimination against immigrants (including in the labor market) is illegal, it occurs in some areas of Norwegian society, though very few discrimination cases are prosecuted.

Sweden

Score 9

Sweden still ranks as one of the most egalitarian societies in the world. The Discrimination Act of 2008 identifies seven disallowed grounds for discrimination: sex, transgender identity or expression, ethnicity, religion or other belief, disability, sexual orientation, and age. Established on 1 January 2009, the Equality Ombudsman is a government agency that works to promote a society free from discrimination.

That said, it is clear that there are still differences between salaries for men and women performing the same work as well as between immigrants and Swedes in the labor market. These are spheres of society where public regulation is only effective when complaints are filed with public authorities.

During the review period, de facto segregation in several suburbs of large metropolitan areas in Sweden further increased. This societal fracturing remains an unsolved political challenge in contemporary Sweden. Given the increased immigration flows since 2015, there is an increased risk that these challenges will be exacerbated. In the period under review there were increased levels of antisemitism in Sweden, as well as in the rest of Europe. The government sees this as a rising concern (Regeringskansliet, 2021).

Citation:

Regeringskansliet (Government Offices of Sweden). 2021. "Measures to Combat Antisemitism and Increase Security." <https://www.government.se/government-policy/democracy-and-human-rights/measures-to-combat-antisemitism-and-increase-security/>

United States

Score 9

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

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

The Biden Administration took decisive action on a number of issues of importance to the LGBTQ+ community, including clarifying the scope of sex discrimination protection in federal law and renouncing the ban on open service by transgender people currently in the military, and those wishing to serve. Furthermore, several Executive Orders expand LGBTQ+ nondiscrimination protections.

Canada

Score 8

The Canadian Charter of Rights and Freedoms was enacted in 1982, with the aim of preventing discrimination based on gender, physical or mental disability, ethnic or national origin or religion (section 15). Citizens believing they are victims of discrimination from government legislation have, often successfully, challenged such legislation in court based on the Canadian Charter of Rights and Freedoms. Courts have stated that Canadians were also protected against discrimination linked to sexual orientation by section 15 of the Canadian Charter of Rights and Freedoms. The federal government has established policies such as employment equity and pay equity to protect and promote the rights of disadvantaged groups (often called equity groups) such as women, ethnic minorities, Indigenous peoples and people with

disabilities. There also exists a federal Court Challenge Program that provides funding for citizens seeking to raise in court rights issues of national significance.

As so often, the experiences of Canada's Indigenous population pose the greatest concern. Reports by the UN Special Rapporteur on the Rights of Indigenous Peoples (2014), the UN Human Rights Committee (2015) and Human Rights Watch (2018) found that the rights of Indigenous peoples were consistently violated, including unresolved treaty rights, violence against Indigenous women and girls, disproportionately high rates of incarceration, and inadequate access to clean and safe drinking water.

One piece of legislation that has been the subject of much political discussion around the issue of discrimination is Québec's Bill 21 (Loi sur la Laïcité de l'État), which forbids public sector employees from wearing religious symbols while at work. This legislation is being challenged in court. The federal Liberal government has stated it does not agree with Bill 21 but it has not clearly said if and how it would formally oppose it if the case ends up being heard by the Supreme Court of Canada. This legislation is hugely popular in Québec and the Québec government has already invoked article 33 of the Canadian Charter of Rights and Freedoms (the so-called notwithstanding clause) that allows a parliament to adopt a law deemed by courts to be incompatible with sections 2 or 7-15 of the Charter.

Citation:

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

Denmark

Score 8

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

Discrimination can take various forms and can be perceived differently depending on position, history and social context. Gender-based discrimination in the labor market relates primarily to wages, but also, more generally, to hiring and career options. There are clear horizontal and vertical gender divisions in the labor market, and women are overrepresented in public sector jobs related to welfare and underrepresented among leaders of various types. Much of the pay disparity between men and women can be explained by these factors, but there remains a wage differential of 1-3% that may be attributed to other factors related to gender discrimination. Rules for parental leave have been expanded to extend the right (and

duty) of fathers to take paternity leave and for all employers (since 2006) to contribute to the financing of parental leave schemes. A recent law aiming to induce men to take on a larger parenting role changes how parents can split such leave.

Cases of discrimination in the labor market are frequently reported in the press. These include, for example, reports of ethnic markers such as a person's name influencing whether or not a person has a difficult time finding a job. There can be several reasons explaining why people are treated differently or have different options in the labor market; to date, there is no thorough academic analysis that has attempted to examine and evaluate the various causes in the Danish case in order to assess the extent of discrimination in the Danish labor market.

Indirect discrimination can take various forms. Rules and regulations are one notable area. Whereas rules and regulations are general and apply to all citizens, they can also effectively target particular groups. For example, Denmark's requirement of residency for social assistance (which, if not fulfilled, lowers the amount of assistance) that is offered to immigrants from outside the European Union. While formally treating all immigrants equally, the scheme de facto impacts immigrants from low-income countries with a low employment rate in particular.

Immigration laws have been tightened several times since 2001. While previous parliaments were often split on these changes, parliamentary majorities have in recent years supported a tightening of immigration policy. Consequently, the recent shift in the position of the Social Democratic Party is significant. The current Social Democratic government has liberalized a few minor aspects of Danish immigration policy, but has continued to maintain the overall strict policy.

Citation:

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

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

Lønkommissionen, 2011, *Betænkning*, København

Estonia

Score 8

Discrimination is prohibited by law, and several governmental institutions have been established to ensure non-discrimination. Alongside the Chancellor of Justice, the Gender Equality and Equal Treatment Commissioner (GEETC) acts as an independent and impartial expert tasked with monitoring the issue of discrimination. Besides handling citizens' appeals and monitoring the overall situation, the GEETC office puts significant effort into awareness-raising activities.

Gender equality has been a long-standing challenge, and is reflected in the largest gender pay gap in Europe and the highest share (50%) of citizen appeals to the

GEETC. Hence, despite several programs and measures introduced by the government to combat gender pay gaps and labor market inequalities, fundamental is still needed.

Appeals against discrimination on grounds of disability, age and ethnicity compose about 8–12% of all appeals, a proportion that has remained unchanged in recent years.

LGBTQ+ rights continue to be disputed. The Registered Partnership Act (2016) allows same-sex couples to register their partnership, but secondary legal acts are still missing because of heavy opposition from conservative parties. Conservative parties (EKRE and IL) attempted in 2020 to organize a public referendum to define marriage constitutionally as the union between a man and a woman. The parliament rejected the proposal and the plan was shelved after the change of government two weeks later, partly because of disagreements over the issue. The sitting government has not made any steps in either direction concerning marriage and LGBTQ+ rights.

Citation:

Gender Equality and Equal Treatment Commissioner (2020). Annual Report. https://volinik.ee/wp-content/uploads/2020/05/Voliniku-2019_aasta-tegevuste-u%CC%88levaade_webmai2020.pdf

Finland

Score 8

Rights of ethnic and religious minorities are as a rule well protected in Finland, and the criminal code provides penalties for anyone who incites violence on racial, national, ethnic or religious grounds. The rights of the Swedish-speaking minority in Finland are widely respected, with Swedish recognized as an official national language, although some segments of the population, primarily represented by the Finns Party, have turned hostile toward Finland's Swedish-speaking population. The Åland Islands, whose inhabitants speak Swedish, have historically maintained an extensive autonomy and a home-rule parliament as well as one permanent seat in the national legislature. The Sami population, comprising approximately 10,000 individuals, was granted self-government in the Sami Homeland with regard to language and culture in 1995. Finland has often been seen as a forerunner concerning its efforts to maintain an effective minority-protection policy. Cases of discrimination are rather few, although people with an immigrant background are more likely to encounter discrimination. Roma individuals, who make up a small proportion of the population, are marginalized. The Finns Party has been accused of encouraging discrimination against ethnic minorities and asylum-seekers.

Germany

Score 8

Germany's Basic Law (Art. 3 sec.3) states that every person, irrespective of parentage, sex, race, language, ethnic origin, disability, faith, religious belief or political conviction is equally important and has the same rights. The General Equal

Treatment Act of 2006 added age and sexual orientation to that enumeration of protected categories. The Federal Anti-Discrimination Agency monitors compliance with legal anti-discrimination norms and principles, supports persons who have experienced discrimination, mediates settlements, informs the public about infringements and commissions research on the subject of discrimination.

