



Independent Supervisory Bodies Report

Audit Office, Ombuds Office, Data Protection Authority

Sustainable Governance Indicators 2019

Indicator

Audit Office

Question

Does there exist an independent and effective audit office?

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

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

Australia

Score 10

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

Citation:

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

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

Austria

Score 10

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

The president of the Court of Audit is elected by parliament for the period of twelve years. This gives the president a certain degree of independence. At the moment of

election by the National Council, he or she is the product of the majority. But as this figure cannot be reelected, and as parliamentary majorities often change in the course of 10 years, the president and his or her office in fact enjoy a significant degree of independence.

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

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

The Court of Audit demonstrated its independence once more when it asked critical questions concerning policies of the ÖVP-FPÖ coalition.

Citation:

The Court of Audit has already demonstrated its independence once more when it asked critical questions concerning policies of the OeVP-FPOe coalition.

Belgium

Score 10

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

Citation:

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

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

Canada

Score 10

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

parliament or its Public Accounts Committee were able to direct the work of the Office of the Auditor General are rare.

Denmark

Score 10

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

Citation:

Hentik Zahle, Dansk forfatningsret, 2.

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

Finland

Score 10

Legislative accountability is advanced by the audit office, which is accountable to parliament. Formerly, parliamentary oversight of government finances was performed by parliamentary state auditors. However, this institution has been abolished. In its place is the parliamentary Audit Committee, which was created by combining the tasks performed by the parliamentary state auditors with the related functions of the administrative and audit section of the Finance Committee. The office of the parliamentary state auditors has also been replaced by the National Audit Office of Finland, which is an independent expert body affiliated to parliament. Its task is to audit the legality and propriety of the state's financial arrangements and review compliance with the state budget. Specifically, the office is expected to promote the exercise of parliament's budgetary power and the effectiveness of the body's administration. It also oversees election and party funding. The office is directed by the auditor general, who is elected by parliament. With about 140 employees, the office is made up of the Financial and Compliance Audit Department, the Performance and Fiscal Policy Audit Department, the Executive Office, and the Administrative Unit. Covering long-term objectives, operational emphasis and strategic policies, the current audit strategy covers the period 2013 – 2020.

Citation:

"National Audit Office"; [http://www.vtv.fi/en](http://www.vtv.fi/en;);

"The

Audit

Committee",

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

Germany

Score 10

The Federal Court of Audit (FCA) is a supreme federal authority and an independent public body. FCA members enjoy the same degree of independence as the members of the judiciary. Its task is to monitor the budget and the efficiency of state's financial practices. It submits its annual report directly to the Bundestag, the government and the Bundesrat. The Bundestag and Bundesrat jointly elect the FCA's president and vice-president, with candidates nominated by the federal government. According to the FCA's website, around 1,200 court employees "audit the (state) account and determine whether public finances have been properly and efficiently administered," while the FCA's "authorized officers shall have access to any information they require" (Federal Budget Act Section 95 Para. 2). The reports receive considerable media attention.

Citation:

<https://www.bundesrechnungshof.de>

Iceland

Score 10

Iceland's National Audit Office is fully accountable to parliament. Considering its substantial human and financial resource constraints, the National Audit Office performs its functions quite effectively. These constraints, however, mean that a vast majority of the agencies under its jurisdiction have never been audited. No significant strengthening of the office's financial resources occurred for several years, as its staff numbers were reduced from 49 in 2009 to 41 in 2015, a total of 16%. In 2016, the staff number was increased to 47.

Citation:

Ársskýrsla Ríkisendurskoðunar 2016. (Júní 2017). <https://rikisendurskodun.is/wp-content/uploads/2017/06/Arsskyrsla-RE-2016.pdf>. Accessed 21 December 2018.

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

Sweden

Score 10

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

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

Citation:
www.riksrevisionen.se

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

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

United Kingdom

Score 10

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

United States

- Score 10** The General Accountability Office (GAO) is the independent nonpartisan agency of the U.S. Congress charged with auditing activities. It is responsive to Congress alone. The GAO undertakes audits and investigations upon the request of congressional committees or subcommittees, or as mandated by public laws or committee reports. The GAO also undertakes research under the authority of the Comptroller General. In addition to auditing agency operations, the GAO analyzes how well government programs and policies are meeting their objectives. It performs policy analyses and outlines options for congressional consideration. It also has a judicial function in deciding bid protests in federal procurement cases. In many ways, the GAO can be considered a policy-analysis arm of Congress.

Croatia

- Score 9** 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 and acts independently.

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.

Israel

- Score 9** The Knesset's audit functions are divided between three main institutions: the State Comptroller, the State Audit Committee and the Knesset Internal Audit Department. However, the State Comptroller is independent and legally anchored in a basic law that acknowledges its importance. The Knesset audit committee is in charge of

following up on reports issued by the State Comptroller. While the State Comptroller enjoys independence and adequate resources, it does not hold sanction power. Instead, its mandate ends with the submission of its findings and the establishment of an advisory committee for implementing its recommendations in the audited office. However, its responsibility to audit financial contributions during elections is accompanied by external judicial sanction powers.

The State Audit Committee's chairman, MK Shelly Yachimovich, mentioned in a recent interview that, while reports that deal with important issues and failures don't have much hope of repairing systemic problems, "reports that involve the ministers directly are of great concern to them," even if the reports themselves don't include any real sanction.

