



Independent Supervisory Bodies Report

Audit Office, Ombuds Office, Data Protection Authority

Sustainable Governance Indicators 2022

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Indicator

Audit Office

Question

Does there exist an independent and effective audit office?

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

- 10-9 = There exists an effective and independent audit office.
- 8-6 = There exists an effective and independent audit office, but its role is slightly limited.
- 5-3 = There exists an independent audit office, but its role is considerably limited.
- 2-1 = There does not exist an independent and effective audit office.

Australia

Score 10

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

Citation:

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

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

Austria

Score 10

The Austrian Court of Audit (Rechnungshof) is an instrument of parliament. Its president is elected by parliament for a period of 12 years, without the possibility of re-election, which gives the president a certain degree of independence.

The Court of Audit reports regularly to parliament and parliament can order it to perform specific tasks. Consequently, the parliamentary majority determines how to handle audit reports and, in cases of doubt, the majority backs the cabinet. Thus, the main vehicle to force the government to react in a positive way to audit reports is public opinion. The Court of Audit enjoys an impeccable public reputation, which affords it a powerful role in constitutional practice.

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

majority. There are also areas in which the court cannot make inquiries. It may be seen as a compliment that, in 2019, the majority in parliament denied the Court of Audit direct access to party finances, to which the court reacted in 2021 by providing its own suggestions for a reform of the party finance law. The court also criticized the government's "chaotic" handling of its coronavirus policies, which had undermined public trust and limited the effectiveness of some measures.

Citation:

<https://www.wienerzeitung.at/nachrichten/politik/oesterreich/2121209-Rechnungshof-Corona-Politik-chaotisch-und-unebersichtlich.html>

https://www.rechnungshof.gv.at/rh/home/news/news/news_2/Rechnungshof_legt_Vorschlag_fuer_ein_wirksames_Parteien.html#

Canada

Score 10

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

Reports of the auditor general – including the Office of the Commissioner of the Environment and Sustainable Development – span a broad range of topics. Recent reports have included audits on IT solutions, shipbuilding programs, the Canada Child Benefit, procurement of personal protective equipment, safe drinking water, and of course rollout of the emergency benefits launched during the pandemic. Government departments in turn respond to the Audits with planned action measures for addressing concerns. The OAG is a highly effective institution in its undertakings.

Citation:

Office of the Auditor General of Canada. https://www.oag-bvg.gc.ca/internet/English/parl_lp_e_856.html.

Denmark

Score 10

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

valuation of real estate for tax purposes remain a political issue in connection with the government's 2025 plan.

Citation:

Hentik Zahle, Dansk forfatningsret, 2.

Website of national audit office: <http://www.rigsrevisionen.dk/> (accessed 20 October 2020).

Finland

Score 10

Legislative accountability is advanced by the audit office, which is accountable to parliament. Formerly, parliamentary oversight of government finances was performed by parliamentary state auditors. However, this institution has been abolished. In its place is the parliamentary Audit Committee, which was created by combining the tasks performed by the parliamentary state auditors with the related functions of the administrative and audit section of the Finance Committee. The office of the parliamentary state auditors has also been replaced by the National Audit Office of Finland, which is an independent expert body affiliated to parliament. The role and duties of the National Audit Office of Finland (NAOF) are defined in the country's constitution. The NAOF audits central government finances, monitors fiscal policy, and oversees political party and election campaign funding (National Audit Office of Finland 2020).

It is also tasked with auditing the legality and propriety of the state's financial arrangements, and reviewing compliance with the state budget. Specifically, the office is expected to promote the exercise of parliament's budgetary power and the effectiveness of the body's administration. It also oversees election and party funding. The office is directed by the auditor general, who is elected by parliament. With about 150 employees, the office has four impact areas: sustainable general government finances; sustainable governance and public administration; a safe, healthy and affluent society; and information governance. However, in 2021, the audit office was caught up in a scandal which undermined its operative capacity. Parliament ultimately decided to fire the body's general director.

Citation:

National Audit Office of Finland, 2020. Accessed, 28.12. 2020. <https://www.vtv.fi/en/>

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

"The Audit Committee," <https://www.eduskunta.fi/EN/lakiensaaminen/valiokunnat/tarkastusvaliokunta/Pages/default.asp>

"Scandal in 2021": <https://yle.fi/news/3-12292381>

Germany

Score 10

The Federal Court of Audit (FCA) is a supreme federal authority and an independent public body. FCA members enjoy the same degree of independence as the members of the judiciary. Its task is to monitor the budget and the efficiency of state's financial practices. It submits its annual report directly to the Bundestag, the

government and the Bundesrat. The Bundestag and Bundesrat jointly elect the FCA's president and vice-president, with candidates nominated by the federal government. According to the FCA's website, around 1,300 court employees "audit the (state) account and determine whether public finances have been properly and efficiently administered," while the FCA's "authorized officers shall have access to any information they require" (Federal Budget Act Section 95 Para. 2). The reports regularly receive considerable media attention.

According to critics, however, the strong position of the FCA also leads to risk-averse behavior in ministries and authorities which discourages new approaches and ideas from taking off. In other words, strict control by audit offices may also function as a brake on innovation in public administration (Wiarda 2021, see also Chapter P5.1).

Citation:

<https://www.bundesrechnungshof.de>

Wiarda, Jan-Martin (2021): Zu deutsch bei Innovationen, in: Der Tagesspiegel 11.07.2021, <https://www.tagesspiegel.de/wissen/der-bund-und-seine-forschungsagenturen-zu-deutsch-bei-innovationen/27411266.html> (accessed 13 February 2022)

New Zealand

Score 10

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

Citation:

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

Norway

Score 10

Norway has an independent statutory authority, the Office of the Auditor General, that is accountable to parliament. Its main task is to ensure that the central government's resources and assets are used and managed according to sound financial principles and in compliance with parliamentary decisions. In recent years, evaluations of goal attainment of reforms and of the effectiveness of new laws, have become increasingly important. Also the operations of (fully and partially) state-owned companies are scrutinized. The audit office has 450 employees. Its governing council is a board of five directors, all selected by the parliament for four years. Decisions of the audit office have consistently been consensual.

Sweden

Score 10

In order to conform to international standards, such as the International Organization of Supreme Audit Institutions (INTOSAI), the Swedish National Accountability Office (NAO; Riksrevisionen) was established in 2003 after the adoption of an enabling constitutional amendment (Riksrevisionen 2021). For all intents and purposes, the audit office now reports to the parliament. The mandate and mission of the audit office is such that this represents the only chain of accountability. In this respect, the constitutional role and mandate of the audit office is now in harmony with INTOSAI standard.

The NAO assesses whether public agencies follow relevant directives, rules and statutes, and whether goals are reached in an effective way. If this proves not to be the case, it provides recommendations for the improvement of agency operations. From this perspective, the NAO has the ability to assess whether the budgetary measures adopted by the parliament have followed the existing regulatory framework. The NAO also audits the government, corporations and foundations.

Citation:

Riksrevisionen. (The Swedish NAO). 2021. "Om Riksrevisionen." <https://www.riksrevisionen.se/om-riksrevisionen.html>

United Kingdom

Score 10

The National Audit Office (NAO) is an independent office funded directly by parliament. Its head, the comptroller and auditor general, is an officer of the House of Commons. The NAO works on behalf of parliament and the taxpayer to scrutinize public spending and is accountable to the Public Accounts Committee (PAC). The media will usually pick up on any NAO findings, especially if they uncover questionable practices.

In 2020, the NAO undertook an investigation into government procurement during the coronavirus pandemic following a number of media reports. It found that the government did not always have "a clear audit trail to support key procurement decisions," and that £10.5 billion worth of contracts had been awarded without any competition, £6.7 billion through framework agreements and only £0.2 billion through a competitive tender or bidding process. It recommended that the Cabinet Office issue new rules to avoid conflicts of interest for public officeholders in the future – or "chumocracy," as the press labeled numerous cases of firms with links to Conservative members of parliament being awarded lucrative contracts for testing and supplying personal protective equipment during the pandemic.

Citation:

<https://www.nao.org.uk/wp-content/uploads/2020/11/Investigation-into-government-procurement-during-the-COVID-19-pandemic.pdf>
<https://www.thetimes.co.uk/edition/news/chumocracy-first-in-line-as-ministers-splash-covid-cash-7wb5b8q0w>

United States

Score 10

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

Belgium

Score 9

Established by the constitution (Article 180), the Court of Audit (Cour des Comptes/Rekenhof) is a collateral body of the parliament. It exerts external controls on the budgetary, accounting and financial operations of the federal state, the communities, the regions, the public-service institutions that depend upon them, and the provinces. Some public firms, non-profit organizations and “private” (but largely state-funded) organizations such as some universities, are also subject to thorough review. The Court of Audit’s legal powers allow it considerable independence and broad autonomy to fulfill its mandate. The members of the Court of Audit are elected by parliament but then operate in a very autonomous manner. The court’s reports are public and presented to parliament along with the accounts of the state. The body regularly attracts media attention for its critical remarks regarding the management of public entities or services (such as over the roads in Wallonia or the roadwork procurement in the Brussels Capital region).

This happened to a lesser extent during the COVID-19 crisis: the Court of Audit occasionally warned of the costs of the crisis for the social security system (not unexpectedly), but did not try to stop the government from reacting as it did. It also promptly investigated the government’s failed policy of stockpiling surgical and FFP2 masks, but without being particularly critical.

More routinely, it tracked the procurement measures taken by the government during the crisis and commented on the likely public deficits of 2020 and 2021. It was also requested to perform occasional analyses, for example, on how to restructure Belgium’s security services or on how to modify the pricing of GP consultations.

While the Court of Audit appears sufficiently independent, the enforcement of its numerous recommendations remains limited, as can be seen with regard to the public management of roadworks in the Brussels Capital region. Here, it pointed out “major discrepancies between the services actually provided and the services to be provided

at the time of the contracts” in 2003. This problem does not appear to be fully solved, as a 2021 report stated that the three major operators “do not always control the deadlines or the costs.”

Citation:

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

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

https://www.ccrek.be/Docs/2021_30_AnnualReport2020_ShortVersion.pdf

https://www.courtofaudit.be/Docs/2021_35_ManagementRoadworksBCR_Abstract.pdf

https://www.ccrek.be/Docs/may_2003_road_infrastr_brssls_abstract.pdf

Ireland

Score 9

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

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

Luxembourg

Score 9

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

Citation:

“Rapports.” Cour des Comptes Luxembourg. <https://cour-des-comptes.public.lu/fr/rapports.html>. Accessed 14 January 2022.

Malta

Score 9

The National Audit Office is an independent institution reporting exclusively to parliament, and is charged with scrutinizing the fiscal performance of public administration. Both the auditor general and his or her deputy are appointed by a

resolution of the House of Representatives, requires a majority vote of no less than two-thirds of the body's members. The auditor general enjoys constitutional protection and works closely with the Public Accounts Committee. The NAO can open investigations without a prior request by parliament or the prime minister. The office audits all central government ministries, local governments and EU-funded projects, and publishes special reports on key and often sensitive policy areas. A 2019 report on constitutional reform by the Commissioner for Standards in Public Life recommended that the auditor general, as a designated officer of parliament, should not be additionally designated as a public officer, in order to emphasize his/her independence from the government. In 2020, the NAO proposed amendments to the constitution, which aim to strengthen the office. Among the articles recommended was Article 5a, "The Auditor General or any person authorized by him shall have the right to audit all the Ministries, departments and offices of the Government of Malta, including the Office of the President, the House of Representatives, and the Superior and Inferior Courts of Malta and (5)(d) The Auditor General or any person authorized by him shall have the right to obtain information from any recipients of public funds in relation to any audit being undertaken by the Office."

Citation:

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

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

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

Report by the Auditor General on the public accounts 2016

Annual Report on the working of local government 2016

Performance audit: outpatient waiting at Mater Dei hospital

Ombudsman annual report 2016

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

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

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

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

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

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

National Audit Office (NAO) 2020 Proposed amendments to the Constitution: Strengthening of the National Audit Office's Legal Framework

Switzerland

Score 9

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

The Audit Office acquired a very independent and self-confident role in the case of the politically controversial export of arms to war-prone regions (NZZ 4 September

2018). It has harshly criticized the Federal Administration as being insufficiently critical and working too closely with representatives from the arms industry.

Citation:
NZZ 4. Sept. 2018
<https://www.efk.admin.ch/de/>

Bulgaria

Score 8

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

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

Chile

Score 8

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

Citation:
Comptroller General of the Republic of Chile (Contraloría General de la República, CGR), <https://www.contraloria.cl>, last accessed: 13 January 2022.

Czechia

Score 8

The Supreme Audit Office (Nejvyšší kontrolní úřad, NKÚ), which had 467 employees in 2020, audits the financial management of state entities and financial resources received from abroad. It expresses an opinion on the state's final financial accounting statement and oversees the implementation of the state budget. The NKÚ is not authorized to audit the finances of municipalities, towns or regions, or to audit companies co-financed by the state or lower-level governments. The constitution regulates the functioning of the NKÚ; the body's president and vice-president are appointed for terms of nine years by the county's president, based on proposals made by the Chamber of Deputies. The Chamber of Deputies further elects the members of the NKÚ upon nomination by the president of the NKÚ. In 2020, NKÚ audited 152 institutions, the Chamber of Deputies' Control Committee discussed 22 NKÚ audit reports and the government considered 24 audits. Reports were frequently critical, pointing to failures at varying levels of public administration to assess adequately whether money had been well spent in terms of achieving state objectives. This was exacerbated during the pandemic when many decisions were taken with more haste and, in the NKÚ's view, the state gave up on efforts to find savings. The NKÚ concluded that the stability of public finances could come under threat and that there needed to be a decisive change in how the state operated.