Nevertheless, discrimination remains a problem in various areas. For example, women are underrepresented in parliaments. The share of women elected as representatives to the Bundestag increased from the previous election's 31% to 34% in the 2021 general election (Tagesschau 2021), a share that remains far from parity. Attempts at the state levels in Brandenburg and Thuringia to enforce parity through legal parity requirements for party lists were rejected by the state constitutional courts as contradicting voting freedoms.

A law requiring large German companies to reserve at least 30% of nonexecutive-board seats for women took effect in 2016. In 2021, a similar quota was enacted for executive boards requiring at least one woman for boards with four or more members. All these requirements affect only a limited number of large companies. Adoption and tax legislation passed in 2014 gave equal rights to same-sex couples in these areas. The government legalized same-sex marriage in 2017 (Freedom House 2021).

Xenophobia, antisemitism and Islamophobia are a problem, and politically motivated crime including demagoguery and violent assaults is on the rise (see "Internal Security Policy").

Citation:

Freedom House (2021): Freedom in the World 2021, German, <https://freedomhouse.org/country/germany/freedom-world/2021> (accessed: 14 January 2022).

Tagesschau (2021): Zusammensetzung des Bundestags, Mehr Frauen ins Parlament – aber wie?, <https://www.tagesschau.de/inland/btw21/bundestag-frauen-101.html> (accessed: 14 January 2022).

Luxembourg

Score 8

The law of 28 November 2006 on equal treatment condemns discrimination. This applies to all public or private, natural or legal persons, including public bodies.

The Centre for Equal Treatment (Centre pour l'égalité de traitement, CET) was created on 28 November 2006. The CET carries out its work independently. Its purpose is to promote, analyze and monitor equal treatment between all persons without discrimination based on race, ethnicity, sex, sexual orientation, religion or beliefs, disability or age.

In its annual report, the CET highlighted that among the 203 discrimination cases handled in 2020, 49 were focused on people with disabilities, 44 were based on race

or ethnicity, 39 dealt with gender discrimination, 12 with sexual orientation, eight with religion and six with age. In addition, 14 cases belonged to the “multiple discrimination” category and 31 to the “other” category. A total of 42 cases were still in progress, while 45 other cases emerged in 2021 related to job offers that did not respect the guidelines for equal treatment.

The Chamber of Employees (Chambre des Salariés) has created the website discrimination.csl.lu, which is entirely dedicated to the issue of discrimination in the workplace, including the legal framework and means of action in the field.

In June 2021, the Luxembourg Institute of Socioeconomic Research (LISER) and the Ministry of Family Affairs, Integration and the Greater Region launched a national survey on racism and ethno-racial discrimination in the country in order to better understand how discrimination due to skin color, nationality, country of origin, surname, religion and so on are rooted in daily life in Luxembourg. The large-scale survey will gather the opinions of adult residents on this issue.

Citation:

“Launch of a national survey on racism and ethno-racial discrimination in Luxembourg.” LISER (18 June 2021). <https://www.liser.lu/?type=news&id=2141>. Accessed 14 January 2022.

“Centre for Equal Treatment.” RTL Today (8 April 2021). <https://today.rtl.lu/news/luxembourg/a/1702399.html>. Accessed 14 January 2022.

New Zealand

Score 8

Anti-discrimination legislation is outlined in a number of acts, including the New Zealand Bill of Rights Act 1990, the Privacy Act 1993, and the Human Rights Amendment Act 2011 (establishing the position of a full-time disability rights commissioner within the Human Rights Commission). The Human Rights Act protects all people in New Zealand from discrimination including on the basis of gender, religion, ethnicity and sexual orientation.

What is more, New Zealand has, for a long time, pursued positive discrimination measures to address Māori citizens’ structural disadvantages. The electoral system for parliamentary elections has, since the implementation of the Māori Representation Act in 1867, included Māori electorates specially set up for people of Māori ethnicity or ancestry who choose to place themselves on a separate electoral roll (currently, there are seven Māori electorates). In 1975, the Treaty of Waitangi Act established the Waitangi Tribunal to redress grievances that Māori face as a result of colonization. In particular, the Waitangi Tribunal investigates Māori land claims and comments on government policies that have the potential to affect the Māori population. New Zealand law also imposes Māori quotas in certain areas, such as in fishing and tertiary education.

However, these measures have had little effect, as Māori continue to experience significant disadvantages in a wide range of ways. Compared to Pākehā (New

Zealanders of European descent), Māori suffer worse health, have lower education attainments, employment and income, and are more likely to be victims of crime. Māori are also disproportionately represented in the penal system (Walters 2018).

In addition, New Zealand has come under international scrutiny for the human rights situation for the LGBTQI community. In January 2019, the United Nation's Human Rights Council highlighted that, in its current state, the Human Rights Act does not explicitly protect people from discrimination on the grounds of gender identity, it only prohibits discrimination on the grounds of sex. The Labour/Green government that took power in 2020 has addressed concerns of the LGBTQI community by introducing a bill to outlaw so-called gay conversion therapy in July 2021, and by passing a law in December 2021 making it easier to change the sex registered on birth certificates (Corlett 2021).

Citation:

Corlett (2021) "New Zealand passes law making it easier to change sex on birth certificates." *The Guardian*. <https://www.theguardian.com/world/2021/dec/09/new-zealand-passes-law-making-it-easier-to-change-sex-on-birth-certificates>

Hurihanganui (2018) "Waitangi Tribunal's recommendations frequently ignored – UN report." RNZ. <https://www.rnz.co.nz/news/te-manu-korihi/354085/waitangi-tribunal-s-recommendations-frequently-ignored-un-report>

Murphy (2018) "NZ told to improve human rights of LGBTQI people." RNZ. <https://www.rnz.co.nz/news/political/380687/nz-told-to-improve-human-rights-of-lgbtqi-people>

Walters (2018) "Fact check: Disparities between Māori and Pākehā." *Stuff*. <https://www.stuff.co.nz/national/politics/101231280/fact-check-disparities-between-mori-and-pkeh>

Switzerland

Score 8

In Switzerland, constitutional law and a consociational political system ensure the autonomy, freedom from discrimination, and rights to political participation of Swiss linguistic, ethnic and religious minorities. Article 8 of the country's constitution states: "Nobody shall suffer discrimination, particularly on grounds of origin, race, sex, age, language, social position, lifestyle, philosophical or political convictions, or because of a corporal or mental disability. Men and women have equal rights." Comparatively, support for the non-discrimination of foreigners is very strong, with only the Scandinavian countries showing stronger support. The acceptance of gays and lesbians corresponds to the average across European countries.

Nonetheless, a number of problems with regard to discrimination exist. The sheer size of the foreign population and its contribution to the wealth of the nation brings up the question of whether withholding political rights such as voting from this population might be regarded as an indefensible variety of discrimination. However, Switzerland's conception of non-citizen voting rights is similar to that of other Western democracies, and undoubtedly protects the civil and human rights of foreigners without discrimination. The Swiss People's Party, currently the strongest

party in the country, has repeatedly resorted to openly xenophobic and Islamophobic discourse, which has resonated well within the population, and several initiatives discriminating against foreigners and Muslims have been adopted by a majority of voters. Although gender-based discrimination is illegal, women continue to face considerable economic and social discrimination with regard to wage equality and equal career opportunities.

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

Citation:

Klaus Armingeon and Sarah Engler 2015: Polarisierung als Strategie. Die Polarisierung des Schweizer Parteiensystems im internationalen Vergleich, in Markus Freitag und Adrian Vatter (Hrsg.): Wahlen und Wählerschaften in der Schweiz, Zürich: Verlag Neue Zürcher Zeitung, 355-379, 467-469. ISBN: 978-3-03810-098-0

United Kingdom

Score 8

Over the last two decades, measures to combat discrimination have entered the political agenda, the statute books and, perhaps most tellingly, have become cultural norms. Starting with the Race Relations Act 2000, all public authorities have been obliged to promote race equality and tackle discrimination. In 2006, this was extended to cover gender and disability discrimination. The Equality Act 2010 has added further areas, such as age, gender identity, pregnancy and maternity and religion or belief. Political pressure is being exerted to add “caste” in order to fight discrimination still common in the Asian community. The legal framework is therefore very robust in countering discrimination and has had a significant impact on social attitudes, with the result that incidents of discrimination are rapidly and loudly condemned.