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

In 2017, MK Bezalel Smotrich presented to the Knesset a bill to amend the State Comptroller Act of 1958, proposing to strip the comptroller of substantial authorities that in actuality cement his independence. The most important of these authorities is the State Comptroller's authority to choose any topic or field to audit that was not specified in this act. At the time of writing, the bill is still awaiting its preliminary reading in the plenum. The State Audit Committee's chairman, MK Yachimovich, mentioned in that same interview that, in addition to this bill, "there are a lot of schemes and intentions of audited corpora [lit. factors] to sterilize the comptroller."

Citation:

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

Bezalel Smotrich. Serial number: P/20/4167. Internal number: 2010953. Placed in the Knesset's plenum on May 8th, 2017. (Hebrew). Full text: https://www.nevo.co.il/law_html/law04/20_lst_383235.htm (most specifically article 1, "Amendment of Article 10," clause 1)

Gideon, Alon. "There Are Schemes of the Audited to Sterilize the State Comptroller," Israel Hayom, October 22nd, 2018, p. 21. (Hebrew)

Israel. The Knesset. Bill of the State Comptroller Act (Amendment – Reporting of Correction of Deficiencies), 2017.

"Law Bill." In the Knesset's official website (regarding "Bill of the State Comptroller Act (Amendment – Reporting of Correction of Deficiencies)," by Bezalel Smotrich). Last seen: October 24th, 2018. (Hebrew). <https://main.knesset.gov.il/Activity/Legislation/Laws/Pages/LawBill.aspx?t=lawsuggestionssearch&lawitemid=2010953>.

Tamir, Michal, "The State Comptroller: A critical look," Israel Democracy Institute. (2009). (Hebrew).

The State Comptroller Act, 1958 [Integrated Edition [or Version]] (Hebrew) (most specifically article 10, “The Audit’s Magnitude,” clause A, reference 3)

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

Luxembourg

Score 9

The Chamber of Auditors was upgraded in 1999 to become the Court of Auditors which manages 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, yet 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 undertakes cases voluntarily or through parliamentary instruction.

Citation:

Annual reports and special reports are available at:

“Rapports.” Cour des comptes du Grand-Duché de Luxembourg. <http://www.cour-des-comptes.lu/fr/rapports.html>. Accessed 23 Oct. 2018.

Malta

Score 9

The National Audit Office is an independent institution, reports exclusively to parliament and is charged with scrutinizing the fiscal performance of public administration. Both the auditor general and his deputy are appointed by a resolution of the House, which requires the support of no less than two-thirds of all of its members. The auditor general enjoys constitutional protection. The Public Accounts Committee has limited means at its disposal and depends on the audit office for support. Referrals by the prime minister and parliament to investigate matters that fall into his competence have been regular and increasing in recent years. The office audits all central government ministries and local government as well as publishes special reports on key and often controversial policy areas (currently higher education and health).

Citation:

2013 A Challenging year for the National Audit Office. Malta Today 12/03/14

<http://www.timesofmalta.com/articles/view/20150731/local/national-audit-office-investigation-requests-quadruple.578701>

<http://www.timesofmalta.com/articles/view/20151119/local/PM-welcomes-NAO-s-inquiry-on-visa-claim.592668>

<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-Deguarra.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>

Slovenia

Score 9

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

Switzerland

Score 9

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

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

Citation:

NZZ 4. Sept. 2018

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

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

Bulgaria

Score 8

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

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

Chile

Score 8

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

Czechia

Score 8

The Supreme Audit Office (Česká republika Nejvyšší kontrolní úřad, NKÚ) is an independent agency which audits the management and performance of state property, institutions and the national budget. In doing so, it has also paid special attention to examining the financial resources provided to Czechia from the EU budget. The functioning of the NKÚ is regulated by the constitution, whereby the president and vice-president of the NKÚ are appointed for the period of nine years by the president of Czechia, based on proposals from the lower house of parliament. In addition, the NKÚ prepares at the request of the Chamber of Deputies, the government and individual ministries, comments and opinions on proposed legal regulations,

especially those concerning the budget, accounting, statistics, auditing, tax and inspection activities. On the basis of the identified shortcomings, the NKÚ regularly analyzes the weaknesses of the budgetary process and formulates recommendations. In 2017, the Audit Committee of the Chamber of Deputies of the Parliament of Czechia discussed 12 audit conclusions. The government considered 28 audits and implemented 220 NKÚ recommendations.

France

Score 8

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

Instead, the Court of Accounts is now at the disposal of any parliamentary request and can act both as auditor and adviser. While much progress could be made to fully exploit this opportunity, it is noticeable that collaboration between the two institutions has improved since the Court's presidency was offered to two prestigious former politicians. Improvements also resulted from the decision by former President Sarkozy to appoint the then chairman of the finance and budget committee of the National Assembly to the post, a position which for the first time had been reserved for the opposition party. Actually, the role of the court has dramatically changed, from a mere control of accounts to a full evaluation of public policies.

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. Over the last few years, the National Audit Office criticized the government's draft budgets for their lack of compliance with fiscal-discipline provisions and poor allocation of government expenditure. However, these criticisms were largely ignored by members of parliament or ministerial officials. In its 2018 report to the parliament (Seimas), the National Audit Office reported that 60% of its recommendations have been implemented, 25% of its recommendations faced delays during implementation, and a remaining 15% of recommendations have not reached their implementation deadlines yet. The National Audit Office was ranked as the best

state institution in 2016 by the Lithuanian journal Veidas due to its representation of state interests, competence and exceptional performance. Recently, the new head of the National Audit Office reinforced activities engaging the broader public and experts in debating the state budget, both to educate citizens and increase the political importance of the recommendations provided by the office.