Citation:

NKÚ (2021): Annual Report 2020. Prague (<https://www.nku.cz/assets/publications-documents/annual-report/annual-report-2020.pdf>).

France

Score 8

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

Instead, the Court of Accounts can now respond to any parliamentary request, and can act both as auditor and adviser. While much progress could be made to fully exploit this opportunity, it is noticeable that collaboration between the two institutions has improved since the Court's presidency was offered to two prestigious former politicians, the last one from the opposition to the governing party and recently to a former minister and EU commissioner. The role of the Court has dramatically changed, from merely overseeing the government accounts to making a full evaluation of public policies. The body's criticisms of past policies and forward-looking proposals are often a blessing for reformers. They can rely on these objective and usually tough evaluations when promoting their own agendas, and can point to the evaluations as a means of persuading the public. The last president of the Court (appointed in 2020) introduced an innovation: Aside from the traditional and

extensive reports that might require several months or years of work, the body can now publish briefs about key issues on the governmental agenda, giving it a more active role in the ongoing reform debate.

Iceland

Score 8 Iceland's National Audit Office (Ríkisendurskoðun) is fully accountable to parliament. Considering its substantial human and financial resource constraints, the National Audit Office performs its functions quite effectively. These constraints, however, mean that a vast majority of the agencies under its jurisdiction have never been audited. No significant strengthening of the office's financial resources has occurred for several years, as its staff numbers were reduced from 49 in 2009 to 41 in 2015, a total of 16%. However, the number of staff has been restored to 50.

Citation:

Ársskýrsla Ríkisendurskoðunar 2020 (Annual Report of National Audit Office 2020). https://www.rikisend.is/reskjol/files/Arsskyrslur/Arsskyrsla_2020.pdf. Accessed 7 February 2022.

Lithuania

Score 8 The National Audit Office is accountable to the parliament and the president. The auditor general is appointed by the parliament based on a nomination by the president. The parliament's Committee on Audit considers financial-, compliance- and performance-audit reports submitted by the office, and prepares draft parliamentary decisions relating to the implementation of audit recommendations. The office also cooperates with other parliamentary committees. The leaders of the parliamentary Committee on Audit at one time used audit reports for political purposes, especially after an opposition-party member was appointed to head it. The National Audit Office also performs the functions of an independent fiscal institution, monitoring compliance with EU fiscal-policy norms. According to the OECD review released in 2019, this unique institutional setup, in which the independent fiscal institution (founded in 2015) is part of National Audit Office, results in several challenges; for instance, there is a lack of a clear public identity and a lack of operational independence, and the office has difficulties in recruiting and retaining senior staff members. On the other hand, the Budget Policy Monitoring Department (BPMD) was praised for having quickly established "a reputation for solid independent analysis," contributing to fiscal transparency as well as parliamentary and public debates.

Over the last few years, the National Audit Office criticized the government's draft budgets for their lack of compliance with fiscal-discipline provisions and poor allocation of government expenditure. While these criticisms are not always taken into account, there seems to have been progress over time. In its 2020 report to the

parliament, the National Audit Office reported that 80% of its recommendations had been implemented, up from 60% in 2018. The National Audit Office was ranked as the best state institution in 2016 by the Lithuanian magazine *Veidas* due to its representation of state interests, competence and exceptional performance.

Citation:

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

https://www.valstybeskontrole.lt/TVS/Content/Administracine_informacija/Veiklos_ataskaitos/2020_metu_VK_veiklos_ataskaita.pdf

Poland

Score 8

Poland's Supreme Audit Office (Naczelna Izba Kontroli, NIK) is accountable exclusively to the Sejm. The NIK chairperson is elected by the Sejm for six years, ensuring that his or her term does not coincide with the term of the Sejm. The Senate has to approve the Sejm's decision. The NIK has wide-ranging competencies and is entitled to audit all state institutions, government bodies and local-government administrative units, and corporate bodies and non-governmental organizations that pursue public contracts or receive government grants or guarantees. The NIK can initiate monitoring proceedings itself or do so at the request of the Sejm, its bodies or its representatives (e.g., the speaker of the Sejm, the national president or the prime minister). It is also responsible for auditing the state budget. Since August 2019, Marian Banaś, a former PiS minister of finance, has headed NIK.

Shortly after Banaś assumed office, accusations emerged that he had provided irregular information on his income and had contact with criminal circles in Craców. As no real evidence has been found as of today, he has stayed on. Under his leadership, the NIK has continued to behave professionally and independently (Wilczek 2021). Since 2020, the NIK has reported on several cases in which the government misspent money. This includes the unlawfully organized postal votes for the presidential election, which wasted PLN 130 million. A further PLN 280 million (€61 million) was misspent by the Justice Fund, which belongs to the Justice Ministry. Instead of helping crime victims, the funds were used for political purposes that benefited the government. The NIK has also played a major role in uncovering, and putting on the agenda, the government's use of the Israeli Pegasus spyware (Wanat 2022). The governing coalition has responded to the NIK's activities by increasing the pressure on Banaś. Various government members have asked Banaś to step down, Justice Minister Ziobro, in his function as prosecutor general, requested that legal immunity be lifted from Banaś, and Banaś and his family have frequently been the object of investigations by the Anti-Corruption Office (CBA).

Citation:

Wilczek, M. (2021): 'Armored Marian' — the man who has Poland's Law and Justice party in his sights, in: *Politico*, May 13 (<https://www.politico.eu/article/marian-banas-poland-takes-on-law-and-justice-government/>).

Wanat, Z. (2022): Poland's Watergate: Ruling party leader admits country has Pegasus hacking software, in: Politico, January 7, <https://www.politico.eu/article/kaczynski-poland-has-pegasus-but-didnt-use-it-in-the-election-campaign/>

Portugal

Score 8

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

The Court of Audits is largely able to conduct its audits effectively. However, it also frequently notes that there are insufficiencies in the publication and communication of information that limit its efficacy. Conversely, entities that are audited complain of the complex bureaucratic rules they must adhere to.

Romania

Score 8

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

Greece

Score 7

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

The staff of the Audit Office is composed of judges who enjoy the same tenure and follow a comparable career path to that of other judges. As in the case of selecting high-ranking judges, the government selects and appoints the Audit Office's

president and vice-presidents. Nonetheless, the Audit Office has detached itself from government control.

The Audit Office submits an annual financial statement and the state's balance sheet to the parliament. In the past, there were delays in rolling out the financial statements of the Audit Office. Over time, the submission of financial statements has improved, as the financial statement for 2019 is available and the corresponding statement for 2020 is under preparation. Meanwhile, the Audit Office was very active in the period under review regarding "focused audits." In 2021, it published eight "focused" audits concerning certain agencies or categories of expenses, including topical audits, such as public procurement processes related to the COVID-19 pandemic.

Citation:

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

Information on targeted controls of the Audit Office is available at <https://www.elsyn.gr/el/node/877> (in Greek)

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

Israel

Score 7

State audit functions in Israel are chiefly overseen by the State Comptroller. The State Comptroller is an independent agency that conducts audits of government ministries, local and municipal governments, and other independent, governmental organizations, including public universities, all military branches and government-funded corporations. The scope of audit powers is one of the broadest in the world, giving the comptroller jurisdiction over 1,400 organizations. The office receives its powers and authority from the Basic Law: The State Comptroller, which authorizes the comptroller to receive immediate information from the bodies undergoing audits. Additionally, the State Comptroller is tasked with auditing campaign and party finances, and reviewing the accounts and finances of party primary candidates and government ministers. The State Comptroller's Office is under the oversight of the Knesset State Audit Committee (Comptroller 2021).

However, allegations of intimidation and suppression at the State Comptroller's Office have swirled since the beginning of the current state comptroller's tenure. In January 2020, reports about the whitewashing of official audits surfaced, including a coverup of the Finance Ministry fudging a Finance Ministry audit of Israel's 2018 deficit figures in order that the official number met deficit reduction targets, concealing implications of Prime Minister Netanyahu's corrupt interventions in audits and reports, and forbidding staff from airing concerns and speaking to the media (Magid 2020). While the State Comptroller's Office reacted swiftly to the pandemic and issued several reports (as noted above), these allegations raise serious concerns and questions over the integrity, accuracy and quality of the State Comptroller's audits.

Citation:

Ministry of Justice (2021), "Amendments to Privacy Protection Act" Accessed 11 January 2021, Retrieved from:

https://www.gov.il/he/departments/news/amendments_privacy_protection_act

Israel Government. 2017. Government Decision 3019 on the Renaming the Technology and Information Law Authority in the Ministry of Justice (in Hebrew). Access 20 January 2020. <https://www.gov.il/he/departments/policies/dec3019>.

Israel Government. 2006. Government Decision 4660 on the Establishment of a Legal Authority for Information Technologies and Protection of Privacy in the Ministry of Justice (in Hebrew). Access 20 January 2020. https://www.gov.il/he/departments/policies/2006_des4660.

Israel Government. 2020. Government Decision 4897 on the Authorization of the General Security Service to assist in the national effort to reduce the spread of the new coronavirus (in Hebrew). Access 20 January 2020.

Israel Government. 2020. Government Decision 2916 on the Authorization of the General Security Service to assist in the national effort to reduce the spread of the new coronavirus (in Hebrew). Access 20 January, 2020.

European Commission. 2011. Commission Decision of 31 January 2011 pursuant to Directive 95/46/EC of the European Parliament and of the Council on the adequate protection of personal data by the State of Israel with regard to automated processing of personal data. Access 20 January, 2020. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32011D0061>.

The Privacy Protection Agency. Organizational structure. Access 20 January 2020. https://www.gov.il/BlobFolder/generalpage/organizational_structure/he/OrganizationStructure.pdf.

The Privacy Protection Agency. 2020. First report in accordance to Act to Authorize the ISA to Assist in the National Effort to Contain the Spread of the Novel Coronavirus and to Promote Use of Civilian Technology to Locate Individuals who were in Close Contact with Patients (Temporary Provisions) 2020-5780 (in Hebrew). Access 20 January 2020. <https://www.gov.il/BlobFolder/reports/privacy-shabak-coronavirus/he/privacy-shabak-coronavirus.pdf>.

The Privacy Protection Agency. 2020. Interim Summary: The Privacy Protection Agency's Actions During the Corona Crisis (in Hebrew). Access 20 January 2020. https://www.gov.il/BlobFolder/news/_review_ppa_activity_corona/he/corona%20activity.pdf.

Ravia, Haim. 2020. The government has decided to freeze the law authorizing the GSS to help fight the Corona. Access 20 January 2020. <https://www.law.co.il/news/2020/06/08/government-freeze-law-to-track-covid-19-patients/>

Sela Steinman, Ronit. 2020. Sharp letter to the Minister of Justice: The Privacy Protection Authority is silenced and not heard. <https://www.law.co.il/news/2020/04/22/experts-warn-justice-minister-against-silencing-ppa/>

Italy

Score 7

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

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

Citation:

<https://www.upbilancio.it/rapporto-sulla-politica-di-bilancio-2022/>

Netherlands

Score 7

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

NRC, 1 October 2021, Aharouay and Valke, Naar de drie toezichhouders wordt vaak niet geluisterd: 'Het is teveel waan van de dag'

Algemene Rekenkamer, Coronarekening, Editie Prinsjesdag 202

http://www.rekenkamer.nl/Over_de_Algemene_Rekenkamer

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

Slovakia

Score 7

The Supreme Audit Office of the Slovak Republic (NKÚ) is an independent authority accountable exclusively to the National Council. The chairman and the two vice-chairmen are elected by the National Council for seven years each, and the office reports regularly and whenever requested by the council. There is an informal agreement that the chairman should be proposed by the opposition. Since 2019, the NKÚ has stepped up its control activities. The installation of a new planning board has increased the relevance and timeliness of its reviews, and the NKÚ has sought to expand its role in the legislative process and to widen its mandate with regard to local self-government. In October 2021, the NKÚ uncovered substantial flaws in the public procurement process of the construction of highways by the National Highway Company (Slovak Spectator 2021).

Citation:

Slovak Spectator (2021): Slovakia was losing millions due to discrepancies in highway company, audit office says, in: Slovak Spectator, October 12 (<https://spectator.sme.sk/c/22761196/slovakia-was-losing-millions-due-to-discrepancies-in-highway-company-audit-office-says.html>).

Slovenia

Score 7

According to Article 150 of the Slovenian constitution, the Court of Audit is the supreme auditing authority in all matters of public spending. The Court of Audit is an independent authority accountable exclusively to parliament. The Court of Audit scrutinizes the performance of national and local governments and all legal persons established or owned by them. The chairman and the two vice-chairmen are elected by the parliament for nine years – on the basis of secret ballots – and the office reports regularly and whenever requested to the parliament.

The Court of Audit has far-reaching competencies, and still enjoys some reputation and public trust. However, after the Janša government took over, there was a lot of pressure on the court from both the coalition government and opposition to deliver their reports about COVID-19 protective equipment procurement in a way that would favor one or the other side. In addition, a number of political comments made by the chairman of the court during the period under review did not help the independence of the court.

The position of the court is somewhat limited by a lack of both financial and human resources, and by political pressures, which were evident during last term of office. While it can propose its own budget to the legislature, the ultimate decision regarding the Court's resources rests with parliament.