The state has made a serious attempt to end discrimination and abolish inequalities by reacting to a number of scandals in, for example, the police force with its alleged “institutionalized racism.” Relatively minor incidents on the football field become headline news and the mainstream view is very strongly anti-discriminatory, to the extent that even populist political parties appealing to indigenous groups have to be very careful to avoid any hint of overt racism or other forms of discrimination. A perception that the indigenous population is crowded out from public services and social housing has contributed to populist right-wing views about the impact of immigration, but gains only limited traction. Some high-profile cases, particularly those involving trans-identified people, have resulted in increased tensions and heated public discourse about just how far anti-discrimination should go.

There is still a massive imbalance in the national DNA database (40% of the black male population is registered, but only 13% of Asian males and 9% of Caucasian

males) and anti-terrorism laws sometimes entail racial profiling. These phenomena may be primarily rooted in security concerns rather than in explicit discrimination. They can, however, nurture discriminating path dependencies in criminal investigations. While such relations have lately been the subject of heated public debates in countries like France, the Netherlands and the United States, the debate in the United Kingdom has remained comparatively quiet. Moreover, support for equality measures is evident in how public opinion reacts to cases of discrimination.

Australia

Score 7

Australia has developed a substantial body of anti-discrimination legislation, covering sex, race, ethnicity, marital status, pregnancy and disability. The body charged with overseeing this legislation, the Australian Human Rights Commission, is a statutory authority. Further, the Australian parliament passed a bill on 7 December 2017 that allows same-sex marriage. That bill followed a non-binding referendum that was supported by 61.6% of Australian voters.

In November 2021, the government sought to pass the Religious Discrimination Act, which would ostensibly prohibit religious discrimination. However, the proposed exemptions would in fact legalize discrimination on the basis of religion, for example, by permitting a (religious) school to dismiss an employee because of their faith. It is also possible that the legislation would permit discrimination on the basis of other, normally protected traits, such as sex, sexuality and marital status. The bill currently appears unlikely to be passed in the Senate in its current form.

Citation:

<http://abcnews.go.com/International/australian-parliament-approves-sex-marriage-lengthy-national-debate/story?id=51637900>

<https://www.abc.net.au/news/2021-11-24/government-religious-discrimination-bill-explained/100645502>

<https://www.abc.net.au/news/2021-06-03/racism-asian-australians-korea-covid-stereotypes/100181468>

Greece

Score 7

Protection against discrimination on the basis of race has been regulated since 1979, while protection against gender discrimination is regulated by the family law passed in 1983. The European Union's legislative acts also provide protection from gender discrimination. However, legislation against discrimination has rarely been implemented effectively. Women in particular, though theoretically enjoying equality before the law, continue to face workplace discrimination in practice. The Romany minority (numbering probably more than 200,000) is also subject to discrimination despite legal protections.

In the years since 2015, the outcry against racism and the rise to power of a left-wing party, Syriza, contributed to a decline in discrimination. Greece has seen significant improvements in the protection of LGBTQ+ rights in recent years. New legislation,

passed between 2015 and 2017, grants extensive rights to same-sex couples and recognizes self-proclaimed gender identities for people experiencing gender dysphoria.

In 2020 and 2021, the influx of migrants and refugees slowed down. The coastal communities on the Greek islands of the Aegean Sea did not have to manage the large waves of immigration encountered before to 2019 under the permissive policies of the previous government. Migration policy became much stricter after the change of government in 2019. However, in early 2020, very large, organized groups of immigrants suddenly tried to push through Greece's land border with Turkey and enter the country. Greek security forces held them back and massive inflows were prevented. In view of the above, a general climate of unfriendliness, if not outright hostility, toward refugees and migrants has become the norm in communities scattered around Greece.

Citation:

Family relations are regulated through law 1329/1982, while anti-discrimination legislation is found in law 927/1079 (amended in 2001 to facilitate the intervention of prosecuting authorities against trespassers). European Union law, naturally also applicable in Greece, regulates gender discrimination. See, for instance, the Gender Directive, officially known as Council Directive 2004/113/EC of 13 December 2004.

Information on protection of LGBTI rights is available from <https://www.ilga-europe.org/resources/news/latest-news/greece-gender-recognition-law-oct2017>

Italy

Score 7

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

Italy's constitution and the political reality grants considerable political autonomy and cultural rights to regions with non-Italian or non-mainland minorities and majorities, such as Val d'Aosta, Trentino and South Tyrol, Sardinia and Sicily, as well as to ethnic groups with ancient roots such as the Alberesh, which originated in Albania. Some municipalities have democratically elected assemblies to represent migrants in local decision-making processes.

The Department for Equal Opportunities, which reports to the president of the Council of Ministers, has improved efforts to monitor gender discrimination in the public administration on a regular basis. The department's 2018 report indicates that – with some exceptions – significant gains have been made in gender representation in the higher levels of state administration. The percentage of women among the top ranks of the central administration reached 46%. Levels are lower in universities and

among independent authorities. Gender representation in the business sector is generally less satisfactory, but improving. Much greater progress has been achieved in political institutions such as parliament, assemblies and the cabinet. Eurostat data indicates that the gender pay gap in Italy (5%) is well below the EU average (16%).

Discrimination against immigrants is widespread, particularly with regard to illegal immigrants. Whereas immigrants generally enjoy access to the healthcare system, their rights in other areas – labor relations in particular – are not well protected.

Citation:

<http://www.pariopportunita.gov.it/wp-content/uploads/2018/10/tabella-andamento-temporale.pdf>

[https://ec.europa.eu/eurostat/statistics-](https://ec.europa.eu/eurostat/statistics-explained/index.php/Gender_pay_gap_statistics#Gender_pay_gap_levels_vary_significantly_across_EU)

[explained/index.php/Gender_pay_gap_statistics#Gender_pay_gap_levels_vary_significantly_across_EU](https://ec.europa.eu/eurostat/statistics-explained/index.php/Gender_pay_gap_statistics#Gender_pay_gap_levels_vary_significantly_across_EU)

Latvia

Score 7

Latvia adheres to EU anti-discrimination directives. Anti-discrimination legal provisions are scattered among more than 30 pieces of legislation, with policy responsibilities dispersed among a significant number of state institutions. No single entity takes the lead in designing and implementing anti-discrimination policy, but individuals complaining of discrimination typically approach the Ombudsman. The Ombudsman has focused on labor market discrimination on the basis of age, sex, and sexual preference, cases of hate speech, and on issues of equal access to education and health services.

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

Discrimination on the basis of sexual orientation is poorly regulated. It is only mentioned in the context of labor law. The Ombudsman's efforts to draw public attention to the issue of same-sex partnerships have been fraught with controversy due to intense polarization of views on the issue within Latvian society. In 2020, the Saeima rejected an initiative signed by more than 10,000 Latvian residents regarding the registration of same-sex partnerships.

A new law was introduced in 2017 that restricts a person's right to cover their face. The law was developed by the Ministry of Justice.

Although Latvia signed the Istanbul Convention in 2016 and has implemented most of its recommendations, the parliament has still not ratified it. This hinders the state's ability to address the issue of domestic violence in Latvia, as Latvia lacks an integrated approach to eradicating it. None of the NGOs that provide services to

women who have suffered from violence receive financial assistance from the state. According to the Central Statistical Bureau, 38.6% of women have suffered from physical or sexual violence since the age of 15 in Latvia, while 6.3% have done so during the past 12 months. Among this population, 32.1% have never told anyone about the violence, which is more than twice the comparable average in the EU.

According to the European network of legal experts on gender equality and non-discrimination, gender equality laws in Latvia generally do not significantly exceed the European Union's minimum requirements – no positive measures have been taken to date. Receiving 60.8 out of 100 points (7.1 points lower than the EU average), Latvia ranks 17th in the EU on the Gender Equality Index.

Citation:

1. OECD (2019) Social Institutions and Gender Index, Available at: <https://www.genderindex.org/wpcontent/uploads/files/datasheets/2019/LV.pdf>, Last accessed: 15.01.2022.

2. European network of legal experts in gender equality and non-discrimination (2018), Country Report: Non-discrimination 2018, Available at: <https://www.equalitylaw.eu/downloads/4754-latvia-country-report-non-discrimination-2018-pdf-2-05-mb>, Last accessed: 15.01.2022.

3. UN (2018) Global Database on Violence Against Women, Available at: <http://evaw-globaldatabase.unwomen.org/fr/countries/europe/latvia#1>, Last accessed: 15.01.2022.