Mexico

Score 8

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.

Portugal

Score 8

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

Romania

Score 8

The Court of Accounts is an independent institution in charge of conducting external audits on the propriety of money management by state institutions. Parliament adopts the budget proposed by the court's plenum and appoints the court's members, but cannot remove them. The court president is appointed by parliament for a nine-year term from among the counselors of account. Thus, while court presidents tend to be appointed on a partisan basis, they are not always representing the current parliamentary majority. The court submits to parliament annual and specific reports that are debated in the legislature after being published in the Official Gazette. The annual public report articulates the court's observations and conclusions on the audited activities, identifies potential legal infringements and prescribes measures. The appointment of Mihai Busuioc, who has been close to PSD leader Dragnea, as new court president in mid-October 2017 has raised concerns about its independence. These concerns have been aggravated by parliamentary proposals to alter the Court's remit and to render it more amenable to the will of the government. President Iohannis referred the legislation to the Constitutional Court in July 2018. The European Commission has threatened to freeze EU funds.

Italy

Score 7

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

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

Netherlands

Score 7

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

ongoing policy-oriented learning. Unfortunately, this has been accompanied by a substantial reduction in resources for the Audit Chamber, resulting in a loss of 40 full-time employees and the need to outsource research frequently.

Citation:

http://www.rekenkamer.nl/Over_de_Algemene_Rekenkamer

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

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

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

Poland

Score 7

Poland's Supreme Audit Office (Naczelna Izba Kontroli, NIK) is an efficient and effective institution whose independence is respected. It is accountable exclusively to the Sejm. The NIK chairperson is elected by the Sejm for six years, ensuring that his or her term does not coincide with the term of the Sejm. The Senate has to approve the Sejm's decision. The Supreme Audit Office has wide-ranging competencies and is entitled to audit all state institutions, government bodies and local-government administrative units, as well as corporate bodies and non-governmental organizations that pursue public contracts or receive government grants or guarantees. The NIK can initiate monitoring proceedings itself or do so at the request of the Sejm, its bodies or its representatives (e.g., the speaker of the Sejm, the national president or the prime minister). The office is also responsible for auditing the state budget. For the first time ever, in September 2016, the Sejm did not approve the annual report of the Supreme Audit Office (NIK) – 226 members of parliament voted to reject the report, while 193 voted in favor of it and 10 abstained. This was a clear signal that the PiS government wants to get rid of NIK governor Krzysztof Kwiatkowski, who had been appointed under the previous government, and whose term runs until August 2019. Between November 2016 and April 2017, 13 members of the NIK council saw their terms in office expire. However, the Sejm speaker was very slow to appoint the proposed new members, which has hindered the NIK's ability to review the state budget. This delay has been widely perceived as an attempt to obstruct the NIK's functioning. The fact that the NIK actually works professionally was shown by its top showing in a competition for the rights to supervise the OECD's financial management.

Greece

Score 6

The audit office is an institution formally independent of the government and the 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 comparable to other judges. The audit office submits to the parliament an annual financial statement and the state's balance sheet. Submissions of some of these financial statements have been delayed. For example, as of late 2018, the most recent financial statements available were those concerning 2014.

As in the case of selecting high-ranking judges, the government selects and appoints the audit office's president and vice-presidents. Nonetheless, the audit office has detached itself from government control. For example, in June 2017 the audit office declared the freezing of civil servants' pensions unconstitutional, a measure which had been part of the incumbent government's plan to consolidate the state's finances.

In early 2017, precautionary control of state finances was abolished and the office can now conduct "focused" audits into certain agencies or categories of expenses. It remains to be seen if this change will help upgrade transparency in Greece's public sector.

Citation:

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

Hungary

Score 6

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

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 is also able to 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.

In the case of the Moritomo Gakuen scandal, a deal involving the transfer of state-owned land in which the prime minister himself and his wife have been implicated, the board submitted an interim report to the Diet in June 2018. This contained very serious allegations of misconduct in the Ministry of Finance.

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/>

A school of hard knocks. A persistent scandal ensnares Japan's prime minister, *The Economist*, 15 March 2018, <https://www.economist.com/asia/2018/03/15/a-persistent-scandal-ensnares-japans-prime-minister-again>

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

Slovakia

Score 6

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

Citation:

Nemec, J. (2018): Slovakia, in: N. Thijs, G. Hammerschmid (eds.), *Public Administration Characteristics and Performance in EU28*. Luxembourg: European Union, 899-900 (<https://publications.europa.eu/en/publication-detail/-/publication/a7c9b4c2-960f-11e8-8bc1-01aa75ed71a1/language-en>).