Croatia

Score 6

The Auditor General is elected by the parliament (Sabor) for an eight-year mandate and can be removed by the Sabor only if he or she is unable to conduct his or her work or is convicted for a criminal act. The Audit Office reports to the Sabor at the end of every fiscal year. It undertakes a broad range of audits (approximately 300 every year) and acts independently. Since 2019, it has also been able to review the operations of the Croatian National Bank (HNB) – an extension of its remit seen by the European Central Bank as compatible with central bank independence. Ivan Klesic, the auditor general, was reappointed for a further eight-year term in December 2018. The reports of the auditor general are carefully crafted, and often identify inefficiencies and irregularities in spending taxpayers' money. The auditor general can inform the State Attorney's Office about cases of fraud. In 2018, however, one-third of all 258 recommendations or decrees issued by the auditor general were ignored by the public entities concerned. Since 2019, the auditor general can impose fines on recalcitrant and non-compliant public entities. However, these fines remain too small to significantly alter existing behavior patterns and processes. The recent scandal involving former Minister of Regional Development Gabrijela Žalac, who was charged with serious misconduct relating to projects financed by European Structural and Investment Funds, has revealed the weakness of the State Attorney's Office in investigating prominent political figures. Without the combination of work performed by investigative journalists and the active role of European Public Prosecutor's Office, the investigation would certainly not have led to the point of indictment.

Citation:

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

Cyprus

Score 6

The auditor general is a constitutionally independent officer appointed by and reporting to the president, the highest authority in the republic. The terms of the auditor general's removal are the same as those of a Supreme Court justice. The auditor general presents an annual report to the president, who "shall cause it to be laid" before the parliament. S/he also produces a multitude of reports on specific subjects and on entities of public law. Parliamentary committees invite the auditor general to their hearings. The constitution provides that the audit office shall review "all disbursements and receipts, and audit and inspect all accounts of moneys and other assets administered, and of liabilities incurred, by or under the authority of the republic." This gives the office oversight authority over all three estates.

In 2020 and 2021, the auditor general faced a strong reaction to his work from the executive and was threatened with sanctions. Despite excessive media exposure and

actions that damage the credibility of the institution, the auditor general exerts his powers in a rather efficient way, exposing abuses of power and non-compliance with laws.

Citation:

1. Government accuses audit boss of overstepping his powers, Cyprus Mail, 30 December 2020, <https://cyprus-mail.com/2020/12/30/government-accuses-audit-boss-of-overstepping-his-powers-updated/>

Estonia

Score 6

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

In recent years, the NAO and the auditor general have become more active in communicating their work to the public. As a result, several shortcomings and problems in the work of government were publicly debated, which eventually contributed to an improvement in the quality of policy implementation.

Japan

Score 6

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

Citation:

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

Latvia

Score 6

The State Audit Office is Latvia's independent and collegial supreme audit institution. The office is constitutionally independent of parliament and the executive. It primarily audits the executive and local governments, and reports to parliament, which has full access to all audit findings.

In order to promote the responsibility of officials and company managers for their decisions, the State Audit Office has frequently called for amendments to the law,

which would enable the State Audit Office to impose financial penalties on officials who have wasted state funds. The law has been under discussion in the parliament since 2015, with repeated calls from the State Audit Office to solve the issue.

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

Citation:

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

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

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

Mexico

Score 6

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

In general, President López Obrador intends to reform the constitution to limit the number and competences of independent and autonomous bodies, with the goal of concentrating competences in the executive. The debates over the issue and the stated intention to bring about the change have already limited the oversight function exerted by independent bodies.

Citation:

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

Spain

Score 6

The Court of Auditors is the audit office body charged with auditing the state's accounts, electoral and party funding, and the financial management of the entire public sector. In addition, most autonomous communities have also established courts of audit tasked with monitoring their devolved competences. The national

Audit Office is empowered to undertake investigations on its own initiative following the submission of a complaint, and has authority to impose substantial penalties for the misuse of public funds. Although there have been certain improvements, the office suffers from a lack of resources and political independence, since its members are appointed by the parties themselves. In recent years, it has also been accused of nepotism.

Deadlines for submitting accounts and other financial information to the Court of Auditors were suspended during the first nationwide state of alarm. Moreover, the Coordination Committee of the Court of Auditors on several occasions pointed out that the fight against COVID-19 has had a substantial impact on public spending and auditing. In 2021, the Court of Auditors started to revise all emergency contracts between government ministries, the autonomous communities, town councils and publicly owned businesses. However, in 2021, the Court restructured its departments, and the final report on emergency contracts was postponed. The Court's decision to implement embargoes and charges against Catalan secessionists was criticized by the Council of Europe. In November 2021, all but one of the members of the Court of Auditors were replaced.

Hungary

Score 4

The Hungarian State Audit Office (ÁSZ) is accountable only to the parliament. The Orbán government has used its parliamentary majority to take control of this body by appointing a former Fidesz parliamentarian to head the institution, and also by replacing other top officials. In its campaign for the 2018 and 2019 elections, the government instrumentalized the ÁSZ by bringing it to investigate the finances of some opposition parties, so as to decrease their campaign capacity. The ÁSZ has done little to monitor the government's often opaque financial activities and has not protested the channeling of state funds to oligarchs close to Fidesz. Compared to other state institutions, however, the ÁSZ still has a relatively large amount of independence.

South Korea

Score 4

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

Turkey

Score 4

According to Article 160 of the constitution, the Turkish Court of Accounts (TCA) is charged on behalf of the Grand National Assembly with auditing all accounts related to revenues, expenditures, and properties of government departments that are financed by the general or subsidiary budgets. The court's auditing capacity was limited by Law 6085 in 2010, but the Constitutional Court annulled Article 79 regulating how the TCA would audit the accounts of public institutions. In December 2012, the Constitutional Court also annulled the provision limiting performance auditing. Currently, the TCA has three functions: auditing, financial trials, and reporting. It conducts regulatory audits and performance audits. It provides for an exhaustive audit mandate and gives the TCA full discretion in discharging its responsibilities. As of February 2020, the TCA had 1,874 staff members including 830 auditors.

The TCA's 2019-2023 Strategic Plan foresees the development of greater risk-based audit and human resources capacities. The TCA reports to – but is not accountable to – parliament. Four audit reports are sent to the parliament each year, including the External Audit General Evaluation Report, the Accountability General Evaluation Report, the Financial Statistics Evaluation Report, and the Report on State, which was considered only during budget deliberations in the parliament. The reports of the TCA are considered only by the parliament. Parliament elects the TCA president and its members. Candidates must be graduates of universities or higher education institutions of law, political science, economics or administrative sciences who have served at least 16 years in public service.

Auditors are selected from a pool of university graduates in the same fields through a series of written and oral examinations. If a criminal act is found during the audits and investigations, the relevant auditor notifies the president of the TCA immediately. If a public criminal case is required, the chief prosecutor of the TCA sends the documents either to the relevant public authority or to the chief public prosecutor of the republic (the country's top prosecutors). A TCA report can be taken as the basis for a trial, but is shared only with those involved, and is not disclosed to the public.

There are credible concerns concerning the fiscal discipline, transparency and accountability of the Turkey Wealth Fund (TWF), which is now directly affiliated with the president and is not fully subject to direct audit by the TCA. The law allows only a limited number of the companies within the TWF to be audited by the TCA. What is more worrisome is that the audit is conducted by auditors appointed by the president, who is also the chairman of the TWF. Moreover, the transition to the presidential system further undermined the accountability of agencies, as well as internal control and auditing, since various institutions' roles and responsibilities have not yet been clarified. Finally, given that TCA reports are only considered by

the parliament during the deliberations on the budget in December, the TCA was not in a position to monitor the government's financial actions during the pandemic.

Citation:

Sayıştay.

2020.

https://www.sayistay.gov.tr/files/952_Say%C4%B1%C5%9Ftay%202020%20Y%C4%B1%C4%B1%20Faaliyet%20Raporu_compressed.pdf

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

Indicator

Ombuds Office

Question

Does there exist an independent and effective ombuds office?

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

- 10-9 = There exists an effective and independent ombuds office.
- 8-6 = There exists an effective and independent ombuds office, but its advocacy role is slightly limited.
- 5-3 = There exists an independent ombuds office, but its advocacy role is considerably limited.
- 2-1 = There does not exist an effective and independent ombuds office.

Denmark

Score 10

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

Citizens can complain to this office about decisions made by public authorities. In 2017, 5,912 cases were concluded; 22% of the cases were concerned with social affairs and 19% involved issues with children.

Citation:

Henrik Zahle, Dansk forfatningsret 2.

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

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

Finland

Score 10

Parliament has an ombudsman office consisting of one ombudsman and two deputy ombudsmen. Established in 1920, it is the second-oldest ombuds office in the world and employs about 60. The officeholders are appointed by parliament, but the office is expected to be impartial and independent of parliament. The office reports to parliament once a year. Citizens may bring complaints to the office regarding decisions by public authorities, public officials, and others who perform public duties (examples of authorities include courts of law, state offices and municipal bodies). The number of complaints decided by the ombuds office in 2020 reached a record high of more than 7,000 cases. A considerable number of matters have been

investigated and resolved on the initiative of the ombudsman himself, who may conduct onsite investigations when needed.

Citation:

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

“The Parliamentary Ombudsman’s 2017 Annual Report presented to the Speaker of the Parliament,”

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

<https://www.oikeusasiamies.fi/documents/20184/39006/summary2020/2de02ec5-378a-4cf3-8948-89f346b2be3a>

Iceland

Score 10

The Parliamentary Ombudsman (Umboðsmaður Alþingis), established in 1997, investigates cases both on its own initiative and at the request of citizens and firms. It is independent, efficient, and generally well regarded. The office has 17 staff members, including nine lawyers. In February 2021, Gallup reported that 49% of respondents expressed confidence in the Parliamentary Ombudsman compared with 34% confidence in parliament.

Citation:

The Parliamentary Ombudsman (Umboðsmaður Alþingis), <https://www.umbodsmadur.is/um-umbodsmann/starfsmenn>. Accessed 28 December 2021.

Gallup, <https://www.gallup.is/nidurstodur/thjodarpuls/trausti-til-stofnana/> Accessed 29th December 2021.

Norway

Score 10

Since 1962 Norway has had a parliamentary ombudsman tasked with investigating complaints from citizens concerning injustice, abuses or errors on the part of central or local government administrations. The ombudsman is also tasked with ensuring that human rights are respected and can undertake independent investigations. Every year, the ombudsman office submits a report to parliament documenting its activities. In general, the ombudsman is active and trusted. However, the ombudsman has recently expressed concerns that he and his office risk losing funding and the public ear, as too few of his recommendations are taken seriously and implemented.

The ombudsman-institution has since then been copied for other policy areas: In 1981 the Ombudsperson for Children was established, in 2006 for Non-discrimination and in 2021 for Older people.

Poland

Score 10

The Commissioner for Citizens’ Rights, the Polish ombuds office, is an independent state organ and is accountable exclusively to the Sejm. The commissioner is elected for five years and can be re-elected once. The office has substantial investigative powers, including the right to view relevant files or contact the prosecutor general and send any law to the Constitutional Court. Because of its strong engagement for citizens’ rights ever since its creation in 1987, the ombuds office has traditionally

been accorded a good reputation. However, the effectiveness of the ombuds office has suffered insofar, as the institution has been assigned new tasks in the field of anti-discrimination policy, but did not achieve more funds to perform the tasks properly.

Adam Bodnar, who served as ombudsman from September 2015 to July 2021, was a very active defender of civil and political rights. He was responsible for appealing the Anti-Terror Law and new laws on high-ranking civil servants, the Constitutional Court, and the media to the Constitutional Court. He was also fighting for the rights of his own office since the Sejm passed a law in 2016 that makes it easier to remove the serving commissioner. When Bodnar's term of office ended in September 2020, it took six attempts to elect a successor and until July 2021, so he stayed in office until then. A new commissioner can only be elected with the consent of the Senate and the opposition holds a small majority of 51 out of 100 seats in the Senate. After all the unsuccessful attempts, the Sejm and the Senate elected the lawyer Marian Wiącek in his second round of candidacy. He had been nominated by the opposition parties.

Sweden

Score 10

It is fair to say that Sweden invented the ombudsman institution. Sweden currently has six ombuds offices that focus on the following issues: national agencies, legal matters, consumer matters, discrimination, children, and matters related to school pupils.

The ombuds office for legal matters (JO), which has been around the longest, is appointed by the parliament, while the government appoints the other ombudspeople, which head their own agencies (Regeringen 2022).

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

Citation:

Regeringen. 2022: "Ombudsmän" <https://www.regeringen.se/lattlast-information-om-regeringen-och-regeringskansliet/den-svenska-samhallsmodellen/ombudsman/>

Australia

Score 9

A Commonwealth Ombudsman was established in 1977. Its services are available to anyone who has a complaint about an Australian government agency that they have been unable to resolve. Its charter states that it will investigate complaints where appropriate, deal with complaints in an impartial and effective way, achieve fair outcomes, seek appropriate remedies and promote improved administration by Australian government agencies. Its services are free of charge. There are further

ombudsmen in all six states and the Northern Territory, which operate on similar principles, as well as a variety of issue-specific ombudsmen.

Citation:

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

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

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

Austria

Score 9

The Austrian Ombudsman Board (Volksanwaltschaft) is a parliamentary instrument and reports regularly to the legislature. It consists of three chairpersons that are elected for six years. The three largest party groups in parliament nominate one chairperson each. Parliament is required by law to select the nominees. Ombudspersons are typically very experienced as politicians at the local or regional level and even more so at the national level, and previously active in party-related associations or organizations before joining the Austrian Ombudsman Board (AOB). Qualitative interviews with case-handling staff demonstrated that despite the institution's public efforts, and many interviewees' reassurances that the AOB is independent and acts accordingly, there are several areas in which party-related positions become visible in the AOB's work. While the AOB has wide-ranging competences, it recently called for an extension of its responsibilities to include public sector organizations.