4. Ombudsman of Latvia (2017), Annual Report, Available at: http://www.tiesibsargs.lv/uploads/content/legacy/2017_annual_report_summary_1523_624612.pdf, Last assessed: 15.01.2022.

8. University of Latvia, Social and Political Research Institute (2014). How Democratic is Latvia: Democracy Audit 2005 – 2014. Available at: https://www.szf.lu.lv/fileadmin/user_upload/szf_faili/Petnieciba/sppi/demokratija/ENG_Audit_of_Democracy_2015.pdf, Last accessed: 15.01.2022.

9. European Institute for Gender Equality (2020) Gender Equality Index 2020: Latvia, Available at: <https://eige.europa.eu/publications/gender-equality-index-2020-latvia>, Last accessed: 10.01.2022

10. LSM (2020) Latvian Saeima rejects initiative for registration of same-sex partnerships, Available at: <https://eng.lsm.lv/article/society/society/latvian-saeima-rejects-initiative-for-registration-of-same-sex-partnerships.a379780/>, Last accessed: 05.01.2022

11. CSB (2019) Gender-based violence, Available at: https://www.csb.gov.lv/en/gender-equality-indicators/Crime_Violence, Last accessed: 15.01.2022.

Lithuania

Score 7

Lithuania legislation is largely consonant with European non-discrimination standards. The country's Criminal Code regulates racially motivated and xenophobic incidents and discriminatory acts. In 2013, Lithuania made it possible to conduct investigations into and prosecute domestic-violence offenses without the victim's consent, and simplified the procedure for legal gender recognition based on the submission of medical proof of gender-reassignment surgery.

A number of state institutions are tasked with preventing various forms of discrimination, but their activities lack coordination. Furthermore, NGOs implement

activities aimed at strengthening the participation and representation of specific vulnerable groups (e.g., the small Roma population and members of the LGBTQ+ community). Some awareness-raising campaigns have sought to prevent racial discrimination and promote tolerance, but these have been fragmented.

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

Despite the adoption of anti-domestic-violence legislation, spousal and child abuse remain problems, as illustrated by a woman's death in 2013 (due to a lack of response from the police emergency-response center). According to Eurobarometer surveys, combating discrimination effectively in Lithuania remains difficult due to a lack of public support. In addition, political opposition occasionally forms a significant barrier to the implementation and enforcement of equality legislation.

Lithuania ranks 20th in the EU on the Gender Equality Index, with 58.4 points out of a possible 100 (up by one position and 2.1 points compared to 2020). Since 2010, Lithuania's score has increased by 3.5 points, but its relative ranking has deteriorated by three positions. According to the European Institute of Gender Equality, Lithuania performs best when it comes to work (11th place in the EU) and lags most in the domain of power (18th) which reflects "gender equality in economic decision-making." Currently, 73% of parliamentarians are men, but only 57% of the government's members are men. Furthermore, all three leaders of the ruling coalition are women, with two of them serving as the prime minister and as speaker of the parliament.

Report on racism and related discriminatory practices in Lithuania can be found at http://cms.horus.be/files/99935/MediaArchive/publications/shadow%20report%202010-11/ENAR%20Shadow%20Report_Lithuania_2011_FINAL_CONFIRMED.pdf

Information on Lithuania by the Committee on the Elimination of Racial Discrimination is available at <http://www2.ohchr.org/english/bodies/cerd/followup-procedure.htm>

The 2021 freedom rating of Lithuania by the Freedom House is available at <https://freedomhouse.org/country/lithuania/freedom-world/2021>

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

The 2021 Gender Equality Index available at <https://eige.europa.eu/gender-equality-index/2021/LT>

Portugal

Score 7

State policies seek to redress discrimination and cases of overt discrimination are rare. Moreover, Portugal has been a signatory to the International Covenant on Civil and Political Rights since October 1976. As the report noted below indicates, Portugal is recognized for having a low level of discrimination.

Nevertheless, two areas of concern remain.

First, the gap between average pay for women and men has proved persistent. While the gender pay gap fell from 16.0% in 2015 (above the EU-27 average of 15.5%) to 8.9% in 2018 (vs. 14.4% in the EU-27), the data in 2019 indicates a projected deterioration to 10.6%, well above the levels in the 2000s, when it stood at 8.5% in 2007.

Second, racial discrimination remains a concern. The Commission for Equality and Against Racial Discrimination (CICDR) received and analyzed 665 complaints regarding racial discrimination in 2020, an increase of some 50% compared to 2019 and almost six times the level of 2017 (119). This is the highest number since at least 2000.

As in the previous SGI review period, the current period was marked by cases of apparent discrimination, which gained considerable media traction. The most tragic was that of Ihor Homeniuk, a Ukrainian citizen who was detained at the border crossing in Lisbon airport and killed by Portugal's Border Control (SEF) officers while in detention in March 2020. The case was uncovered in November 2020, and received extensive media coverage. As a result, three SEF officers involved were tried and convicted. Moreover, the SEF's institutional failings over this case accelerated calls for the service to be dismantled, with parliament narrowly giving its approval in 2021, with support from the PS and BE. However, this measure had not yet been implemented as of the time of writing.

Citation:

Comissão para a Igualdade e Contra a Discriminação Racial, "Relatório Anual 2020," available online at: <https://www.cicdr.pt/documents/57891/0/Relatório+Anual+2020+-+CICDR.pdf/522f2ed5-9ca6-468e-b05d-f71e8711eb12>

Pordata, Disparidade salarial entre homens e mulheres, available online at: <https://www.pordata.pt/Europa/Disparidade+salarial+entre+homens+e+mulheres-3560>

Slovenia

Score 7

Slovenian law guarantees equal rights to all citizens and protects against discrimination based on prescribed criteria. There are also various forms of positive discrimination, including a gender quota in electoral law and special voting rights for the officially recognized national minorities as well as for the Roma population. Despite the legal framework, foreign workers and women are still at times paid somewhat less for the same work than Slovenian and male workers, and there have been cases of discrimination against same-sex couples. Amnesty International and others have criticized the government for not doing enough to counter discrimination toward the Roma. Media rights for minorities other than the Hungarian, Italian and Roma are underdeveloped. The annual report of the Human Rights Ombudsman for

2020 addressed several well-known persistent discrimination issues, such as the difficult living conditions of some Roma families, the lack of infrastructure and sanitation in non-regularized Roma settlements, and the fact that the responsibility for resolving Roma settlements issues should not rest exclusively with municipalities.

Citation:

Human Rights Ombudsman (2020): Annual Report for 2019. Ljubljana (https://www.varuh-rs.si/fileadmin/user_upload/pdf/lp/LP_2020/Letno_porocilo2020_-_pop.pdf).

Spain

Score 7

Any discrimination based on birth, race, sex, religion, opinion or any other personal or social condition or circumstance is forbidden in Spain. Any individual, whether a national citizen or not, can invoke a special expedited procedure in the courts asking the state to protect him or her against any form of discrimination. Cases of explicit discrimination are extremely rare, but this does not mean that occasional public discrimination and, above all, indirect social discrimination are never observed. For example, there remain significant wage differences between men and women, and few women sit on the boards of companies. The recent approval of equal parental leave time and measures seeking to guarantee equal pay for women and men may prove positive developments.

Some minority groups – including Roma – remain economically marginalized and are allegedly subject to police profiling. Moreover, the rise of populist movements, including Vox, led to stronger rhetoric on immigration and minority groups.

Spain is considered to be a pioneer in fighting discrimination against homosexuals and women. The main national agency tasked with monitoring equality and anti-discrimination efforts is the Institute for Women and Equal Opportunities. However, in 2018, ECRI called on Spain to “urgently” create an independent equality body specifically designed to tackle racism. At the beginning of 2021, the ECRI indicated that its recommendation had not been implemented. Spanish authorities informed ECRI that work is underway to improve the quality of a draft Act on Equality of Treatment and Against all Form of Discrimination. Moreover, some autonomous communities have increased the educational support provided to Roma people.

Citation:

ECRI (2021), Fifth report on Spain – interim follow up conclusions.

<https://rm.coe.int/interim-follow-up-conclusions-on-spain-5th-monitoring-cycle/1680a17dc5>

Austria

Score 6

Austrian law bars discrimination based on gender, religion, race, age or sexual orientation. In practice, despite the institutionalization of an anti-discrimination policy, discrimination is very evident within Austrian society. This includes indirect

discrimination directed against women, who are still underrepresented especially at the level of management in the business sector; discrimination against dark-skinned persons, in some cases even by the police; and gays and lesbians, whose position has improved, but still features structural disadvantages. Particularly with reference to sexual orientation, Austrian policies had retained a rather conservative orientation, limiting the legal institution of marriage to heterosexual partnerships. Since 2019, same-sex marriage in Austria has been legal.