Spain

Score 6

The Audit Office (Tribunal de Cuentas) is accountable primarily to parliament, but is not an integral part of it. The Audit Office exercises the function of auditing the state's accounts and the financial management of the entire public sector. However, even if this organ is envisaged by the constitution as a powerful one, parliament cannot fully rely on its auditing capacities. Public accounts are submitted annually to

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

Citation:

Tribunal de Cuentas (2018), Annual audit programme - https://www.tcu.es/tribunal-de-cuentas/en/fiscalizacion/Plan_Programa/programa-anual/

Cyprus

Score 5

The auditor general is a constitutionally independent officer appointed by and reporting to the president, the highest authority in the republic. The office is equivalent to that of a Supreme Court justice. The auditor general presents an annual report to the president, who “shall cause it to be laid” before the parliament. This informs the parliament about the audit's findings. The auditor general is regularly invited to parliamentary committee hearings. The constitution provides that the audit office reviews “all disbursements and receipts, and audit and inspect all accounts of moneys and other assets administered, and of liabilities incurred, by or under the authority of the republic.” This gives it oversight authority over all three estates, local governments and the broader public sector. The current auditor general's involvement in recent incidents indicate disrespect for impartiality and have damaged the authority of the institution.

Citation:

1. Our View: Auditor general's put downs for personal glory only, opinion Cyprus Mail, 6 December 2017, <https://cyprus-mail.com/2017/12/06/view-auditor-generals-put-downs-personal-glory>

Estonia

Score 5

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

Latvia

Score 5

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

In order to promote the responsibility of officials and company managers for their decisions, the State Audit Office has frequently called for amendments to the law, which would enable the State Audit Office to impose financial penalties on officials who have wasted state funds. The law has been under discussion in the parliament since 2015, with repeated calls from the State Audit Office to solve the issue.

Citation:

1. OECD (2009), Review on Budgeting in Latvia, p. 204 and 223, Available at: <http://www.oecd.org/countries/latvia/46051679.pdf>, Last assessed: 05.01.2019
2. Valts Kalniņš (2011), Assessment of National Integrity System, p.116, Published by DELNA, Available at: http://www.transparency.org/whatwedo/pub/national_integrity_system_assessment_latvia, Last assessed: 05.01.2019

South Korea

Score 5

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

Turkey

Score 4

According to Article 160 of the constitution, the Turkish Court of Accounts (TCA) is charged on behalf of the Grand National Assembly with auditing all accounts related to revenues, expenditures and properties of government departments that are financed by the general or subsidiary budgets. The court's auditing capacity was limited by the Law 6085 in 2010, but the Constitutional Court annulled Article 79 regulating how the TCA would audit the accounts of public institutions. In December 2012, the Constitutional Court also annulled the provision limiting performance auditing. Currently, the TCA has three functions: auditing, financial trials and reporting. It conducts regulatory audits and performance audits. Contrary to the Constitutional Court's decision, the current law prohibits the TCA to conduct a propriety audit.

The court's audit reports for 2017 also revealed several improper financial transactions, corrupt procedures and processes across various public institutions, including government ministries, the Directorate of Religious Affairs, TÜBİTAK, universities, and municipalities governed by AKP and CHP. It is claimed that financial irregularities in Istanbul metropolitan municipality and its annex institutions reached up to €125.5 million (TRY 753 million).

The TCA reports to parliament, but is not accountable to parliament. The president and the members of the TCA are elected by the parliament among the graduates of universities or higher education institutions of law, political science, economics and administrative sciences who have served at least 16 years in public service. The auditors are selected from among the university graduates of the same fields to the service by multilevel 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 (highest prosecutors of the country).

The Turkey Wealth Fund is subject to independent audit and will be audited for the first time by the parliamentary Plan and Budget Commission in November 2018. The fund is under the scope of the court's audit.

According to the TI Defense A-C Index, the Turkish parliament has limited-to-no formal powers to oversee defense spending. The parliament cannot formally oversee the defense budget, monitor procurement or scrutinize the military's commercial activities.

The European Commission has recommended that Turkey develop an effective monitoring system in the TCA to follow up implementation of auditors' recommendations.

Citation:

European Commission Turkey Report 2018, <https://ec.europa.eu/.../sites/.../20180417-turkey-report.pdf>, (accessed 27 October 2018)

TC Sayıştay Başkanlığı 2017 Yılı Faaliyet Raporu, [https://www.sayistay.gov.tr/tr/Upload/76662805/files/SAYI%C5%9ETAY%202017%20YILI%20FAAL%C4%B0YET%20RAPORU\(1\).pdf](https://www.sayistay.gov.tr/tr/Upload/76662805/files/SAYI%C5%9ETAY%202017%20YILI%20FAAL%C4%B0YET%20RAPORU(1).pdf) (accessed 27 October 2018).

“Sayıştay haberleri,” <https://odatv.com/tag/Say%C4%B1%C5%9Ftay> (accessed 20 November 2018)

Fikret Şimşek, “Sayıştay nasıl etkisizleştirildi?” <https://www.birgun.net/haber-detay/sayistay-nasil-etkisizlestirildi-235978.html> (accessed 20 November 2018)

Transparency International Government Defense Anti Corruption Index, Turkey 2015Country Summary, <http://government.defenceindex.org/downloads/docs/turkey.pdf> (accessed 27 October 2015).

Indicator

Ombuds Office

Question

Does there exist an independent and effective ombuds office?

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

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

Austria

Score 10

The Austrian Ombudsman Board (Volksanwaltschaft) has three chairpersons, with one nominated by each of the three largest party groups in parliament. Parliament is required by law to select these nominees. This prevents the ombuds office from being run solely by persons handpicked by the ruling majority. The Ombudsman Board is a parliamentary instrument and reports regularly to the legislature. The chairpersons are elected for a period of six years.