Citation:

https://www.researchgate.net/profile/Juraj-Nemec/publication/347826593_Public_Policy_during_COVID-19_Challenges_for_Public_Administration_and_Policy_Research_in_Central_and_Eastern_Europe/links/5feb3cc745851553a004c45e/Public-Policy-during-COVID-19-Challenges-for-Public-Administration-and-Policy-Research-in-Central-and-Eastern-Europe.pdf#page=183

https://www.parlament.gv.at/PAKT/PR/JAHR_2020/PK0576/

Belgium

Score 9

The independent federal ombuds office was established in 1995. The goal of the office is to have direct contact with citizens and inform them of the administrative process if need be and collect complaints against the administration. Parliament elects members of the ombuds office, but after their election, ombudsmen are totally independent and autonomous from government. The office makes a public report to parliament every year (7,544 complaints and information demands were addressed in 2020, in comparison with 6,852 in 2019). However, the ombudsman's role is only informative and deals with facilitation or advocacy; it has no coercive power.

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

Citation:

<http://www.federaalombudsman.be/homepage> [federal]

<https://www.le-mediateur.be/> [Walloon Region + francophone Community]

<https://www.vlaanderen.be/vlaamse-ombudsdienst> [Flanders]

Estonia

Score 9

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

The current legal chancellor has called for politicians to address important public issues. These issues include the comprehensiveness and readability of legal language, the equal treatment of citizens under digital government, the quality of social services, the ill-treatment of patients in institutional care, and lately the preservation of civil rights under COVID-19 restrictions. However, while the legal chancellor can highlight concerns, real intervention is only possible if the constitution has been violated.

Greece

Score 9

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

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

Citation:

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

The Greek Ombuds Office is included in articles 101a and 103 para.9 of the Greek Constitution.

Luxembourg

Score 9

The Ombuds Office launched in May 2004, and residents have sought guidance from this government office since. The service is typically used more frequently by

foreigners than by nationals. Even though the country's labor market is the most transnational in the European Union, there are still numerous obstacles for migrants. Thus, the ombudsperson has for years dealt with a number of migration issues. Like ombuds offices elsewhere, the ombudsperson can issue recommendations to government and parliament, but cannot take issues to court. In addition, the ombudsman is responsible to the parliament.

In 2017, Claudia Monti was appointed to serve as Luxembourg's ombudsperson.

In 2019, she solved over three-quarters of the 975 claims submitted by individuals, while in 2020 she dealt with 914 complaints with a correction rate of 82%. In the context of the coronavirus pandemic, the biggest category of requests (30%) related to the Ministry of Foreign and European Affairs. The second-largest category had to do with the lack of flexibility shown by the Ministry of the Economy in implementing the government aid scheme. The housing crisis remains another big issue (26 complaints), with the point system run by the Housing Fund needing to be revised.

Among the existing institutions offering this form of service – including the Ombuds Office itself, the Office for Children's Rights, the Office for Equality Rights (based on EU directives 2000/43 and 2000/78) and the Human Rights Commission – the Ombuds Office is best equipped in terms of budget and staff and is most frequently used. The office has a good track record of finding solutions to problems, has issued a number of recommendations and monitors the implementation of the office's recommendations.

"Public bodies act arbitrarily too often, says ombudsman." Luxembourg Times (20 April 2021). <https://www.luxtimes.lu/en/luxembourg/public-bodies-act-arbitrarily-too-often-says-ombudsman-607ed392de135b9236d33ad6>. Accessed 14 January 2022.
Ombudsman Luxembourg. <https://www.ombudsman.lu/>. Accessed 14 January 2022.

New Zealand

Score 9

New Zealand was the fourth country in the world to establish an Office of the Ombudsman (in 1962). Ombudsmen are officers of Parliament. Each ombudsman is appointed by the governor-general on the recommendation of parliament. Ombudsmen are responsible to parliament and independent of the government. Their overall purpose is to investigate, review and inspect the administrative conduct of public sector agencies and provide advice and guidance in order to ensure people are treated fairly in New Zealand. The office is highly effective in terms of formally or informally resolving complaints. According to the latest report available, the Office of the Ombudsman had a 98% net clearance rate for complaints in 2019/20 (Ombudsman 2020).

Citation:

Ombudsman (2020) Annual Report 2019/20. <https://www.ombudsman.parliament.nz/sites/default/files/2020-12/Annual%20report%202019-20.pdf>

Bulgaria

Score 8 There is a national ombuds office (the Ombudsperson of the Republic of Bulgaria), which is not part of parliament, but is elected by parliament for a five-year period. The Ombudsperson is independent in his/her activities and is subject only to the constitution, laws and international treaties adopted by Bulgaria. Other than putting arguments to the relevant administrative body and making its opinion public, however, the office has no formal powers.

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

Manolova used the ombuds office to boost her career and, after the municipal elections, joined the protest wave of 2020 and established a party to fight corruption. Her party participated in all of the elections held in 2021, but it failed to pass the 4% threshold in November. Her former deputy, Diana Kovacheva, was elected to her post by the pre-2021 parliamentary majority, but has not been a member of GERB or its then-coalition partner, the United Patriots party.

Canada

Score 8 The federal government, unlike some provinces, does not have a single ombuds person heading an office dedicated to hearing citizens' concerns, but it does have several important organizations functioning as equivalents for specific matters such as the Commissioner of Official Languages; the Information Commissioner of Canada; the Privacy Commissioner of Canada; the Conflict of Interest and Ethics Commissioner; the Commissioner of Lobbying of Canada; and the Public Sector Integrity Commissioner of Canada. All these Commissioners are officers of Parliament and are responsible directly to Parliament. There are also ombuds offices with special mandates, such as the Office of the Ombudsman for the Department of National Defense and the Canadian Forces, the Federal Ombudsman for Victims of Crime, and the Office of the Canadian Ombudsperson for Responsible Enterprise.

While the federal level does not have one ombudsman office, there is an array of agencies – that are accountable to Parliament – with clearly defined mandates and which are outspoken on issues of concern.

Czechia

Score 8

Czechia has had an ombuds office since 2000. Its head is elected for a six-year term by the Chamber of Deputies from among candidates nominated by the president and the Senate. The office delivers quarterly and annual reports on its activities to the Chamber of Deputies, including recommendations on where laws could be changed and report on not fulfilled recommendations. The Office also annually evaluates the extent to which these recommendations were followed. It produces detailed reports on cases it investigates, indicating when laws have been transgressed to the extent that the damaged parties have a solid basis for seeking redress. The first four ombudspersons have acted independently and have taken their advocacy role seriously. By contrast, Stanislav Křeček, who became ombudsman at the age of 81 in March 2020, has undermined the reputation of the office by espousing controversial, legally dubious opinions on many civil rights issues. These include banning the presence of fathers during births, blaming discrimination against the Roma on the Roma, and claiming that some human rights anchored in the constitution are exaggerated and superfluous.

Ireland

Score 8

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

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

In addition to the main Office of the Ombudsman, there are separate ombudsmen for the national police force (the Garda Síochána Ombudsman Commission, GSOC), financial services, children, insurance, the army, the press and pension issues. These offices are effective in listening to the concerns of citizens in their dealings with government agencies.

Israel

Score 8

The state comptroller also serves as the state ombudsman. Under this role, the office is authorized to investigate complaints raised by the public regarding ministries, local authorities, state institutions and government corporations. Citizens may file a complaint free of charge if they believe that they were directly or indirectly harmed by an act or an activity of the government; if an act is against the law, without lawful authority, or violates principles of good governance; or if an act is unduly strict or clearly unjust.

The other body to be mentioned is the Commissioner for Soldiers' Complaints. Though authorized to handle complaints regarding the IDF only (specifically, complaints about injustices done to soldiers or soon-to-be-soldiers by the IDF), the authorization to submit a complaint is very wide and covers a variety of issues.

Citation:

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

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

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

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

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

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

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

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

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

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

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

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

Lithuania

Score 8

The parliament has several ombuds offices, including the general ombudsmen's office, with two appointed ombudspersons, and the special ombudsman's offices on Equal Opportunities and Children's Rights. These institutions supervise state institutions, with a particular focus citizens' human rights and freedoms. They engage in public advocacy on behalf of citizens, and initiate certain actions, but as a group the ombuds offices lack sufficient legal authority to act as a single national institution for human rights. In 2017, these offices became accredited by the United Nations as a national institution of human rights matching the Paris principles. The effectiveness of these ombuds offices has depended on the interplay of several factors. First, citizens have shown at best mixed interest in pursuing complaints through these offices, although the number of complaints remained high in recent years (the highest number of complaints, 1,805, was registered in 2014, with about half of complaints typically recognized as valid). Second, the offices adopted a more proactive attitude toward investigations, focusing on the most significant violations of human rights (e.g., in prisons and other detention facilities). Third, although most of the offices' recommendations are implemented (up to 95%), some state and municipal institutions are sometimes unwilling to take adequate action in response to the recommendations.

In 2020, the ombuds offices submitted 1,672 recommendations. The majority of them (1,013) were submitted to institutions, and advised making improvements in public administrative practices so as to avoid violating human rights and freedoms. The pandemic presented certain challenges to the ombuds offices. First, their capacity to protect human rights and freedoms was to some extent curtailed; second, the nature of complaints shifted, as some complaints were related to potential violations of pandemic-management rules. During the illegal migration crisis in 2021, the ombuds offices increased their focus on the rights of immigrants and their living conditions.

Citation:

LIETUVOS RESPUBLIKOS SEIMO KONTROLIERIŲ NACIONALINĖS ŽMOGAUS TEISIŲ INSTITUCIJOS 2020 METŲ VEIKLOS ATASKAITA, 2021, <https://www.lrski.lt/wp-content/uploads/2021/03/Ataskaita-uz-2020-LT.pdf>

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

Slovenia

Score 8

In addition to the parliament's Commission for Petitions, Human Rights and Equal Opportunities, there is an independent ombudsman, who is accountable exclusively to parliament. The ombudsman is elected by parliament for a term of six years and reports regularly to the legislature. Like his predecessor, Vlasta Nussdorfer, who

served from 2013 to 2019, current ombudsman Peter Svetina enjoys a good reputation and is quite effective in settling issues. As with previous ombudspersons, however, Svetina's role has been occasionally constrained by the lack of interest among members of parliament and ministerial inactivity.

United Kingdom

Score 8

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

Scotland took the innovative step in 2021 of establishing the Independent National Whistleblowing Officer, which is specifically tasked with processing complaints about the Scottish health service. As specified by the Trading Standards, Scotland also features a wide range of private sector entities that provide ombuds and similar consumer protection services.

Citation:

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

<https://researchbriefings.files.parliament.uk/documents/CBP-7587/CBP-7587.pdf>

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/575922/draft_public_service_ombudsman_bill_print_version_december_2016.pdf

<https://www.tradingstandards.uk/consumers/adr-approved-bodies>

France

Score 7

Parliament has no ombuds office, but plays a key role in the functioning of the (former) Office of the Ombudsman office. Until 2011, the médiateur (Ombudsman) could intervene in cases of procedural faults and administrative problems at the request of individuals but only through the mediation of a parliamentarian. The purpose was to try to solve as many problems as possible through the intervention of elected representatives, and to ask the ombudsman to step in only if the issue could not be addressed or solved in a satisfactory way. In 2011, the office was merged with other independent authorities to form a new body, the Defender of Civic Rights (Défenseur des Droits). This new agency is active and respected, having demonstrated its independence vis-à-vis the administration and government.

However, it has not affected the role of parliamentarians in the process and they continue to channel citizens' requests. The number of requests is rising steadily. Between 2014 and 2019, the authority received 780,000 requests from its more than 500 delegates distributed over the national territory; in 2020 alone, nearly 97,000 requests were registered, 10% more than the year before.

Citation:

Le Défenseur des droits: Rapport annuel d'activité 2020, Paris 2021

(https://www.defenseurdesdroits.fr/sites/default/files/atoms/files/ddd_rapport-annuel-2020_25-03-2021.pdf)

Germany

Score 7

The standing parliamentary petitions committee is provided for by the Basic Law. As the “seismograph of sentiment” (annotation 2 Blickpunkt Bundestag 2010: 19; own translation), the committee deals with requests and complaints addressed to the Bundestag based on every person's “right to address written requests or complaints to competent authorities and to the legislature” (Basic Law Art. 17). It is able to make recommendations as to whether the Bundestag should take action on particular matters. Nonetheless, its importance is limited and largely symbolic. However, the committee at least offers a parliamentary point of contact with citizens. According to its 2020 report, some 14,314 petitions were submitted, which is an increase of about 6% relative to the previous year and marks a growing trend relative to past years (Deutscher Bundestag 2021). Two additional parliamentary ombudsmen are concerned with the special requests and complaints made by patients and soldiers. Similar to requests to the Bundestag, citizens can also address petitions committees at the state level or the European Parliament.

Citation:

Deutscher Bundestag (2021): Im Dienst der Bürger, Der Jahresbericht des Petitionsausschusses. Ausgabe 2021.