That apart, open and latent forms of discrimination against LGBTQ+ persons continue to be part of Austrian politics and society. Despite recent progress, women in Austria continue to face numerous forms of discrimination, particularly in leadership positions and in terms of salary. That said, overall, perceived discrimination against women in Austria is considerably lower than among any other groups singled out in a recent Eurobarometer survey on discrimination. In educational institutions and beyond, ethnicity-based discrimination accounted for nearly three-quarters of all reported cases in 2020. Across various levels, “being Roma” is by far the most difficult status for a person living in Austria in terms of active and passive forms of discrimination.

According to Eurobarometer data, the overall reported level of perceived discrimination in Austria does not differ significantly from the EU average, though curiously both the share of respondents stating that anti-discrimination efforts were effective and not effective at all was higher than in other EU member states.

Citation:

<https://orf.at/stories/3219186/>

file:///C:/Users/c4021008/Downloads/ebs_493_fact_at_en.pdf

http://diskriminierungsfrei.at/wp-content/uploads/2021/06/IDB_Jahresbericht2020.pdf

<https://www.derstandard.at/story/2000127548107/diskriminierung-unter-dem-regenbogen>

Belgium

Score 6

Belgium is a highly diverse and generally tolerant country. Residents of Brussels represent 184 nationalities. Gay marriage has been legal since 2003, although cohabitation is not always easy. Nevertheless, racist or homophobic hate speech does exist and could be more harshly penalized. Discrimination also translates into lower employment rates and educational achievements among Belgian residents of foreign origin.

A dark spot has been the refugee crisis that led from the Libyan and Syrian civil wars. Although the government denies wrongdoing, human rights activists denounced police abuse when dealing with the presence of refugees in public parks. Hate speech also seems to have increased during the electoral period and elections witnessed a renewal for the extreme-right, with the Vlaams Belang winning 18% of

votes in the Flemish regional elections in May 2019. In this context, the newly created Flemish government decided to withdraw from UNIA, the Interfederal Centre for Equal Opportunities and Opposition to Racism.

Though, to repeat, this dark spot is not the whole picture. The press, the judiciary and most political forces actively oppose racism and discrimination.

Less apparent, Belgium is less active in its support for disabled people and, in that regard, Belgium performs less well than most northern European countries. Another significant issue, which has thus far been systematically neglected, is the rights of and protections for elderly people living in retirement homes. Retirement home residents comprise a growing proportion of the population and it is clear – though this is not systematically monitored – that there are issues related to residents’ rights (e.g., issues of maltreatment).

Citation:

UNIA: <https://www.unia.be/en>

https://www.rtf.be/info/belgique/detail_accord-flamand-une-politique-d-immigration-et-d-integration-nettement-plus-strict?id=10329078

https://www.rtf.be/info/societe/detail_violences-policieres-sur-migrants-30-des-victimes-sont-des-mineurs?id=10054512

<https://plus.lesoir.be/243237/article/2019-08-22/les-signalements-de-haine-en-ligne-ont-double-en-periode-electorale>
<https://fondspourlejournalisme.be/telechargements/A-MImpeImagine.pdf>

Chile

Score 6

Political rights are protected by legislature and government bodies. However, in this realm, major failings can be seen, for example, in the case of the Mapuche conflict in the southern part of Chile. The Mapuche are not constitutionally recognized as an ethnic minority with collective rights. Despite official denials, some Mapuche captives claim to be political prisoners. In June 2017, former President Bachelet officially apologized to the Mapuches for the “mistakes and horrors” (errores y horrores) committed or tolerated by the state toward these communities. She presented a draft law that seeks the recognition of collective rights for the Mapuche community and their language (mapudungún), introduces a holiday in their honor (Día Nacional de los Pueblos Originarios) and creates the Ministry of the Indigenous Peoples and the Council of Indigenous Peoples. Despite long debates in the National Congress, this draft law had not been approved as of the time of writing.

President Sebastián Piñera continued emphasizing the urgent need to create a proper ministry and secure constitutional recognition for indigenous peoples. However, he had made no progress on this issue by the end of the review period. The constitutional convention is expected to reach a consensus declaring Chile to be a plurinational estate.

With regard to gender, Chile was ranked 70th out of 156 countries in the 2021 Global Gender Gap Index; its parity-impairity score (ranging from 0.00 = imparity to

1.00 = parity) is 0.716, technically the same result as in previous years, but a considerable improvement compared to the initial such report in 2006.

As of the time of writing, only about 22.6% of Chile's serving deputies (35 of 155) and 25.5% of the senators (11 of the current 43, as seven positions still needed to be elected by the end of the period under review) were women, a slightly better average than seen during the former legislative period. Nonetheless, these averages are much lower than comparable shares elsewhere in Latin America or in the OECD as a whole. In order to improve the ratio of women representatives, a new electoral law obliges political parties' electoral slates to be composed of at least 40% women beginning in the 2017 elections, and provides financial incentives for the candidacy and election of women. Furthermore, a new labor-reform package enacted in August 2016 mandated that at least 30% of labor-union representatives be women. Thanks to strong gender equity provisions, a constitutional convention composed of 78 men and 77 women was elected in 2021.

Same-sex marriage and the adoption of children by same-sex couples became legal in December 2021, when Law No. 21,400 was enacted. The law is scheduled to come into effect in March 2022.

Citation:

On the creation of the Ministry for Indigenous affairs:

Library of the National Congress (Biblioteca del Congreso Nacional, BCN), https://www.bcn.cl/asesoriasparlamentarias/detalle_documento.html?id=51774, last accessed: 13 January 2022.

On same-sex marriage and same-sex couples' adoption:

Library of the National Congress (Biblioteca del Congreso Nacional, BCN), <https://www.bcn.cl/leychile/navegar?idNorma=1169572>, last accessed: 13 January 2022.

Interparliamentary Union, Situation as of 1. February 2019, <http://archive.ipu.org/wmn-e/classif.htm>, last accessed: 13 January 2022.

World Economic Forum, "Gender Gap Report 2021 for Chile", <https://www.weforum.org/reports/global-gender-gap-report-2021>, last accessed: 13 January 2022.

On Acuerdo Nacional por la Araucanía:

Gobierno de Chile, <https://www.gob.cl/acuerdoporlaaraucania/#:~:text=El%20objetivo%20principal%20es%20generar,y%20bienestar%20para%20las%20familias>, last accessed: 13 January 2022.

Cyprus

Score 6

Article 18 of the constitution guarantees equality and non-discrimination for all. It explicitly prohibits discrimination, while legislation aims to proactively protect the rights of minority groups. However, in practice, policies do not effectively meet existing challenges, and inequalities and discrimination persist.

Various laws adopted in line with EU directives on gender equality and against discrimination have not achieved significant progress. Instead of combating racism

and other forms of discrimination, officials often adopt xenophobic narratives. Enforcing rules that protect the rights of persons with disabilities does not seem to be a priority. Persons needing assistance, including school children, have faced increased problems because of the COVID-19 crisis.

The Council of Europe's ECRI (2019) stated that its 2016 recommendations are still valid. More is needed to enable the Office of the Ombudsman to act as an effective anti-discrimination authority. The response to the strong recommendation that the authorities "develop a new integration plan for non-nationals," including various foreign groups, was rather negative. Policies are increasingly discriminate against non-native people, as indicated in a letter from the Council of Europe's commissioner for human rights to the interior minister in March 2021.

In the Gender Equality Index for 2021, Cyprus scored 57 points, 11 points below the EU average (68).

Citation:

1. Gender Equality Index 2021 – Cyprus, <https://eige.europa.eu/gender-equality-index/2021/country/CY>
2. CoE European Commission Against Racism and Intolerance, Conclusions on the Implementation of Recommendations, Cyprus, June 2019, <https://rm.coe.int/interim-follow-up-conclusions-on-cyprus-5th-monitoring-cycle-/168094ce05>

Czechia

Score 6

The Czech legal system guarantees equality of access to work, education, and social services before the law. The implementation of EU directives has underpinned such guarantees and has helped to limit discrimination. Still, gender discrimination remains a relatively serious problem compared to other developed countries. The gap between the average wages of women and men has decreased slightly, to 18.9%, but this remains one of the highest rates in the European Union. The representation of women in national-level political bodies increased slightly in 2021 when the highest number of women (25%) entered the parliament (31.6% of candidates were women). However, women's representation in other decision-making positions has also remained comparatively weak. The World Economic Forum's 2021 Global Gender Gap Report ranked Czechia 78th out of 156 countries, primarily due to the challenges facing women in the areas of economic participation and opportunity, and political empowerment (World Economic Forum 2021).