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. The office, which had a staff of approximately 100 in 2014, can also initiate investigations on its own and visit other institutions. In 2017, 5,062 cases were concluded: 17.9% were rejected for formal reasons, 17.7% were investigated, and 64.4% led to other forms of processing and assistance to citizens. Again, the largest number of complaints were about municipalities (1,568 cases) and the Ministry of Justice (718 cases), with only a few complaints about the Ministry of Immigration and Integration (186 cases).

Citation:

Henrik Zahle, Dansk forfatningsret 2.

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

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

Estonia

Score 10

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

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

Finland

Score 10

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

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 13 staff members, including six lawyers. In February 2018, Gallup reported that 52% of respondents expressed confidence in the Parliamentary Ombudsman compared with 29% confidence in parliament.

Citation:

The Parliamentary Ombudsman (Umboðsmaður Alþingis),

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

Gallup, <https://www.gallup.is/nidurstodur/thjodarpuls/traust-til-stofnana/>. Accessed 21 December 2018.

Norway

Score 10

Norway has a parliamentary ombudsman whose task is to investigate complaints from citizens concerning injustice, abuses or errors on the part of the central or local-government administrations. The ombudsman is also tasked with ensuring that human rights are respected, and can undertake independent investigations. Every year, this office submits a report to parliament about its activities. In general, the ombudsman is active and trusted.

Poland

Score 10

The Polish ombuds office, the Commissioner for Citizens' Rights, is an independent state organ and is accountable exclusively to the Sejm. It has substantial investigative powers, including the right to view relevant files or to contact the prosecutor general and to send any law to the Constitutional Court. Because of its strong engagement for citizens' rights ever since its creation in 1987, the ombuds office has traditionally been accorded a good reputation. However, the effectiveness of the ombuds office has suffered, as the institution has been assigned new tasks in the field of anti-discrimination policy, but lacks sufficient new funds to perform the tasks properly.

The current Ombudsman Adam Bodnar, a lawyer appointed in September 2015, has become a very active defender of civil and political rights. He was responsible for appealing the Anti-Terror Law, as well as new laws on high-ranking civil servants, the Constitutional Court and the media to the Constitutional Court. He has also been fighting for the rights of his own office, since the Sejm passed a law in 2016 that makes it easier to remove the serving commissioner. In 2018, Bodnar fought with particular vigor against new anti-terror- and surveillance laws, and was later awarded the Rafto Prize for human rights work, awarded by the Norwegian Rafto Foundation.

Citation:

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

Sweden

Score 10

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

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

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

Australia

Score 9

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

Citation:

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

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

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

Belgium

Score 9

The independent federal ombuds office was established in 1995. The goal of the office is to have direct contact with citizens and inform them of the administrative process if need be and collect complaints against the administration. Parliament elects members of the ombuds office, but after their election, ombudsmen are totally independent and autonomous from government. The office makes a public report to

parliament every year (6,892 complaints and information demands were addressed in 2015, in comparison with 7,018 in 2014). However, the ombudsman's role is only informative and deals with facilitation or advocacy; it has no coercive power.

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

Citation:

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

Czechia

Score 9

The Office of the Public Defender of Rights serves as a vital protector of civil rights. It delivers quarterly reports and annual reports on its activities to the Chamber of Deputies, including recommendations on where laws could be changed and report on not fulfilled recommendations. The office also annually evaluates the extent to which these recommendations were followed. It produces detailed reports on cases it investigates, indicating when laws have been transgressed to the extent that the damaged parties have a solid basis for seeking redress. In the last quarter of 2017 and the first three quarters of 2018, the office received about 8,254 complaints, of which 68.6% were within the defender's mandate. Most complaints were related to social security, followed by construction permits and spatial planning, the prison system, the police and the army, the rights of children, youths and families. A new issue has been the application of the EU's General Data Protection Regulation.

Greece

Score 9

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

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

Citation:

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

Luxembourg

Score 9

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

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

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

Citation:

"WELCOME TO OMBUDSMAN.LU." <http://www.ombudsman.lu/index.php?page=accueil&lang=en>. Accessed 23. Oct. 2018.

New Zealand

Score 9

New Zealand was the fourth country in the world to establish an Office of the Ombudsman (in 1962). Ombudsmen are Officers of Parliament. Each Ombudsman is appointed by the governor-general on the recommendation of parliament. Ombudsmen are responsible to parliament and independent of the government. Their overall purpose is to investigate, review and inspect the administrative conduct of public sector agencies and provide advice and guidance in order to ensure people are treated fairly in New Zealand. The office is highly effective in terms of formally or informally resolving complaints. In 2017-2018, 11,468 complaints were received. Organizational reform has been under discussion for a number of years because of an ever-increasing caseload. In addition, there is an even older tradition of dealing with petitions in parliament.

Citation:

Office of the Ombudsman. 2018. Annual Report 2017/2018. http://www.ombudsman.parliament.nz/ckeditor_assets/attachments/686/Annual_Report_2017-18_-_FINAL_no_signature.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 five years. The Ombudsperson is independent in its activities and is subject only to the national 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. The present Ombudsperson, Maya Manolova, has been much more active than her predecessors in addressing the parliament with legislative proposals and the Constitutional Court concerning constitutional interpretations of social rights.