Malta

Score 7

The ombudsman is elected by a two-thirds majority of the House of Representatives, and is held in high esteem by the public. A recent Venice Commission report stated that the institution was independent, autonomous and credible. The appointment of three commissioners (on the environment and planning, health and education) to investigate complaints as well as the office's wide-ranging powers to initiate inquiries considerably increased its standing as a watchdog for good governance. A secondary function of the ombudsman is to act as a catalyst for improving public administration. The ombudsman has stated that in pursuing these initiatives he has generally found collaboration from ministries, government departments and public authorities and that there have even been cases where public authorities have sought his advice. The Ombudsman Office, however, is not empowered to deal with human-rights complaints and its recommendations are not binding. A recent clarification confirmed that the office has jurisdiction over complaints emanating from the armed

forces of Malta. In his 2017 report, the ombudsman drew attention to the lack of jurisdiction his office has over privatized entities, particularly in the health and energy sectors, and the need for a remedy. He also drew attention to the problem of obtaining information from government on sensitive issues. In a recent report presented to parliament, the ombudsman reiterated the same issues, while complaining of the lack of respect accorded to office by the public administration. In his 2018 case notes presented to parliament, he also complained that parliament was failing to act on investigative reports handed over for remedial action. The ombudsman has further recommended that the office be granted a constitutional mandate and be accorded the same protection as that of the auditor general; that parliament be obliged to debate its reports; that a deputy ombudsman be appointed to strengthen the office; and that the remit of the office be extended, allowing it to investigate the public administration's administrative actions, inactions, decisions and process. A start toward reform were the constitutional amendments introduced by Act XLII of 2020, which strengthened the independence and autonomy of the ombudsman by entrenching the method of appointment, removal and suspension of the ombudsman, his right to conduct investigations on his own initiative, and his right to access information and other essential functions. It has been alleged that some comments made by the ombudsman were seen as being politically charged. However, in the 2020 Ombudsman Annual Report, the president of Malta is quoted as stating that “no institution was more independent ... and gave objective and fair and final opinions.”

Citation:

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

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

The Parliamentary Ombudsman The Independent 27/11/2016

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

Parliamentary Ombudsman Annual Report 2016

Parliamentary Ombudsman Annual Report 2018

Ombudsman Case notes 2018 Edition 38

Ombudsman Plan 2020

Parliamentary Ombudsman Malta Annual Report 2020

Netherlands

Score 7

The National Ombudsman is a “high council of state” on a par the Council of State and the Netherlands General Audit Chamber. Like the judiciary, the high councils of state are formally independent of the government. The National Ombudsman's independence from the executive is increased by appointment by the States General (specifically by the Second Chamber or Tweede Kamer). The appointment is for a term of six years, and reappointment is permitted. The National Ombudsman office was established to give individual citizens an opportunity to file complaints about the practices of government before an independent and expert body. The national ombudsman is assisted by deputies tasked with addressing problems facing children and veterans.

Where the government is concerned, it is important to note that the National Ombudsman's decisions are not legally enforceable. The ombudsman publishes his or her conclusions in annual reports. The ombudsman's tasks are shifting toward providing concrete and active assistance to citizens who – due to debt and poverty, digitalization and other problems with access to government regulation – have lost their way in the bureaucratic process. On such issues, the ombudsman's reports have in recent years become harsher in their judgments, as was the case for his forerunner. The childcare benefits affair illustrated the ombudsman's repeated judgment that policy implementation practices offer too few opportunities for citizens to call for the redress of injustices and mistakes; but also showed the institution's inability to make a difference. The affair also showed that too few citizens use the ombudsman function for complaints.

Citation:

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

Tweede Kamer, vergaderjaar 2020–2021, 35 743, nr. 2, JAARVERSLAG VAN DE NATIONALE OMBUDSMAN, DE KINDEROMBUDSMAN EN DE VETERANENOMBUDSMAN OVER 2020

NRC, Ahaouray and Valk, 1 October 2021. Naar de drie toezichhouders wordt vaak niet geluisterd: 'Het is teveel waan van de dag'

NRC, Valk, 11 May 2021. Nationale Ombudsman: 'Laat Rutte maar een club oprichten die onze rapporten leest'

Portugal

Score 7

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

The ombuds office is politically independent. The appointment of the ombuds officeholder (Provedor de Justiça) is done through a secret parliamentary ballot, and requires the support of at least two-thirds of the 230 members of Portugal's parliament.

The ombuds office reported (relatório) to parliament that it received 17,470 requests for assistance and initiated 11,557 processes in 2020, an increase of 18% over the previous year and 47% relative to 2017. According to the report, this was the highest level of activity since the entity's creation in 1975.

The ombuds office is therefore largely effective, though with some limitations. This is reflected by the number of outstanding cases. For example, the ombuds office's report for the year 2020 noted the existence of some 6,041 cases from preceding years that had not yet been resolved, the oldest of which dated as far back as 2013. The report also cited several issues that had been raised to the government and the public administration, but which had not yet received a response.

Citation:

Provedor de Justiça (2021), Relatório à Assembleia da República 2020 – Provedor de Justiça, available online at: <https://www.provedor-jus.pt/en/documentos/relatorio-a-assembleia-da-republica-2020-provedor-de-justica/>

Slovakia

Score 7

In addition to the Petitions and Complaints Office of the National Council, there is an independent ombudsman, the Public Defender of Rights, who is accountable exclusively to the Council. The Public Defender is elected by the Council for a term of five years and reports regularly to it. The current ombudsperson – Mária Patakyová, a law professor at Comenius University in Bratislava nominated by Most-Híd – was appointed in 2017. Like her predecessor, Patakyová has taken her advocacy role seriously. In 2018, she announced that she would focus on education rights and the right to compensation for Roma women subject to unlawful sterilization. As in previous years, Patakyová participated in the Pride Parada in Bratislava in 2019 and has actively defended LGBTQ+ rights. She also participated actively in the United Nation's Orange the World campaign: Generation Equality Stands against Rape! on 25 November 2019. Moreover, she supports measures that will allow Slovak citizens living abroad to vote in all elections, not only in parliamentary elections. As with previous ombudspersons, Patakyová has not received the full support of the parliament. In 2020, the National Council did not approve her annual report because of passages on women's reproductive rights and LGBTQ+ rights. The governing coalition was split on these issues: The members of parliament of SaS and Za Ľudí as well as half of the members of parliament of OĽaNO voted in favor, while the other half of the OĽaNO members of parliament and all Sme-Rodina (We are Family) members of parliament voted against them, along with the neo-fascist opposition party L'SNS.

Spain

Score 7

Article 54 of the constitution regulates the Office of the Ombudsman (Defensor del Pueblo). He or she is authorized to supervise the activities of the government and administration, expressly forbidding any arbitrariness. The ombudsperson is elected by both the Congress and the Senate for a five-year period (thus avoiding coinciding with the legislative term of four years) by a qualified majority of three-fifths. The office is not subjected to any imperative mandate, does not receive instructions from any authority, and performs its functions autonomously. The officeholder is granted immunity and inviolability during his or her time in the post. In addition, there are also nine regional ombuds offices, focused on supervising the functioning of their own regional and local administrations.

Almost 75% of the recommendations made by Spain's Ombudsman are accepted by the public administration. However, its advocacy role is slightly limited by two factors: 1) a lack of resources, and 2) inadequate departmental collaboration. During 2020 and 2021, the Spanish Ombudsman forwarded numerous complaints from

citizens to the Ministry of the Interior about the restrictions imposed on movement after the first state of alarm was declared. The Spanish ombudsman was replaced in December 2021, after four years of delay.

Citation:

Defensor del Pueblo (2020), “Más de un millar de quejas por el COVID-19,” noticia de 3 de abril de 2020, <https://www.defensordelpueblo.es/noticias/mas-millar-quejas-covid-19/>. 13

Defensor del Pueblo (2020), “El Defensor plantea la posibilidad de que niños y niñas puedan salir a la calle de manera limitada y tomando las debidas precauciones,” noticia de 17 de abril de 2020, <https://www.defensordelpueblo.es/noticias/defensor-crisis-covid/>

Mexico

Score 6

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

Under the new government of López Obrador, the ombudsman is a loyal MORENA supporter, which has led to criticism of the office’s lack of independence. In general, President López Obrador intends to reform the constitution so as to limit the number and competences of independent and autonomous bodies, with the goal of concentrating competences in the executive. However, there have as yet been no signs that the Ombudsman’s Office is to be included in this revision.

United States

Score 6

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

ombuds office would be. Congress retains this inefficient organization for dealing with citizens' problems because it enables the legislators to gain individual political credit for providing services.

Croatia

Score 5

The institution of the People's Ombudsman was introduced with a special constitutional law in 1992, and the first ombudsman started his mandate in 1994. According to Article 2 of the Ombudsman's Act, the Ombudsman is "a commissioner of the Croatian parliament for the promotion and protection of human rights and freedoms laid down in the constitution, laws and international legal acts on human rights and freedoms accepted by the Republic of Croatia." He or she is appointed by the Croatian parliament (Sabor) for a term of eight years and can be reappointed. In 2003, separate ombudspersons for children and gender equality were established. In 2008, an Ombudsperson for Persons with Disabilities followed. Croatia thus has a differentiated system of ombudspersons. In order to foster cooperation among them, a special agreement was signed by all ombudspersons in 2013.

At the end of February 2021, Ombudswoman Lora Vidović submitted her annual report for the year 2020 to the Croatian parliament. In it, she described issues faced by citizens in the exercise of their human rights, and enumerated incidences of discrimination. She pointed out that the largest number of citizen complaints in 2020 related to the area of health (not being able to get in touch with their physicians or acquire the medication they needed, as well as postponed appointments and medical procedures, which made already long waiting periods even longer), followed by complaints related to employment, labor and the civil service (submitted mostly by the citizens who had lost their jobs or were required to work from home, but were unable to do so). The third most common group of complaints were related to discrimination, most commonly in the areas of labor and employment, and on the grounds of nationality, ethnicity, health, property status or age. The Ombudswoman concluded that the trends from previous years had continued, with the circumstances related to COVID-19 further exacerbating existing problems in the health system.

Notwithstanding the parliamentary endorsement, however, many government institutions do not react promptly to the Ombudsman's requests, with requests often left pending for considerable time. Even more worryingly, the Ombudsman reported several times that the Ministry of the Interior had repeatedly denied her access to information relating to police treatment of migrants.

Hungary

Score 5

Hungary has an ombudsman for basic human rights, elected by parliament. Under his lead, two vice-ombudspersons deal with the rights of national minorities and with future generations. In 2020, a special board dealing with complaints about the police

has been established within the Ombudsman's Office. The Ombudsman's Office (Alapvető Jogok Biztosának Hivatala, AJBH) has been rather busy in small individual legal affairs, but it has not confronted the government about serious violations of civil and political rights. Unlike their much-respected predecessors, the two ombudsmen elected by Fidesz-controlled parliaments since 2010, László Székely and Ákos Kozma, have not served as effective checks on the government and have not become important public figures. While the COVID-19 pandemic has led to an avalanche of complaints, including those regarding the restricted choice among vaccines and about the troubles of going abroad because of missing or delayed vaccination documents, the advocacy role of the AJBH has remained limited.

Japan

Score 5

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

An important petition mechanism is located in the Administrative Evaluation Bureau of the Ministry of Internal Affairs and Communications. The bureau runs an administrative counseling service with around 50 local field offices that can handle public complaints, with some 220 civil servants engaged in administrative counseling. About 5,000 volunteer administrative counselors serve as go-betweens. A related mechanism is the Administrative Grievance Resolution Promotion Council, which includes non-governmental experts.

Citation:

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

Administrative Evaluation Bureau, Japanese Ombudsman System, March 2018

Latvia

Score 5

An independent ombuds office was created in 2007 following the reorganization of the Latvian National Human Rights Office. The ombuds office is charged with investigating citizens' complaints, monitoring human rights and proposing governmental action to address systemic issues. Since 2011, the ombuds office has been active in monitoring social care facilities for the disabled, closed institutions, access-to-justice failings, issues of equal access to free education, and discrimination against women. It has also worked to raise public awareness on the issue of hate speech. In 2020, the ombuds office received 1,617 complaints.

In 2020, the Ombuds office turned to the Constitutional Court on several occasions to challenge the regulation on minimum income, which it argued was unconstitutional. The court agreed in several cases, for example ruling that the

procedure for determining income subject to personal income tax did not comply with the constitution.

Citation:

1. Ombudsman of Latvia Annual report (2020) Available at (in Latvian): https://www.tiesibsargs.lv/uploads/content/tiesibsargs_2020_gada_zinojums_final_1613044295.pdf, Last accessed 12.01.2022.

South Korea

Score 5

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

Citation:

Anti-Corruption and Civil Rights Commission of Korea (ACRC), www.acrc.go.kr
Office of the Foreign Investment Ombudsman, ombudsman.kotra.or.kr

Cyprus

Score 4

In the absence of any constitutional provision for an ombuds office, the Office of the Commissioner for Administration and Human Rights was established by law L. 3/1991. The ombudsman's mandate extends to equality and non-discrimination, prevention of torture, forced returns, and disabilities issues. The president of the republic appoints the commissioner upon the recommendation of the Council of Ministers, subject to approval from the parliament. The commissioner presents an annual report to the president, with comments and recommendations. Copies of the report, investigative reports and activity reports are made available to the Council of Ministers and to the parliament.

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

Opinions and reports sometimes appear to accommodate the behavior of the authorities instead of insisting on the need for full respect for human rights in practice.

Citation:

1. Office of the Commissioner for Administration and Human Rights, Report for 2020 of National Mechanism for the Prevention of Torture, 2021
[http://www.ombudsman.gov.cy/ombudsman/ombudsman.nsf/All/5640AE2B1E22803EC2258784002D2F0D/\\$file/NPM%20ACTION%20REVIEW%202020.pdf](http://www.ombudsman.gov.cy/ombudsman/ombudsman.nsf/All/5640AE2B1E22803EC2258784002D2F0D/$file/NPM%20ACTION%20REVIEW%202020.pdf)

Italy

Score 4

Italy does not have a national ombuds office. In 1990, a national law provided for the establishment of municipal ombudsman offices, but this provision was abolished in 2010. Some functions are performed by regional ombudsman offices (Difensore civico). Through questions and other oversight instruments, members of parliament perform with significant vigor an analogous advocate's function with regard to issues and complaints raised by citizens (Russo and Wiberg 2010).