Another issue is the discrimination against Roma people. Approximately half of the Roma population (estimated at 250,000 individuals or 1.93% of the population) live in poverty, indebtedness, and suffer from forms of discrimination in employment and housing provision. According to government records, the risk of poverty for Roma is six times higher than for the general population. The Czech majority continues to hold a negative perception of the Roma minority. Public opinion surveys report that Roma are perceived as being the second-most unsympathetic Czech minority, after

Arabs. The main obstacles to participating in the labor market faced by Roma are societal prejudices and discrimination, and low average educational attainment and skills levels. Participation is key to the emancipation of the Roma, but voter turnout among the Roma is traditionally low. At present, there are no Roma members of parliament, and their representation in regional and municipal councils is insignificant. To address these issues, the government, in spring 2021, adopted an update of its 2015 Roma integration strategy (Czech Government 2021). The update was drafted in close collaboration with the Czech Government Council for Romani Minority Affairs and with representatives of the Romani community.

Discrimination of LGBTQ+ people exists, but is limited compared to other East-Central European countries (Guasti/ Buštková 2020). While the Catholic Church has intensified its pro-life and anti-LGBTQ+ activism, some Protestant churches have started to cooperate with LGBTQ+ advocacy groups. Public opinion regarding the adoption of children by same-sex couples has become more positive.

Citation:

Czech Government (2021): Strategie rovnosti, začlenění a participace Romů (Strategie romské integrace) 2021–2030. Prague (https://ec.europa.eu/info/sites/default/files/strategie-2021-2030_final.pdf).

Guasti, P., L. Buštková (2020): In Europe's Closet: the rights of sexual minorities in the Czech Republic and Slovakia, in *East European Politics* 36(2): 226-246 (<https://doi.org/10.1080/21599165.2019.1705282>).

World Economic Forum (2021): The Global Gender Gap Report 2021. Geneva (https://www3.weforum.org/docs/WEF_GGGR_2021.pdf).

France

Score 6

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

France's legal basis for non-discrimination is solid. The controversial recognition of "marriage for all," or recognizing the right of gays and lesbians to marry legally, is a point in case. Courts tend not only to apply but also to extend these rights. Many policy measures, particularly financial incentives or subsidies, attempt to compensate for different instances of discrimination, in particular gender, age or migration background. However, the situation is often contradictory in many cases. For instance, while immigrants face challenges in getting residence permits, illegal immigrants have free access to healthcare and their children can be legally registered at school. A key contention concerns the integration of so-called second-generation immigrants. Despite many policy measures, a large number of these young French citizens feel like foreigners in their country, and are often considered as such by the population at large. The failure to provide quality schooling and, later, a proper job is one of the most dramatic dimensions of what is called invisible discrimination.

Empirical studies have confirmed the discriminatory practices experienced by Muslim job-seekers (cf. France Stratégie). One serious handicap in dealing with this situation is enshrined in the French republican tradition, which emphasizes strict equality and excludes in principle any sort of discrimination, even positive discrimination (such as gathering statistics based on ethnicity to determine social service allocation).

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

Citation:

France Stratégie: Lignes de faille, Paris, October 2016

(<http://www.strategie.gouv.fr/sites/strategie.gouv.fr/files/atoms/files/rapport-lignes-de-faille-ok.pdf>)

Défenseur des droits: Discriminations et origines: l'urgence d'agir, Paris, 22 June 2020

(<https://www.defenseurdesdroits.fr/fr/rapports/2020/06/discriminations-et-origines-lurgence-dagir>)

Iceland

Score 6

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

Although equal rights are guaranteed by law, the reality is that discrimination occasionally occurs in Iceland, especially against women, disabled persons, and migrants. In the 2012 presidential elections, blind and physically disabled voters were denied the right to have an assistant of their own choice to help them vote at polling stations. Instead, they had to vote with help from public officials working at the polling stations. Following complaints from the Organization of Disabled in Iceland (Öryrkjabandalagið), the electoral laws were adjusted to allow blind or otherwise physically disabled individuals to independently nominate their own assistant who would be sworn to secrecy. This change applied to the 2013 parliamentary elections.

The government's non-compliance with the binding opinion of the UNHRC, which ruled in 2007 that the management system of Iceland's fisheries was discriminatory, signals a less-than-full commitment to non-discrimination.

The UN Convention on the Rights of Persons with Disabilities was signed on behalf of the Icelandic government in March 2007. It was not until September 2016 that the

Icelandic parliament, Althingi, passed a resolution to enable the government to ratify the convention. At the time of writing in late 2021, this remains to be done.

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

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Netherlands

Score 6

The Netherlands is party to all the important international anti-discrimination agreements. A non-discrimination clause addressing religion, worldviews, political convictions, race, sex and “any other grounds for discrimination” is contained in Article 1 of the Dutch constitution. An individual can invoke Article 1 in relation to acts carried out by the government, private institutions or another individual. The constitutional framework has been specified by several acts that also refer to the EC Directives on equal treatment. Since 1994, a General Law on Equal Treatment (Algemene Wet Gelijke Behandeling) has prohibited distinctions to be drawn between people on the basis of race or nationality. The law applies to all housing, healthcare, cultural and educational institutions. Thus, in hiring and firing decisions, race and nationality may not be taken into account, for example. The Dutch penal code also contains articles that prohibit insulting minorities and engaging in hate-mongering.

In sum, there is a high degree of formal protection. A recent expert report criticized Dutch anti-discrimination sanctions as “ineffective,” and as neither “dissuasive” nor “proportionate.” There are signals that discrimination is practiced by Dutch police, in the labor and housing markets, in the medical world, in the media, and in public and political debate. PVV-leader Geert Wilders was convicted of discriminating against the group of Moroccans; but the trial took three years, and although he was deemed guilty, he was not punished.

In 2018, more than a quarter of the Dutch population reported being subject to some form of discrimination in a survey by the Social Cultural Planning Bureau (SCP). Dutch of Moroccan, Turkish, Antillean and Surinamese descent experience discrimination with particular frequency; 30% of these respondents reported being surveilled as a matter of policy, where the average for the entire population is 3%.

In terms of policy, the Dutch government does not pursue affirmative action to tackle inequality and facilitate non-discrimination. Generally, the government relies on

“soft law” measures as a preferred policy instrument to curb discrimination. There are more and more doubts about state policies’ effectiveness. Depending on the pressures created by significant (international) events (e.g., Israeli-Palestinian conflicts, terrorist attacks and public debates about #MeToo and after the Black Lives Matter demonstrations in the United States, discussions about Dutch colonialism/slavery), an increase can be seen in visible discriminatory actions, internet-based threats and insults targeting Jews, Muslims, Afro-Dutch citizens and women. Especially worrisome is the broad-based and well above the European average negative climate of opinion and stereotyping of Muslims. Growing awareness of employer’s discriminating against young people with migrant backgrounds in job application processes forced new national and local-government initiatives. According to recent survey research, the Dutch population is seriously worried about the intolerant and discriminatory dominant approach to diversity at present.

Citation:

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Bulgaria

Score 5

The Bulgarian constitution, the 2004 Anti-Discrimination Act and various EU directives aim to provide protection against discrimination. There is a Commission for Protection against Discrimination, and citizens have access to the courts in cases of suspected discrimination. In practice, instances of discrimination can be frequently observed, especially against the highly marginalized Roma minority. There is some labor market discrimination based on gender, sexual orientation, physical and mental ability, and ethnicity. Public discourse has become increasingly xenophobic, as explicitly nationalistic parties serve in the ruling coalition and routinely rely on agitation during election campaigns. The government failed to push through the ratification of the Istanbul Convention, and some portions of it were pronounced unconstitutional by the Constitutional Court.