Ireland

Score 8

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

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

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

Israel

Score 8

The State Comptroller also serves as the state ombudsman. Under this role, the office is authorized to investigate complaints raised by the public regarding ministries, local authorities, state institutions and government corporations. Citizens may file a complaint free of charge if they believe that they were directly or indirectly harmed

by an act or an activity of the government; if an act is against the law, without lawful authority, or violates principles of good governance; or if an act is unduly strict or clearly unjust. The office is not obliged to investigate complaints against the president of the state; the Knesset, its committees, or its members, if the complaint refers to acts related to official duties; or a number of other similar issues.

The number of complaints submitted under this provision has risen every year. According to the State Ombudsman's latest report in 2017, a total of 13,573 complaints were submitted to his office, of which 12,822 were within his authority to review. Also, as mentioned in the same report, in 2017 the State Ombudsman received a total of 15,157 complaints, of which 12,429 (82%) were viewed (i.e., they were in the State Ombudsman's jurisdiction) and 43.8% were found justified after review (i.e., found justified by the State Ombudsman or the issue of complaint was rectified as the review was in progress).

The other body to be mentioned is the Commissioner for Soldiers' Complaints. Though authorized to handle complaints regarding the IDF only, the authorization to submit a complaint is very wide. Furthermore, this institution expressed a degree of independence previously uncharacteristic of it, with the commissioner's latest (and last for his term in office) report of 2017 he harshly criticized the IDF's lack of readiness for a potential future armed conflict. In his latest report of 2017, the commissioner received 7,002 complaints (compared to 6,758 in the previous year), of which 59.08% were found justified.

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

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

Israel. The State Ombudsman. Annual Report 44 for the Year of 2017. June 18th, 2018. (Hebrew): <http://www.mevaker.gov.il/he/Reports/Pages/633.aspx?entity=>

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

"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\(5rxc1pa0jpc1qkpdphpupj5p\)\)/En/Pages/default.aspx?AspxAutoDetectCookieSupport=1](http://www.mevaker.gov.il/(X(1)S(5rxc1pa0jpc1qkpdphpupj5p))/En/Pages/default.aspx?AspxAutoDetectCookieSupport=1)

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

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

Lithuania

Score 8

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

Citation:

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

Netherlands

Score 8

The National Ombudsman is a "high council of state" on a par with the two houses of the States General, the Council of State and the Netherlands General Audit Chamber. Like the judiciary, the high councils of state are formally independent of the government. The National Ombudsman's independence from the executive is increased by his/her appointment by the States General (specifically by the Second Chamber or Tweede Kamer). The appointment is for a term of six years, and reappointment is permitted. Recently, irked by the critical attitude of the former ombudsman, parliament made a series of stumbles, first by nominating a former interest-group leader to the post, who resigned after much public criticism; then 13 months passed before the present ombudsman, a renowned judge, formally took over. The National Ombudsman was established to give individual citizens an opportunity to file complaints about the practices of government before an

independent and expert body. Where the government is concerned, it is important to note that the National Ombudsman's decisions are not legally enforceable. The ombudsman publishes his or her conclusions in annual reports. The ombudsman's tasks are shifting toward providing concrete and active assistance to citizens that – due to debts and poverty, digitalization and other problems with access to government regulation – have lost their way in the bureaucratic process. The national ombudsman is assisted by deputies tasked with addressing the problems of children and veterans.

Citation:

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

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

<http://www.nationaleombudsman.nl/?gclid=CMpv8vGltrcCFclZ3godZH0AkQ>

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

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. The current ombudsman, Vlasta Nussdorfer, was elected in February 2013 with the broadest majority yet seen in the country's short parliamentary history (82 out of 90 votes). She enjoys a good reputation and is quite effective in settling issues. Her annual reports focus on a wide variety of problems, above all problems with the judiciary, administrative issues and issues with limitations on personal freedom. As with previous ombudspersons, however, Nussdorfer's role has been occasionally constrained by the lack of interest among members of parliament and ministerial inactivity. In addition, some members of the political opposition and non-parliamentary groups have criticized her lack of action taken in several publicly renowned cases.

United Kingdom

Score 8

The system of ombudsmen has been expanded over the last years. There are now four different ombudsmen that handle complaints about the civil service in each country within the United Kingdom, namely the Public Services Ombudsman for Wales, Scottish Public Services Ombudsman, Northern Ireland Ombudsmen and Commission for Local Administration in England. Further, there is a Parliamentary Health and Service Ombudsman (PHSO) who mainly deals with complaints concerning the National Health Service in England and a Housing Ombudsman who looks at complaints about social housing. However, all ombudsmen's offices are

limited in staff, resources and access to information. For example, ombudsmen have no formal power to see cabinet papers.

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

Citation:

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

France

Score 7

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

Germany

Score 7

The standing parliamentary petitions committee is provided for by the Basic Law. As the “seismograph of sentiment” (annotation 2 Blickpunkt Bundestag 2010: 19; own translation), the committee deals with requests and complaints addressed to the Bundestag based on every person's “right to address written requests or complaints to competent authorities and to the legislature” (Basic Law Art. 17). It is able to make recommendations as to whether the Bundestag should take action on particular matters. Nonetheless, its importance is limited and largely symbolic. However, the committee at least offers a parliamentary point of contact with citizens. In its 2017 report, published and debated in parliament in June 2018, the committee indicated that 11,507 petitions were submitted, an increase compared to the previous year. Two additional parliamentary ombudsmen are concerned with special requests and complaints made by patients and soldiers.