Citation:

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

Turkey

Score 4

A law establishing a Turkish ombuds office, called the Public Monitoring Institution (KDK), was adopted in June 2012 and went into force in December 2012. The office is located within the Parliamentary Speaker's Office and is accountable to parliament. The ombudsman reviews lawsuits and administrative appeals (from the perspective of human rights and the rule of law) and ensures that the public administration is held accountable. In 2020 alone, the institution received 90,209 new applications and concluded 91,100 cases. Among them, the highest number of applications was relating to Local Administrations (10.86%), followed by the Ministry of Justice (10.60%), and the Social Security Institution (8.62%). According to the KDK itself, two main obstacles hamper the efficacy of its work. First, the degree of compliance with its decisions has been low, with only 20% of its released decisions having been obeyed by public administrative bodies. Second, under the current law, the KDK cannot conduct inquiries on its initiative. The EU Commission indicates that despite the KDK's increasing workload, the institution does not react to widespread infringements of fundamental rights. It also lacks ex officio powers to open investigations relating to cases requiring legal remedies.

Citation:

Ombusmanlık. 2020. 2019 Yıllık Raporu. https://www.ombudsman.gov.tr/kdk-pdf/2019_yili_yillik_rapor/2019_yili_yillik_rapor.pdf

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

Chile

Score 3 The National Congress does not have a formal ombuds office. Efforts to establish such an office failed twice under previous governments. However, the National Congress and its members listen informally (but not systematically) to concerns expressed by citizens and public advocacy groups, inviting them to congressional hearings.

The first public ombudsperson's office on a special issue was installed in 2018. In compliance with the act establishing the Office for the Defense of Children's Rights (18 April 2018), the Senate of the Republic of Chile, at the proposal of the Senate's Human Rights Commission, unanimously appointed the first children's ombudsperson. However, neither the Office for the Defense of Children's Rights nor the National Institute for Human Rights (Instituto Nacional de Derechos Humanos), which advocates for people's rights before the state in cases when human rights have been violated, enjoy constitutional autonomy.

Citation:

La Tercera, "La defensoría del pueblo: Qué es y cómo funcionaría si llega a implementarse en una nueva Constitución ", 18 December 2020, <https://www.latercera.com/reconstitucion/noticia/la-defensoria-del-pueblo-la-entidad-que-podria-sumarse-por-primera-vez-a-la-constitucion/7THKXHPOBBEJXKBKXJVO2G454E>, last accessed: 13 January 2022.

Instituto Latinoamericano del Ombudsman – Defensor del Pueblo (ILO), "Chile: Senado de la República designa la primera defensora de la niñez", May 2018, <http://www.ilo-defensordelpueblo.org/noticias-blog/236-chile-senado-de-la-republica-designa-la-primera-defensora-de-la-ni%C3%B1ez>, last accessed: 13 January 2022.

Romania

Score 3 The Romanian Ombudsman was established in 1991 after the ratification of the country's first post-communist constitution and is appointed by both chambers of parliament for a term of five years. In mid-2019, Renate Weber replaced the very controversial Victor Ciorbea, who had ignored the concerns of ordinary citizens and championed those of politicians, as Romania's Ombudsperson. As was the case with Ciorbea, Weber is a lawyer. She was appointed for a five-year mandate, with the possibility of being renewed only once. Weber was nominated by the junior ruling partner, ALDE. Observers had hoped that she will break with Ciorbea's legacy and strengthen the office by making it more independent from the Social Democrats.

In 2021, Weber was removed from her position by parliament following a request from the PNL, who had accused her of a conflict of interest. The Constitutional Court later overturned the decision, citing provisions on the principle of legality and that the five-year term of office had been violated. Ms Weber remains the ombudsman at the end of 2021, though the ordeal did not improve the office's real or perceived independence.

Switzerland

Score 2

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

Indicator

Data Protection Authority

Question

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

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

- 10-9 = An independent and effective data protection authority exists.
- 8-6 = An independent and effective data protection authority exists, but its role is slightly limited.
- 5-3 = A data protection authority exists, but both its independence and effectiveness are strongly limited.
- 2-1 = There is no effective and independent data protection office.

Estonia

Score 10

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

Citation:

AKI 2021. Compliance with the Public Information Act and Ensuring the Protection of Personal Data in 2020. https://www.aki.ee/sites/default/files/inglisekeelne%20aastaraamat/estonia_annualreport_2020.pdf (accessed 03.01.2022)

Finland

Score 10

There are two data protection authorities in Finland: the Data Protection Board and the Data Protection Ombudsman. Affiliated to the Ministry of Justice, the Data Protection Board is the most important decision-making agency concerning personal data issues. The Data Protection Ombudsman supervises the processing of personal

data according to the objectives of the Personal Data Act 1999. The office has about 40 employees, and can be called upon for guidance in private matters or to advise organizations.

The Office of the Data Protection Ombudsman safeguards data protection rights. The office was fully operational during 2020 and 2021. The Data Protection Ombudsman is a national supervisory authority which supervises compliance with data protection legislation. The Data Protection Ombudsman is an autonomous and independent authority, with the ombudsman appointed by the government. The ombudsman's term of office is five years (Office of the Data Protection Ombudsman 2020).

The Office of the Data Protection Ombudsman has resources to effectively advocate data protection and privacy issues vis-à-vis the government and has continued to do so during the coronavirus crisis. Publication of COVID-19-related data that cannot be used to identify individuals (e.g., anonymized statistics), is not prohibited by the data protection legislation.

Data protection has been an issue in Finland. In 2020, a private mental healthcare provider (Vastaamo) was blackmailed by online hackers who got access to electronic records containing sensitive health information. This case was not related to COVID-19, but it brought large-scale public attention to the issue of data protection.

Citation:

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

Office of the Data Protection Ombudsman, 2020. The Office of the Data Protection Ombudsman safeguards your data protection rights- Accessed, 28.12. 2020. <https://tietosuoja.fi/en/office-of-the-data-protectionombudsman>

France

Score 10

Data protection in France has a rather long history. The extremely active CNIL (Commission Nationale Informatique et Libertés) dates back to 1978. Its board of 17 members is appointed by the two chambers of the parliament. The board then elects its president. The CNIL enjoys the status of an Independent Regulatory Agency. It has five main functions, namely to: inform the public on personal data protection; support any person in relation to personal data protection; advise the legislator; control the use of personal data by private companies and public services; plan and prepare for the impact of technological developments on personal data. The CNIL has a relatively modest staff (215 persons), with a budget of €17 million, and received 13,585 complaints in 2020 (an increase of more than 60% following the adoption of the EU regulations). The body has been very effective over the past 40 years and in particular during the coronavirus crisis. Its role is widely supported by the public and political elites. A European regulation that went into effect in May 2018 states that every company or public body dealing with personal data has to

appoint a “data protection adviser.” In 2020, the authority conducted 247 review processes and imposed 14 penalties entailing financial sums amounting to nearly €140 million.

Iceland

Score 10

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

Citation:

The Icelandic Data Protection Authority (Persónuvernd), <https://www.personuvernd.is/personuvernd/>. Accessed 29 December 2021.

Switzerland

Score 10

Article 13 of the constitution establishes that every citizen must be protected against the abuse of data. Data protection legislation has been in force since 1993. The Federal Data Protection Law was revised in 2020, taking into account the General Data Protection Regulation of the European Union, a regulation that Switzerland had already signed. There is the Federal Data Protection and Information Commissioner (Eidgenössischer Datenschutz- und Öffentlichkeitsbeauftragter, EDÖB), which had 32 employees in 2020/2021 (EDÖB 2021: 101). A 2011 evaluation of the Federal Data Protection Law attests to the effectiveness, independence and transparency of the EDÖB.

Citation:

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

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

EDÖB, 2021: 28. Tätigkeitsbericht 2020/21. available at <https://www.edoeb.admin.ch/edoeb/de/home/dokumentation/taetigkeitsberichte/28-taetigkeitsbericht-2020-2021.html>

EDÖB, 2021: The new Data Protection Act from the FDPIC’s perspective. https://www.edoeb.admin.ch/dam/edoeb/en/dokumente/2021/revdsg.pdf.download.pdf/revDSG_EN.pdf

Austria

Score 9

Since 2013, the Austrian Data Protection Authority (ADPA) has existed, which replaced the former Data Protection Committee. In 2018, the ADPA was restructured and, since then, its staff has been continuously increased. The office is headed by a chairperson appointed by the Data Protection Council. The office and its chairperson are not dependent on the government – they are not obliged to follow any specific

government directive. The independence of the office has never seriously been questioned. In recent years, there were several occasions on which the ADPA demonstrated its willingness to block planned government laws if deemed inappropriate, such as its veto against the use of algorithms by public authorities when dealing with job-seekers in 2020.

<https://www.data-protection-authority.gv.at/>

<https://orf.at/stories/3178244/>

Canada

Score 9

Canada's data protection authority is the Privacy Commissioner of Canada. The legislation governing federal government use of private data is the Privacy Act. As an officer of parliament, the commissioner can audit suspected government breaches of the Privacy Act. The Privacy Commissioner of Canada is also responsible for complaints linked to the treatment of personal information in the private sector under the Personal Information Protection and Electronic Documents Act. Analogous structures exist at the provincial and territorial levels.

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

Denmark

Score 9

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

The agency takes part in international cooperation, including in the European Union, and monitors the handling of data in relation to Schengen and Europol cooperation.

Since 25 May 2018, when the European Union's General Data Protection Regulation (GDPR) entered into force, the Datatilsyn's director represents Denmark in the new European Data Protection Board (EDPB).

Citation:

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

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

Datatilsynets Årsrapport 2017, https://www.datatilsynet.dk/media/6824/aarsrapport_2017_-_dat_soegbar__120318_endelig.pdf (Accessed 8 October 2018)

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

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

Germany

Score 9

The Federal Commissioner for Data Protection and Freedom of Information (Bundesbeauftragter für den Datenschutz und die Informationsfreiheit, BfDI) has a long history that dates back to the end of the 1970s. Since January 2016, this institution has been an independent federal authority subject only to parliamentary and judicial control, and is no longer under the authority of the minister of the interior. The independence of the authority's head is highly protected. A dismissal is possible only with good reason, with standards similar to those that apply to the dismissal of a judge with lifetime tenure. The authority's budget and staff numbers have increased over time. Since 2016, its staff has increased from 90 to 250 positions (BfDI 2021) by the end of 2020, and further increases are expected. The authority's task is to oversee the extent to which federal institutions comply with national and European data protection rules.

As one of the strictest countries in Europe regarding data protection, Germany enjoys a solid reputation in this regard (Heydata 2021). However, critics complain that the law is sometimes too narrowly interpreted and that the coexistence of 16 Commissioners for Data Protection (one for each federal state) makes compliance difficult for companies.

Citation:

BfDI (2021): Der Bundesbeauftragte für den Datenschutz und die Informationsfreiheit, 29. Tätigkeitsbericht für den Datenschutz und die Informationsfreiheit.

Heydata (2021): Europa im Datenschutz-Ranking, <https://www.heydata.eu/europa-im-datenschutz-ranking> (accessed 13 February 2022)

Greece

Score 9

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

Citation:

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

The law establishing the HDPa is Law 2472/1997.

The HDPa is included in article 9A of the Constitution of Greece.

Ireland

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

Lithuania

Score 9 An independent and effective data protection authority exists in Lithuania. The State Data Protection Inspectorate (VDAI) is responsible for the supervision and control of enforcement of legal protections for personal data. The status of the government agency gives the agency the legal and policy independence necessary for making regulatory decisions. With experience exceeding 25 years and a staff of about 30, the agency has adequate capacities and resources to focus on the implementation of the General Data Protection Regulation that came into force in 2018. However, despite the allocation of two additional positions, the State Data Protection Inspectorate was unable to recruit new staff in 2017 due to a shortage of financial resources. In 2020, 31 positions out of 38 were filled. In addition, some observers argue that the Inspectorate should provide more information and advisory services regarding the management of personal data in public sector organizations and business enterprises.

The pandemic presented the Inspectorate with a number of challenges; for instance, it was tasked with advising government institutions and the private sector on how to organize their activities in a new environment. There were additional important tasks related to the increasing level of digitalization and the need to protect personal data. According to the Inspectorate, the pandemic “expanded the Inspectorate’s scope of activity and demanded quick decisions.”

Citation:

VDAI, Valstybės duomenų apsaugos inspekcijos 2020 metų veiklos ataskaita, 2021, https://vdai.lrv.lt/uploads/vdai/documents/files/2020%20m_%20VDAI%20veiklos%20ataskaita%202021-02-26.pdf

Luxembourg

Score 9 The National Data Protection Commission (Commission Nationale pour la Protection des Données, CNPD) is an independent public institution. It is financially and administratively autonomous. It is tasked with assessing the legality of personal

data processing, and additionally ensures that personal freedoms and fundamental rights are respected with regard to issues of data protection and privacy.

The legal framework under which the CNPD operates is based on the General Data Protection Regulation (GDPR); the Act of 1 August 2018 on the organization of the National Data Protection Commission and the general data protection framework; the Act of 1 August 2018 on the protection of individuals with regard to the processing of personal data in criminal and national security matters; the Act of 30 May 2005 regarding the specific rules for the protection of privacy in the sector of electronic communications, as well as other texts containing specific provisions on the protection of personal data.

The CNPD operates as a public institution under the supervision of the government minister responsible for data protection. However, it does not have the power to oversee the processing of personal data carried out by courts or the public prosecutor (ministère public), or by national administrative agencies acting in a judicial capacity.