Croatia

Score 5

Although discrimination has been prohibited by several different legislative acts for some time, the new Anti-discrimination Act (ADA), which entered into force in

2009, was an important step. The new act prohibits discrimination in 10 specific areas of social life and distinguishes 17 different forms of discrimination. It has enabled new forms of judicial redress for cases of discrimination. The Ombudsman institutions have a large role in combating discrimination, and the Office of the Public Ombudsman serves as a central anti-discrimination body under the ADA. However, although discrimination is prohibited by the law, the legislation has not been fully implemented, and certain vulnerable groups still experience discrimination. In particular, the Roma sometimes encounter discrimination in education and employment. The rights of LGBT persons have been occasionally circumscribed, but Zagreb and Split Pride, as well as the failure of conservative NGOs to collect sufficient signatures for a referendum against the Istanbul Convention suggest that the overall social climate toward LGBT community has significantly improved. Despite the fact that gay couples are denied the right to officially marry, they can enter into same-sex partnerships with almost equal rights to opposite-sex partnerships since 2014. A court decision in December 2019 finally acknowledged the right of gay couples to become foster parents. In April 2021, in a case in which life partners Mladen Kožić and Ivo Šegota sought to adopt a child, the Administrative Court of Croatia ruled that they could be adoptive parents. The court ruled that there should be no discrimination in the right to adopt children. This was the first such decision made in Croatia.

Citation:

<https://rm.coe.int/5th-op-croatia-en/1680a2cb49>

Israel

Score 5

Israel's main venue for dealing with cases of discrimination is the court system, particularly the Supreme Court, which addresses cases of discrimination against women and minorities in professional, public and state spheres. Israel has long-standing institutional mechanisms intended to promote equality, such as the Authority for the Advancement of the Status of Women in the Prime Minister's Office and the Equal Employment Opportunities Commission in the Ministry of the Economy. However, these tend to offer ad hoc solutions instead of comprehensive and long-term plans. Attempts to pass a basic law protecting equality to join existing legislation protecting human dignity and liberty did not yield results.

Progress was achieved in recent years regarding women's and gay rights. For example, non-biological same-sex parents have been made eligible for guardianship rights and same-sex marriages conducted in foreign countries are recognized by the state. Some advances have also been made in protecting the rights of disabled persons.

Nonetheless, discrimination is prevalent and systematic regarding Palestinians' rights. Following Israel's annexation of East Jerusalem in 1967, Arab residents were issued Israeli identity cards and given the option of obtaining Israeli citizenship, though most choose not to seek citizenship for political reasons. These non-citizens

have many of the same rights as Israeli citizens, except the right to vote in national elections. They can vote in municipal as well as Palestinian Authority elections, and remain eligible to apply for Israeli citizenship. However, Israeli law strips non-citizens of their local residency if they stay outside the city for more than three months.

A 2003 law denies citizenship and residency status to Palestinian residents of the West Bank or Gaza who marry Israeli citizens. This measure affects about 15,000 couples and has been criticized as blatantly discriminatory. In 2011, the Knesset passed a law allowing the courts to revoke the citizenship of any Israeli convicted of spying, treason or aiding the enemy. A number of civil rights groups and the Shin Bet security service criticized the legislation as unnecessary and overly burdensome.

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Japan

Score 5

Women still face considerable discrimination, particularly in the labor market. Japan's gender wage gap is the third-largest among OECD countries at 22.5% (2020 data), which is well above the OECD average of 12.5%. Women make up barely 10% of all parliamentarians in the more powerful lower house, placing Japan among the 30 worst-performing countries worldwide in this regard. Former Prime Minister

Abe called women “Japan’s most underused resource,” but had only two women in his cabinet formed in September 2019. In 2021, the new Kishida government added one more female minister.

The government has designated “womenomics” as a key pillar of its reform program. Programs implemented under this rubric include childcare support and similar measures. However, given the persistent undercurrent of sexism in Japanese society, de facto workplace discrimination will be hard to overcome. This is underscored by the passage of the new anti-workplace-sexual-harassment (powa hara) law in 2021 that imposes no penalty for employer non-compliance.

The three million descendants of the so-called burakumin, an outcast group during the feudal period, still face social discrimination, though it is difficult for the government to counter this. Korean and Chinese minorities with permanent resident status also face some social discrimination. Naturalization rules have been eased somewhat in recent years. Workers from the Philippines, the Middle East and elsewhere frequently complain of mistreatment and abuse.

There are no legal protections against racial, ethnic, religious or gender-identity-based discrimination in Japan. The country ranks below the OECD average with regard to discrimination against LBGTQ+ individuals.

The country continues to have a rather serious human-trafficking problem with respect to menial labor and the sex trade, in some cases involving underage individuals.

The treatment of refugees and asylum-seekers is frequently criticized. Asylum is rarely granted – only 47 asylum-seekers saw their applications approved in 2020, against a total of 3,936 applications lodged that year. In 2019, a hunger strike protesting harsh conditions occurred in one of the country’s immigrant detainee centers.

Japan is also criticized for its human-rights abuses of foreign workers, particularly its foreign technical intern program, including low-wage, forced overtime work, and dangerous and unsanitary working conditions. The Justice Ministry announced 759 cases of suspected abuse in 2019. There were 171 trainees’ deaths between 2012 and 2017. The COVID-19 pandemic has made the situation worse.

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Malta

Score 5

The Maltese constitution's chapter on fundamental human rights forbids discrimination on the basis of race, religion, gender or politics. Other laws forbid discrimination on the basis of physical disability or handicap. In Malta, the civil courts and the Constitutional Court are staunch defenders of anti-discrimination legislation. Aggrieved citizens may take cases to the Constitutional Court, the Employment Commission or the Ombudsman Office, while public servants may also bring a case before the Public Service Commission. A bill on the issue of equality was presented to parliament in 2018, but many of its clauses proved to be highly controversial and strong opposition from many quarters has delayed many of the bill's provisions. This act will give legal protection to victims of discrimination, and harmonize equality and non-discrimination laws. Government policies are mainly non-discriminatory, but the 1989 reform of the public service did not incorporate all the recommended changes of the board. This has created loopholes that could be utilized and result in discrimination. Discrimination on grounds of political affiliation remains a problem. Since 2013, the government has strengthened the rights of several minorities, including women, the LGBTQ+ community and disabled persons. A new mechanism will come into play during the 2022 general election, which will increase the number of women in Malta's parliament. According to the European Institute for Gender Equality, Malta increased its score to 65 points from 63.4 in comparison to the GEI 2020 edition and improved its ranking to 13th from 14th. Malta also registered the second highest progress on gender equality (an increase of 10.6 points) since 2010. Nonetheless, women remain disadvantaged when it comes to earnings and pensions, although budgetary measures have led to some improvement on the latter issue. Women are still under-represented in parliament, on state boards and in the workforce compared to women in most EU member states. Malta also has a number of independent commissions to protect the rights of vulnerable groups, such as children and disabled people. The government increased the fine for employers who discriminate against disabled people. The 2020 annual ombudsman report stated that the accelerated promotion of four armed forces officers after the 2013 election was illegal. In 2018, the National Commission for the Promotion of Equality highlighted the discrimination faced by sub-Saharan migrants in accessing employment, in employment itself, in accessing housing and when contacting school authorities as parents. There have been allegations of racial profiling by police and of a lack of racial insensitivity reflected in comments made by members of government. This is still an area that lags seriously behind.

Citation:

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Mexico

Score 5

While there is a societal norm against overt racial discrimination, there is a significant correlation between race and class. Light-skinned Mexicans are over-represented among the wealthy and powerful. Data from the Latin American Public Opinion Project shows that they have significantly higher educational attainment and more material wealth. Social discrimination varies by region and setting. In urban centers, there is growing awareness around issues of gender and sexuality. The local constitution adopted by the Mexico City constituent assembly includes a number of liberal and progressive provisions. Nevertheless, more traditional gender roles and the political and social marginalization of women continue to be the norm, particularly in rural and less affluent areas.

Worth mentioning are the gender quotas for parties and elections that were included in the 2014 constitutional reform. Women now hold 50% of seats in Congress. In this respect, Mexico is a leading country in the OECD and the world. Claudia Sheinbaum (MORENA) is the first woman to govern the city of Mexico. Sheinbaum has also declared her intention to run for president as the successor of President López Obrador.

A crucial problem in gender discrimination are femicides. Between 2015 and June 2019, more than 3,000 women were murdered in Mexico. An average of 10.5 women are killed every day, with a total of 1,932 such victims in 2019. In the last four years, femicides have risen by 111%. The courts are increasingly assertive in taking up cases of gender equality and LGBTQ+ and transgender rights. In the 2021 midterm elections, the first transgender person was elected to Congress. Additionally, in several states, abortion rights have been liberalized after court rulings.