Citation:

file:///C:/Users/RB96BD~1/AppData/Local/Temp/Germany_Pet.%20Committee%20Bundestag_Annual%20Report_2017_DT.%20Committee%20Bundestag_Annual%20Report_2017_DT.pdf

Hungary

Score 7

Hungary has an Ombudsman of Basic Human Rights, elected by parliament. Unlike its much-respected predecessor, the acting ombudsman, László Székely, has not served as a major check on the government and has not become an important public figure. The Ombudsman Office (AJBH) has been rather busy in small individual legal affairs, but it has not confronted the government about serious violations of civil and political rights.

Malta

Score 7

The ombudsman is elected by a two-thirds majority of the House of Representatives and held in high esteem by the public. 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. The ombudsman recommended the office be granted constitutional protections and the appointment of a deputy ombudsman to strengthen the office and to extend the remit of the office to investigate the administrative actions, inactions, decisions and processes of public administration to further good governance.

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

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.

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. From March 2012 to March 2017, Jana Dubovcová, a former judge and one of the most vocal critics of the current state of the Slovak judiciary, took the position. Dubovcová adopted a quite proactive role with regard to anti-discrimination issues and was a vocal critic of unlawful detention cells and the excessive use of force by Slovak police officers in Roma settlements. However, most of her critique was ignored by the ruling majority in parliament and the government, as she was perceived as a “opposition” figure. In March 2017, when her term had expired, Dubovcová was succeeded by Mária Patakyová, a law professor at Comenius University in Bratislava nominated by Most-Híd. Like her predecessor, Patakyová has taken her advocacy role seriously. Despite fierce criticisms by the SNS, she has participated in the Pride Parada in Bratislava in August 2017 and has actively defended LGTBI rights. In 2018, she announced that she would focus on education rights and the right to compensation for Roma women subject to unlawful sterilization.

Spain

Score 7

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

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

Citation:

Ombuds office (2018), Informe 2017

https://www.defensordelpueblo.es/wp-content/uploads/2018/03/Informe_anual_2017_vol.I.I1_Gestion.pdf

El periodico (2018), El Defensor del Pueblo critica la presencia de lazos amarillos en edificios públicos <https://www.elperiodico.com/es/politica/20180903/defensor-pueblo-lazos-amarillos-espacio-publico-7015671>

Canada

Score 6

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

Croatia

Score 6

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

In 2018, unlike in the previous year, the Sabor endorsed the annual reports of all ombudspersons. Lora Vidović, the current ombudsperson for human rights, made more than 200 recommendations for improving the enforcement of human rights. She listed five fundamental social problems that strongly affected the status of human rights in Croatia: poverty, lack of information about the rights, unequal access to the rights, lack of trust in institutions, and intolerance and lack of dialog. Notwithstanding the parliamentary endorsement, however, most government institutions do not react promptly to the Ombudsman's requests, with requests often left pending for considerable time.

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.

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.

Japan

Score 5

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

An important petition mechanism is located in the Administrative Evaluation Bureau of the Ministry of Internal Affairs and Communications. The bureau runs an

administrative counseling service with around 50 local field offices that can handle public complaints, with some 220 civil servants engaged in administrative counseling. In 2017, about 156,000 cases were addressed through this administrative counselling function. About 5,000 volunteer administrative counselors serve as go-betweens. A related mechanism is the Administrative Grievance Resolution Promotion Council, which includes non-governmental experts.

Citation:

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

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. 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 a relevant constitutional provision, an ombuds office was established by Law 3/1991 as the Office of the Commissioner for Administration and Human Rights. The president of the republic appoints the commissioner upon the recommendation of the Council of Ministers, subject to prior approval by the parliament. The commissioner presents an annual report to the president, with comments and recommendations. Copies of the report, investigative reports and activity reports are made available to the Council of Ministers and to the parliament.

Excluded from the commissioner's oversight are the House of Representatives, the president of the republic, the Council of Ministers, ministers themselves, courts

(including the Supreme Court) and other officials. More recently, politically motivated appointments to the office call into question the institution's credibility.

Citation:

1. Parliament approves president's choice for ombudsman position, Cyprus Mail, 31 March 2017, <https://cyprus-mail.com/2017/03/31/parliament-approves-presidents-ombudsperson-appointment/>

Turkey

Score 4

A law establishing a Turkish ombudsman office, called the Public Monitoring Institution (KDK), was adopted in June 2012 and went into force in December 2012. The office is located within the Parliamentary Speaker's Office, and is accountable to parliament. The ombudsman reviews lawsuits and administrative appeals (from the perspective of human rights and the rule of law) and ensures that the public administration is held accountable. In 2017, it received 17,131 new applications, almost three times as many as the annual average for the previous four years. It concluded 14,746 cases and adopted 422 full or partial recommendations. Overall, public administration has acted on about 65% of these recommendations, confirming a steady trend of increasingly adopting recommendations. According to the KDK itself, two main obstacles hamper the efficacy of its work. First, the degree of compliance with its decisions has been low, with only 20% of its released decisions having been obeyed by public administrative bodies. Second, under the current law, the KDK cannot conduct inquiries on its own initiative. Moreover, the mandate of the office does not cover administrative actions performed by military personnel. The Ombudsman has been active in raising awareness of the role. However, due to its limited authority to initiate investigations and intervene in cases with legal remedies, the Ombudsman remained silent on certain human rights issues, most notably on reported human rights violations in the southeast of Turkey. The Ombudsman's limited powers reduce the institution's effectiveness and contribution to the fields of human rights and good governance.