The CNPD publishes an annual report regarding its performance, which is submitted to the government, parliament, the European Commission and the European Data Protection Board.

Citation:

National Commission for Data Protection. Grand Duchy of Luxembourg. <https://cnpd.public.lu/en.html>. Accessed 14 January 2022.

Norway

Score 9

Norway has a special body, the Norwegian Data Protection Authority (DPA), that is tasked with holding the government accountable for data protection and privacy issues, and with protecting individuals' privacy rights. The DPA is a public authority that was established in 1980. The main legislation directing the DPA's work is the Personal Data Act, which sets out the general principle that individuals should be able to control how their personal data is used. Through information, dialogue, the handling of complaints and inspections, the DPA monitors and ensures that public authorities, companies, non-governmental organizations and individuals follow data protection legislation. In a recent illustrative example, the DPA effectively stopped the use of a COVID-19 contact-tracing smartphone application due to an insufficient level of personal data protection.

Slovenia

Score 9

Following the establishment of the Information Commissioner on 31 December 2005, Slovenia has an independent and effective data protection authority. The commissioner supervises the protection of personal data and access to public information. The office is led by Mojca Prelesnik, previously the general secretary to

the parliament, who was reelected for a second term in June 2019. The competencies of the Information Commissioner include deciding on appeals against decisions by another body to refuse or dismiss a request for information; deciding on alleged violations of the right to access or reuse public information; supervising the implementation of legislation regulating the processing and protection of personal data; acting as an appellate body on individual complaints regarding a refusal to make personal information available to the respective individual. The ruling coalition criticized and applied some political pressure to the commissioner during the pandemic, regarding her rigid position on the protection of personal data.

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

Citation:

The Information Commissioner 2021 (<https://www.ip-rs.si/>).

Spain

Score 9

The Spanish Data Protection Agency (AEPD) is a public authority that acts fully independently of the public administration. Being integrated in a wider international and subnational network of agencies, the AEPD has the capacities and personnel resources to advocate data protection and privacy issues vis-à-vis the government and against vested interests. However, in December 2021, the selection of new top-level staff at the Data Protection Agency led to criticism from the European Data Protection Supervisor, which did not rule out intervening in the event that the candidates agreed by PSOE and PP were finally elected.

On 5 December 2018, the Organic Law 3/2018 on the Protection of Personal Data and the Guarantee of Digital Rights was approved. With 93% parliamentary support, the law aligns Spanish law with the European Union's General Data Protection Regulation (GDPR), and introduces new mechanisms for informing citizens about the processing of their personal data.

In 2021, the AEPD set a new record in the number of sanctions implemented, amounting to 32 million (up from only 3 million in 2020). This increase was partly due to the effect of the abovementioned Law 3/2018.

Citation:

Business Insider (2021): "Protección de Datos multa un 1.000% más y convierte a España en el sexto país europeo en sanciones por vulnerar el RGPD," Available at: <https://www.businessinsider.es/multas-proteccion-datos-1000-grandes-2021-982521>

Sweden

Score 9 The public agency charged with protecting individual privacy in Sweden was previously the Swedish Data Protection Authority (Datainspektionen; DPA). In January 2021, this agency changed its name to the Swedish Authority for Privacy Protection (Integritetsskyddsmyndigheten; IMY). The data protection regulatory reform in 2018 increased this agency's remit, which is today to protect citizens' personal information, including health and financial data. It works closely with similar agencies in other EU member states and with EU institutions, especially with regard to the dynamic issues produced by increasing digitalization (Integritetsskyddsmyndigheten 2021).

Citation:

Integritetsskyddsmyndigheten. 2021. "Om IMY." <https://www.imy.se>

Czechia

Score 8 Data protection responsibilities rest with the Office for Personal Data Protection (Úřad pro ochranu osobních údajů, ÚOOÚ), an independent body established under a law passed in 2000. It is tasked with supervising the observance of the legal obligations laid down for personal data processing, maintaining the register of notified data processing operations, dealing with initiatives and complaints from citizens concerning any breach of the law, and advising the government on issues relating to personal data protection. The president of the republic appoints the president of the office, with candidates being nominated by the president of the Senate, the upper house of parliament. The office regularly publishes an annual report on its website detailing its activities. In 2019, the Personal Data Processing Act 2019, the country's second data protection act, sought to implement the European Union's GDPR. As a result, the scope of ÚOOÚ's activities has widened. During the COVID-19 pandemic, the ÚOOÚ has provided answers to the most frequently asked questions on personal data processing on its website and has not refrained from criticizing the government.

Italy

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

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

Citation:

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

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

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

Malta

Score 8

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

The IDPC website provides information about the protection the office provides in various fields. It also provides assistance to citizens who believe their privacy has been invaded. Malta also abides by EU legislation and decisions by the Advocate General of the European Court in this area, and in May 2018 transposed the EU General Data Protection Regulation (GDPR) into law. Maltese courts can also be called upon to adjudicate complaints relating to data privacy infringements. A recent ruling by the Information and Data Protection Appeals Tribunal clarified that the data protection commissioner has the right to issue enforcement orders when a government ministry fails to issue certain information. In 2021, the office investigated 40 data-subject complaints, the largest share of which had to do with the unauthorized disclosure of personal information. The office also received 104 personal-data breach this year. The office can issue fines, reprimands and warnings. As part of its regulatory function, the office is also responsible for the enforcement of the freedom of information legislation.

A recent ministerial decree introduced the right to be forgotten. Since 2013, the decree has enabled 86 judgments to be anonymized or removed from the law courts public database. As a result, the decree has proven to be controversial, with several media organizations and lobby groups objecting to the rules.

Citation:

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

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

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

DLA Piper GDPR data breach survey: February 2019

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

Information and Data Commissioner. Annual Report 2018

Inside Privacy 26/11/18 Right to be forgotten controversially introduced into Maltese law

Malta Today 07/12/21 Courts publish rights to be forgotten guidelines despite mounting opposition from press

United Kingdom

Score 8

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

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

In October 2018, Elizabeth Denham, the UK Information Commissioner, was appointed the Chair of the International Conference of Data Protection and Privacy Commissioners. In January 2022, she was succeeded by John Edwards, the former New Zealand privacy commissioner. An online safety bill is in preparation, which will, inter alia, seek to curb various abuses on social media, although the bill faces opposition due to the perceived threat it poses to freedom of speech.

Citation:

<https://ico.org.uk/about-the-ico/news-and-events/news-and-blogs/2022/01/new-uk-information-commissioner-begins-term/>

Australia

Score 7

The Office of the Australian Information Commissioner (OAIC), an independent statutory agency within the attorney-general's portfolio, has responsibility for data protection and privacy as per the Privacy Act and other laws. Its responsibilities include conducting investigations, handling complaints and providing advice to the public, government agencies and businesses.

The OAIC was established in 2010 by the Labor government. The Abbott government sought to abolish the agency on coming into office in 2013, but could not secure the support of the Senate. Coalition governments instead reduced the resources available to OAIC, resulting in its diminishing size and efficacy over time. However, since 2016, there has been a reversal in the coalition government's position on OAIC and corresponding increases in funding in each successive budget. In part, the funding increases are intended to support the expansion of the OAIC's functions, such as oversight of the Consumer Data Right and My Health Record system from 2021 as part of the Australian government's Digital Economy Strategy.

Citation:

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

<https://www.allens.com.au/insights-news/insights/2021/11/a-tale-of-two-oaic-investigations-privacy-implications-for-the-use-of-facial-recognition-technology/>

Israel

Score 7

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

An additional body is the Authority for the Protection of Privacy (APP), which is located within the Ministry of Justice, and reports to the Ministry of Justice and the Knesset. According to the Protection of Privacy Act, one of the APP's roles is to monitor the compliance of public institutions with information security and privacy regulations. In addition, the APP manages the Information Databases Registrar, which registers and records databases, and ensures their compliance with the law and information security regulations.

Nevertheless, according to the State Comptroller, the APP lacks the resources to properly accompany governmental projects. Since 2011, the APP has not been able to ensure the full compliance of public institutions with some of the Protection of Privacy Act's regulations concerning inter-institutional information transfers (i.e., public institutions must report to the APP if they transfer information between themselves). Consequently, the APP has limited authority to penalize non-compliance.

Citation:

"About the Authority for the Protection of Privacy | The Authority for the Protection of Privacy." In the Authority for the Protection of Privacy's official website.. Last updated: August 15th, 2019. (Hebrew)

Ministry of Justice, “The Privacy Protection Authority,” https://www.gov.il/en/Departments/the_privacy_protection_authority

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Israel. The State Comptroller. “Aspects in the State’s Preparations in Defense of the Cyber Space,” Annual Report, 67(1), 2018, Jerusalem, vol. 1, pp. 3-10. (Hebrew) (Also available here: https://www.mevaker.gov.il/he/Reports/Report_552/b9842c3e-e157-4f16-9529-df1aca2002cb/101-cyber.pdf).

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Japan

Score 7

Based on the Act on the Protection of Personal Information, a Personal Information Protection Commission was established in January 2016. The commission is a cross-sectoral, independent government body overseeing the implementation of the act. The body's chairperson and commissioners are appointed by the prime minister, with the consent of both chambers of parliament. It is still difficult to judge whether this commission will be able to maintain independence from the government and, ultimately, whether it will prove effective. A tightening of existing rules proposed by the commission found its way into the mid-2020 revision of the Personal Information Protection Law. The amended law requires firms and the like to better take into account the personal data protection interests and preferences of Japanese citizens.

Citation:

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

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New Zealand

Score 7

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

The Labour government revised the Privacy Act in 2020, with the aim of strengthening protections for personal information in the digital age. The updated rules create new obligations for businesses and organizations with regard to keeping personal information safe – including that of customers, clients and employees (Newshub 2020).

The Privacy Commissioner administers the Privacy Act. In the first four months of the new Privacy Act's operation, the number of privacy breach notifications received by the Privacy Commissioner (OPC) increased by 97% compared to the previous six

months. The most common category of privacy breaches were email errors (25%), with emails containing sensitive information going to the wrong person. Other common types of breaches were the unauthorized sharing of personal information (21%) and unauthorized access to information (17%).

The government's Chief Data Steward and the government agency Statistics NZ are participating in the design of a Māori data governance (MDG) model along with the Data Iwi (tribal area) Leaders Group (DILG) of the National Iwi Chairs Forum (NICF). The aim is to provide the New Zealand government with an opportunity to develop an approach to data governance that reflects Māori needs and interests (Data Govt NZ 2021)

Citation:

Data Govt NZ (2021) <https://data.govt.nz/toolkit/data-governance/maori/Newshub> (2020) "What you need to know about the Privacy Act 2020." <https://www.newshub.co.nz/home/new-zealand/2020/11/what-you-need-to-know-about-the-privacy-act-2020.html>

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Portugal

Score 7

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

The CNPD plays an active role in data protection issues. However, budgetary restrictions under previous and current governments have limited the CNPD's ability to carry out its tasks. While its staff increased during the review period relative to the previous period, from 20 workers at the end of 2018 to 24 at the end of 2020, this does not appear to be sufficient to meet demands.

Indeed, the introduction to the most recent CNPD activity report, dealing with the years 2019 and 2020, notes it receives an average of more than 6,000 requests per year, and that these cannot all be assessed within a reasonable time given the CNPD's current staff levels. This issue came to the fore in 2021, when the creators of a COVID-19 contact tracing app accused the CNPD of delaying an update due to the organization's approval process, thus holding up the app's implementation and limiting its success.

Citation:

Comissão Nacional de Protecção de Dados, Relatório de Atividades 2017-2018, available online at: https://www.cnpd.pt/media/fjhffphw/relatorio_201718.pdf

Comissão Nacional de Protecção de Dados, Relatório de Atividades 2019-2020, available online at: <https://www.cnpd.pt/media/adsndrsf/relato-rio-2019-2020.pdf>

United States

Score 7 Numerous laws govern the handling of information by U.S. government agencies – in the interests of maintaining citizens’ privacy, protecting proprietary information of businesses, preventing identity theft, and for other purposes. Overall, these regimes may be relatively strict. However, while there is no national data protection authority, the U.S. Federal Trade Commission (FTC) over the past several years has made itself America’s de facto data protection authority through aggressive use of Section 5 of the FTC Act, which prohibits unfair or deceptive trade practices.

Many state attorneys generally have similar enforcement authority over unfair and deceptive business practices, including the failure to implement reasonable security measures and violations of consumer privacy rights that harm consumers in their states. In addition, a wide range of sector-specific regulators, particularly those in the healthcare, financial services, telecommunications and insurance sectors, have authority to issue and enforce privacy and security regulations, with respect to entities under their jurisdiction.

Citation:

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

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

Croatia

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

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

Cyprus

Score 6

The Office of the Commissioner for the Protection of Personal Data was established in 2002. Law 125(I)/2018 updated the legislation in accordance with EU regulations and directives. The Council of Ministers appoints the commissioner upon the recommendation of the minister of justice and public order. The qualifications for appointment are those required for a judge of the Supreme Court, a “lawyer of high professional and moral standard.” The commissioner’s authority is extended to both public and private persons, except on processing operations by courts when acting in their judicial capacity. Under the Law on Access to Information, L. 184(I)/2017, the commissioner is also the commissioner for information, who is tasked with monitoring compliance with the law.

Violations of personal data by the authorities, politicians and political parties has always been an issue of concern. However, very few decide to file a complaint. In the latest available report from the commissioner (2019), there is no indication of proactive action.