However, while there is increasing awareness of gender and LGBTQ+ rights, the attention paid to indigenous rights and other forms of social stigmatization is more limited, although there is a history of autonomy for indigenous communities. As is often the case in Mexico, there is a considerable gap between formal rights and their effective guarantee and enforcement.

Citation:

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Romania

Score 5

Romania continues to struggle with non-discrimination and protection of marginalized persons within the law. In 2020, the country adopted Law 671/2019, banning all educational institutions from "propagating theories and opinions on gender identity according to which gender is a separate concept from biological sex." This comes just two years after a referendum limiting the definition of family to exclude LGBTQ+ couples narrowly failed after it did not meet the required voter turnout threshold. In 2020, Romania ranked 38th out of 49 European countries for LGBTQ+ equality laws and policies by the International Gay, Bisexual, Trans, and Intersex Association European region.

In addition, Romania lacks a policy to encourage female participation in politics and women continue to be underrepresented in the parliament. Following the 2020 parliamentary elections, women held just 18.5% of lower-house seats and 18.4% of Senate seats, with only one female minister appointed in the new government. Members of the Roma minority also continue to face health and political disparities with few legal protections.

In January 2021, the Law on measures for Preventing and Combating Anti-Gypsyism entered into force. This is an important development for the protection of the Roma ethnic minority. According to the law, "anti-gypsyism" means both the perception of Roma expressed as hatred against them, as well as verbal or physical manifestations motivated by hatred against Roma, their property, institutions, traditions and language.

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Slovakia

Score 5

Slovakia has fairly sophisticated anti-discrimination legislation in place. However, the former Prime Minister Robert Fico and his coalition partner SNS openly nurtured open public discrimination of Roma, migrants and LGBTQ+ persons and contributed to a toxic climate in Slovak society. Just a few days before the 2020 elections, the parliament, upon the initiative of the SNS, again rejected the ratification of the Istanbul Convention. The new center-right government has not continued these campaigns. In late 2021, it also approved a new Strategy for Roma Equality, Inclusion and Participation until 2030. In the first year of the COVID-19 pandemic, however, the authorities targeted Roma settlements with disproportionate and discriminatory measures. The authorities tested residents of some Roma settlements for COVID-19 with the assistance of the army and ordered the mandatory quarantine of five Roma settlements on the grounds of public health. The legal basis for these mandatory quarantines, enforced by the police and army, was unclear, raising concerns of arbitrary detention. Moreover, parts of the governing coalition, most notably Sme-Rodina, have fought against gender equality and LGBTQ+ rights in the name of traditional family values.

South Korea

Score 5

The Korean constitution states that “there shall be no discrimination in political, economic, social or cultural life on account of sex, religion or social status” (Art. 11). Unfortunately, Korea still lacks a comprehensive anti-discrimination law that would enforce these constitutional rights. In fact, discrimination remains a major problem in South Korea for groups as diverse as women, migrants, handicapped persons, LGBTQ+ people and North Korean defectors. Women are still underrepresented in the labor market, comprising only 43% of the labor force despite having an average education level similar to that of men. The Global Gender Gap Index for 2021 ranks South Korea at 102nd place out of 156 countries evaluated. The gender pay gap remains the largest in the OECD, and the COVID-19 shock disproportionately affected female workers, as they outnumber men in the service sector and in irregular jobs, the areas most affected by the pandemic. In terms of leadership positions, the proportion of women in managerial positions in state-funded and large private companies was 19.8% in 2019, while 19% of National Assembly seats are held by women, both rates below the global average. Having promised to improve gender equality, President Moon appointed women to comprise about one-third of the cabinet – a considerably higher share than in any previous Korean cabinet.

Discrimination against irregular workers, North Korean defectors and ethnic Koreans from other countries (principally China) remains widespread. According to a study by the National Human Rights Commission of Korea, half of the North Korean

defectors in South Korea have suffered from discrimination. Discrimination against migrants intensified during COVID-19, as migrants were excluded from disaster relief payments and services (e.g., provision of subsidized masks) that the government provided to all Korean nationals. While courts have strengthened some rights for the LGBT community, the government has failed to take decisive actions to reduce discrimination. The Constitutional Court is reviewing (for the fourth time) the constitutionality of Article 92-6 of the Military Penal Code, which criminalizes sexual relations between members of the same sex within the armed forces.

For the 11th time since 2007, the National Assembly is considering passage of a comprehensive anti-discrimination law that would prohibit discrimination based on gender, disability, medical history, age, origin, ethnicity, race, skin color, physical condition, marital status, sexual orientation and gender identity. Despite widespread public support for such a law and presidential backing, the National Assembly Legislation and Judiciary Committee did not complete its review by the original November 2021 deadline. It extended the review period to May 2024.

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Hungary

Score 4

Hungary has a comprehensive anti-discrimination legal framework in place, but in practice, little is done to enforce it. Fidesz's traditional family concept corresponds with strong discrimination against women in the areas of employment, career and pay. The failure is even greater regarding the Roma minority. By trying to create a separate school system, the Orbán government has aggravated the segregation in education. The government has continued its campaigns against Muslims, refugees

and the LGBTQ+ community. The ninth amendment of the Fundamental Law in December 2020 and concomitant legislation have made the constitutional definition of a family even more traditional, have fixed gender identity at birth and have made it impossible for same-sex couples to adopt children. A controversial 2021 law has banned the “promotion” of queer and homosexual content in schools. The government has also organized a manipulative “LGBTQ+ referendum” to be held together with the parliamentary elections on 2 April 2022. During the EURO 2020 football tournament, the government clashed with UEFA over visible LGBTQ+ support during football matches in Budapest.

Poland

Score 4

A comprehensive Anti-Discrimination Act in line with EU directives has been in effect since the beginning of 2011. The implementation of the Act on Equal Treatment largely rests with the Commissioner for Citizens’ Rights (Rzecznik Praw Obywatelskich), which was initially established in 1987. This body’s effectiveness has suffered, as it has assumed more responsibilities without a corresponding increase in resources and indeed the government has even cut its budget. This is mostly due to the PiS’s resentment of the office. The anti-discrimination policy has not featured prominently on the agenda of the PiS government. In addition, the PiS government has engaged in strong anti-Muslim and anti-migrant rhetoric, and has spoken out against the LGBT community and “gender ideology.” The legislation on the financing of NGOs already disables those NGOs that campaign against discrimination to access public money, and the Polish Society of Antidiscrimination Law (PSAL) has reported plenty of cases of individual, group-based or institutional discrimination. In October 2021, the five Polish regions that had declared themselves “LGBT-free” gave in to the European Commission’s demand to annul that declaration, because they did not want to lose recovery funds amounting to €126 million in post-COVID-19 aid. At the same time, however, a bill submitted by the Foundation for Life and Family, dubbed “stop LGBT,” discussed in the Sejm in October 2021, would further infringe on the rights of same-sex couples and transgender people.

Turkey

Score 4

While Article 10 of the constitution guarantees equality before the law, irrespective of language, race, sex, political opinion, or religion, the political reality in Turkey differs significantly from this constitutional ideal. Gender disparities still exist in areas such as decision-making, employment, education, and health outcomes. Gender-based violence is widespread. The Human Rights and Equality Institution of Turkey, which is in charge of applying anti-discrimination legislation, only finalized 43 decisions in 2020 out of 276 submitted. Moreover, Turkey has not signed Protocol 12 of the ECHR, which prohibits discrimination.

Hate crime legislation is not in line with international standards, and does not cover hate offenses based on sexual orientation. Turkey withdrew from the Council of Europe Istanbul Convention on preventing and combating violence against women, domestic violence, and gender-related violence despite widespread public reaction. Despite rising public awareness, the incidence of violence against women in Turkey has undergone a dramatic and rapid increase over the last decade. More specifically, while 80 women were killed in 2008, this number increased to 300 in 2020.

Hate speech and discrimination against LGBTQ+ communities, which do not have any legal protections, are major problems. During the 2021 Boğaziçi University protests over the appointment of a pro-government rector, President Erdoğan publicly denied the existence of LGBTQ+ individuals within Turkish society.

The use of Kurdish and some other languages in formal education contexts is gradually becoming more common. However, there are no anti-discrimination employment or social policy strategies or action plans in place.

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