Citation:

1. Commissioner for the Protection of Personal Data – Activity Report 2019, [https://www.dataprotection.gov.cy/dataprotection/dataprotection.nsf/43E41408DE96649BC225869C0045D367/\\$file/Annual%20Report%202019.pdf](https://www.dataprotection.gov.cy/dataprotection/dataprotection.nsf/43E41408DE96649BC225869C0045D367/$file/Annual%20Report%202019.pdf)

Poland

Score 6

In May 2018, a new act on data protection entered into force. The law has renamed the supervisory authority in Poland, the Office of Personal Data Protection (Urzędu Ochrony Danych Osobowych, UODO), which replaced the Inspector General for Personal Data Protection. The president of this office is appointed for a four-year term by the Sejm, with the consent of the second chamber, the Senate. The current president, Jan Nowak, came into office in May 2019. While a lack of resources has limited the effectiveness of the UODO, Nowak, like his predecessor, has acted quite independently. In August 2019, the UODO initiated ex officio proceedings against the Ministry of Justice and the National Council of the Judiciary, following accusations that the bodies had collected and processed the personal data of judges and their families and had shared the data with third parties.

During the COVID-19 pandemic, however, the UODO has played a limited role. When containment measures were introduced in March 2020, the UODO issued a statement on data processing during the lockdown and the implications for dealing with personal data, which was widely perceived as too vague. In May 2020, the UODO did not challenge the Chief Sanitary Inspectorate's controversial instructions on the collection of employee health data by companies. Nor did the UODO join the debate about the data protection issues prompted by the originally planned contact-tracing app. Thus, it was the commissioner for citizens' rights, ombudsman Adam Bodnar, rather than the UODO who spoke out against violations of data protection and privacy issues during the pandemic, as well as against the government's use of Pegasus spyware.

Slovakia

Score 6

Based on the 2013 Act on Personal Data Protection, the Office for Personal Data Protection was established in 2014. The office contributes to the protection of the fundamental rights and freedoms by supervising how personal data is processed. The effectiveness of the office has been limited by a lack of resources and a lack of clarity and differing interpretations of individual parts of Slovak data protection legislation. The amendment of the act on personal data protection in January 2018, which has aimed at incorporating the European Union's General Data Protection Regulation, has further aggravated the problems. The nomination of Soňa Pótheová, the head of the Office for Personal Data Protection from 2015 until 2020, raised some public concerns, as she had been close to senior Smer-SD figures and companies owned by discredited oligarchs. In 2020, she was criticized for threatening Czech journalists. Moreover, the investigations of the Kuciak and Kušnírová murders revealed a close relationship between the controversial businessman Marian Kočner and Pótheová. The new government dismissed her in April 2020. The position has remained vacant as possible candidates have found the resources of the Office for Personal Data Protection wanting.

Belgium

Score 5

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

Both its independence and effectiveness have rapidly revealed significant limitations. In October 2019, two members of the Data Protection Authority (DPA) warned the

lower house of the body's inefficiency, mainly due to the conflicts of interest held by several of its members who also hold public offices. Complaints were filed to the European Commission, which took action against Belgium saying that "some members of the Belgian Data Protection Authority cannot currently be considered free of external influence, as they either report to a management committee dependent on the Belgian government, have participated in government projects to trace COVID-19 contacts, or are members of the Information Security Committee." The Commission gave Belgium until 12 January 2022 to address this issue. Failure to respond would result in a reference of the matter to the European Court of Justice. Belgium thus risked becoming the first state convicted of violating the GDPR.

The problem is in some senses deeply rooted, since the individuals indirectly designated by the European Commission were appointed as DPA members by the lower house of parliament, even though their conflicts of interest were already known. The measures taken as of the time of writing appeared unlikely to satisfy the Commission, as Belgium's lower house decided in mid-December to revoke the mandate of only one of the three individuals indirectly designated by the Commission's report (citing serious misconduct) while also, for purposes of regional balance, to revoke the mandate of one of the two whistleblowers (the other had already resigned). The irony is that the European directive aimed at protecting whistleblowers took full effect in Belgium that same week. Further action should include the drafting of a new law on the matter, on which the secretary of state for privacy (Mathieu Michel) had already started working.

Citation:

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

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

<https://www.brusselstimes.com/belgium-all-news/193520/european-commission-questions-independence-of-belgiums-data-protection-authority>

<https://www.lesoir.be/art/d-20211217-GRJXQZ>

Bulgaria

Score 5

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

While the competencies of the commission are thus relatively broad, it has limited resources in terms of funding and staff. The massive data breach experienced by the National Revenue Agency, which affected as many as half of the country's citizens

and was revealed in July 2019, revealed severe limitations in government agencies' ability to protect personal data, while additionally exposing the ineffective nature of the commission's oversight.

A similar data breach took place in 2020 that involved tens of thousands of bank accounts at Bulgaria's largest retail bank.

Latvia

Score 5 The Data State Inspectorate, established in 2001, operates in accordance with the Personal Data Protection Law and is based on a cabinet regulation of 2013, Regulations on the Data State Inspectorate. A new version of the law was proclaimed in 2018. The main goal of the inspectorate is to protect the fundamental rights and freedoms of citizens, particularly the privacy of individuals with regard to the processing of personal data. The law describes the Data State Inspectorate as an independent institution. Nevertheless, the inspectorate is subject to the supervision of the Ministry of Justice and the Cabinet of Ministers, and is financed from the state budget.

Citation:

1. Personal Data Processing Law (2018) Available at:<https://likumi.lv/ta/en/en/id/300099>, Last accessed: 10.01.2022.
2. Data State Inspectorate (2018) Annual Report 2018, Available at: https://www.dvi.gov.lv/en/wp-content/uploads/2013/01/Annual_report_DVI_2018.pdf, Last accessed: 10.01.2022.

Mexico

Score 5 Legislation on data protection in Mexico has been ineffective since 2010. The National Institute for Transparency, Access to Information and Personal Data Protection (INAI) is an autonomous constitutional body that oversees data protection. Implementation of data protection is limited, especially in remote areas, for poor and uneducated people, and where security issues are involved. Thus, while there is an adequate institutional framework and organizational setup, the reality of data protection, particularly at the lower levels of government, is sobering. In general, President López Obrador intends to reform the constitution to limit the number and competences of independent and autonomous bodies, with the goal of concentrating competences in the executive. The debates over the issue and the stated intention to bring about the change have already limited the oversight function exerted by independent bodies.

Romania

Score 5 Romania updated its data protection legislation in accordance with European Union's GDPR policy in May 2018. The responsibility for protecting personal data rests with the National Authority for the Supervision of Personal Data Processing

(DPA), which has limited resources. The position of the DPA's vice-president remained vacant until April 2019, when Mirela Nistoroiu was appointed by the ruling Social Democrat Party, in spite of her lack of specialized skills. The DPA President Ancuța Gianina Opre, named in 2013, has languished under corruption charges dating from 2009 when she was working for the National Authority for the Restitution of Properties.

South Korea

Score 5

South Korea's comprehensive Personal Information Protection Commission was established in September 2011, and aims to protect the privacy rights of individuals by deliberating on and resolving personal data-related policies. Data protection is regulated by the Personal Information Protection Act (PIPA). Compared to the European Union's General Data Protection Regulation (GDPR), data protection rules are weak, and the issue remains a problem particularly in the private sector. For example, PIPA lacks the right to be forgotten and the right to refuse profiling. Maximum fines for violations are also much lower in Korea, set at €40,000 as compared to €20 million under the GDPR. Concerns about personal data privacy came to a head in 2020 during the COVID-19 pandemic. South Korea's legislation allows 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 amount of information it publicizes so as to protect personal privacy.

Data security in the private sector remains a significant problem in Korea, where companies have been slow to adapt to international security and encryption standards. In November 2019, Korea started a trial run of an "open banking" system that would make it easier and cheaper for financial institutions to exchange information; however, some observers have raised concerns about the potential for data leaks.

Citation:

Park, June. "Striking a Balance between Data Privacy and Public Health Safety: A South Korean Perspective." The National Bureau of Asian Research, April 29, 2021.

Netherlands

Score 4

The Dutch Data Protection Agency (Autoriteit Persoonsgegevens, APG) succeeded the "College Bescherming Persoonsgegevens" (CBP) in 2016, and simultaneously saw its formal competencies somewhat enhanced by the right to fine public and

private organizations in violation of Dutch and since mid-2018 European data protection laws (the General Data Protection Regulation, GDPR).

Effective data protection is practically impossible since 2016 for a number of reasons: many capable personnel have left the DPA, even though the number of staff has increased; the organization is underfinanced; hardly any consequential fines have been imposed; “naming and shaming” appears to work, but comprehensive oversight capacity is lacking; laws and regulations are frequently changing, and consequently monitoring and jurisprudence are constantly “in the making.” It looks like the DPA is evolving from a supervisory body to an organization that advises both public and private organizations, and individual citizens on privacy issues, and on how to deal with personal data in ways that (more or less) comply with ever changing regulations and interpretations. All in all, the DPA operates in self-contradictory ways (as both a “hard” inspectorate, and a “soft” advisory body that “names and shames,” and advises commercial and public data-users and data-providers) in a technologically turbulent environment. In 2019, the DPA found that most data leaks are caused through sloppiness in addressing documents and emails; that this occurs more in institutions of care than anywhere else; and that victims are usually individuals rather than entire categories of people. In 2019, the DPA received an additional €3.4 million in funding for enforcement of the General Decree for Data Protection (Algemene Verordening Gegevensbescherming, AVG) and EU privacy rules. During the coronavirus crisis, the APG appeared to play a more prominent role as an advisor on coronavirus-related privacy issues. Yet, it is calculated that only 0.15% of cases are investigated. The organization’s leader admits its inefficacy and asserts that it is underfinanced (€6 billion is needed instead of €45 billion at present), and still grossly understaffed (400 full-time employees are needed, rather than the organization’s current 180).

Citation:

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

Tweakers, 12 June 2019. Autoriteit Persoonsgegevens krijgt extra geld voor handhaving AVG. (tweakers.net, accessed 4 November 2019)

Volkskrant, Verhagen, 16 July 2020. Hoe effectief is de corona app? En hoe zit het met de privacy.

NOS Nieuws, Damen and Bouma, 25 March 2021 De Privacywet wordt tamper gehandhaafd, is meer geld de oplossing?

Chile

Score 3

Chile still lacks an effective data protection framework, although Article 19 of the constitution guarantees the right to privacy. In August 2019, the Senate Committee on the Constitution, Legislation, Justice and Senate Regulations (Comisión de Constitución, Legislación, Justicia y Reglamento del Senado de Chile) gave the Chilean Transparency Council (Consejo para la Transparencia) responsibility for the issue of data protection. The Transparency Council is responsible for ensuring public

sector compliance with data-privacy laws, but there is no regulatory authority in Chile that monitors private sector compliance. Thus, enforcement of the law is in this respect carried out by the courts, with affected individuals seeking to uphold their rights or win redress for violations on an individual basis.

In 2018, the Senate gave general approval to a draft law amending Law No 19,628 on the Protection of Private Life. The draft law's purpose is to raise the level of protection afforded to personal data to the same level contained in the European General Data Protection Regulation (GDPR). The law would also create a Personal Data Protection Agency with the ability to monitor and sanction breaches of the law. Although the Senate has emphasized the urgency of this issue, the law has not been enacted to date.

Citation:

On the draft law and modification of Law No. 19,628:

Deloitte, "Protección de datos personales en Chile, October 2020, <https://www2.deloitte.com/cl/es/pages/legal/articles/proteccion-datos-personales-chile.html>, last accessed: 13 January 2022.

Library of the National Congress of Chile (Biblioteca del Congreso Nacional de Chile, BCN), <https://www.bcn.cl/leychile/navegar?idNorma=141599>, last accessed: 13 January 2022.

Hungary

Score 3

The National Authority for Data Protection and Freedom of Information (Nemzeti Adatvédelmi és Információszabadság, NAIH) is responsible for supervising and defending the right to the protection of personal data and freedom of information under the Act CXII of 2011. So far, the office has not played a major role in the public debate, and there is still little experience with the new European regulation in the field. The NAIH has challenged the government in some COVID-19 related cases. For instance, it has criticized the fact that the sensitive data required to register for a vaccination are collected and saved not by the government, but by a Fidesz-friendly firm (IdomSoft Zrt). However, the NAIH has failed to speak out against the misuse of public data for the use of Fidesz's election campaigns and has not addressed the Pegasus surveillance scandal.

Turkey

Score 3

Before 2016, Turkey had no specific legislation mandating oversight of personal data protection. In April 2014, the Constitutional Court ruled that new regulations must be made to protect personal data, which is often used for marketing purposes. In 2016, Turkey ratified the Council of Europe Convention 108 on the Protection of Individuals with regard to Automatic Processing of Personal Data and its additional protocol dated 1981. The Personal Data Protection Authority is now operational and its nine-member board has been appointed. Of the nine members, five of them are

appointed by the legislature and four by the president. Law No. 6698 on Protection of Personal Data dated 2016 does not fully conform to the EU acquis, especially relating to the powers of the Data Protection Authority, the balancing of data protection with the right to freedom of expression and information.

Turkey has not signed the 2018 protocol amending the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (Council of Europe, CETS No 223). The lack of harmonization with the EU acquis hinders possible cooperation with Eurojust and Europol. The EU Commission (2020) has raised concerns regarding the exceptions for law enforcement and the independence of the Data Protection Authority.

Citation:
KVKK. “100 Soruda Kişisel Verilerin Korunması Kanunu.”
<https://www.kvkk.gov.tr/SharedFolderServer/CMSFiles/7d5b0a2f-e0ea-41e0-bf0b-bc9e43dfb57a.pdf>.

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

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