The Parliamentary Petition Committee reviews citizens' petitions (a total of 6,055 in 2015) and refers them to the relevant authority, when appropriate. The Human Rights Investigation Commission has the authority to receive, investigate and review complaints on human-rights issues. The Commission on Equal Opportunities for Women and Men is entitled to review complaints regarding violations of gender equality.

Citation:

European Commission Turkey Report 2018, <https://ec.europa.eu/sites/default/files/20180417-turkey-report.pdf>, (accessed 27 October 2018)

T.C. Kamu Denetçiliği Kurumu 2017 Yıllık Rapor, <https://www.ombudsman.gov.tr/wp-content/uploads/2016/06/2017-y%C4%B1ll%C4%B1k-rapor-SON-PDF.pdf> (accessed 1 November 2018)

TBMM Dilekçe Komisyonu 24. Dönem Faaliyet Raporu, https://www.tbmm.gov.tr/komisyon/dilekce/docs/faaliyet_raporlari/24_yd_faaliyet_rapor.pdf (accessed 27 October 2015)

Italy

Score 3

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

Citation:

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

Latvia

Score 3

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

An independent ombuds office was created in 2007 following the reorganization of the Latvian National Human Rights Office. The ombuds office is charged with investigating citizens' complaints, monitoring human rights and proposing governmental action to address systemic issues. Since 2011, the ombuds office has been active in monitoring social care facilities for the disabled, closed institutions, access-to-justice failings, issues of equal access to free education, and discrimination against women as well as raised public awareness on hate speech. In 2017, the ombuds office received 1,738 complaints, 45 of which were investigated. The ombuds office reports annually to parliament.

Citation:

1. Ombudsman of Latvia Annual report (2017) Available at (in Latvian): http://www.tiesibsargs.lv/uploads/content/lapas/tiesibsarga_2017_gada_zinojums_1520515340.pdf, Last assessed 02.01.2019

Romania

Score 3

The Romanian Ombudsman was established in 1991 after the ratification of the country's first post-communist constitution and is appointed by both chambers of parliament for a term of five years. The current Ombudsman is Victor Ciorbea, a former prime minister (1997-1998) and senator tainted by allegations that his legal practice has defended the interests of some notorious corrupt politicians. Nominated to the post in April 2014, Ciorbea has been criticized for ignoring the concerns of ordinary citizens and championing those of politicians. In October 2018, the National

Liberal Party (PNL) cited formal reasons in calling for Ciorbea's resignation –after he failed to delegate his duties while on holiday.

Chile

Score 2

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

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

Citation:

Ombudsperson on Children's Rights

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

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. Since May 2018, the inspectorate is responsible for ensuring compliance with the European Union's GDPR. The inspectorate has about 20 staff members and is led by a director general. 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:

Annual Report of Director General 2017. <http://www.aki.ee/en/inspectorate/annual-reports> (accessed 25.10.2018)

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 ombudsman

office has 25 employees. The office can be called for guidance in private matters or to advise organizations.

:

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

France

Score 10

Data protection in France has a rather long history. The extremely active CNIL (Commission Nationale Informatique et Libertés) dates back to 1978. Its board of 17 members is appointed by the two chambers of the parliament. The board then elects its president. The CNIL enjoys the status of an Independent Regulatory Agency. It has five main functions, namely to: inform the public on personal data protection; support any person in relation to personal data protection; advise the legislator; control the use of personal data by private companies and public services; plan and prepare for the impact of technological developments on personal data. The CNIL has been very effective over the past 40 years, and its role is widely supported by the public and political elites. Since May 2018, a European regulation states that every company or public body dealing with personal data has to appoint a “data protection advisor.” There is not yet information about the actual implementation of this obligation.

Iceland

Score 10

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

Citation:

The Icelandic Data Protection Authority (Persónuvernd), <https://www.personuvernd.is/information-in-english/greinar/nr/437>. Accessed 22 December 2018.

Switzerland

Score 10

Article 13 of the constitution establishes that every citizen must be protected against the abuse of data. Since 1993, a law for data protection has been in force. There is a Federal Officer for Data Protection (Eidgenössischer Datenschutzdelegierter, EDÖB). 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.

Austria

Score 9

Since 2013, an office for data protection has existed, which replaced the former Data Protection Committee. The office is headed by a chairperson nominated by the federal government and appointed by the federal president for a period of five years. Despite the nomination by the government, the office and its chairperson is not dependent on the government – it is not obliged to follow any specific government directive. Over the last few years, the independence of the office has never seriously been questioned. In 2018, following the European Union's GDPR taking effect, the data protection authority was restructured and scaled up.

Canada

Score 9

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

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

Denmark

Score 9

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

During 2017, the agency took part in 391 cases of law preparation, received 1,511 questions and complaints about private companies and other data-responsible actors, and received 702 questions and complaints about public authorities. The agency initiated 73 cases and there were 255 international cases.

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

At the national level, there is the “Bundesbeauftragter für den Datenschutz und die Informationsfreiheit” (BfDI), which has a long history dating back to the end of the 1970s. Since January 2016, this institution has been an independent federal authority subject only to parliamentary and judicial control but no longer under the authority of the minister of the interior. Independence of the authority’s head is highly protected. A dismissal is only possible with reasons similar to those that apply to the dismissal of a lifetime judge. The authority’s budget and number of staff have considerably increased. From 2015 to 2017, its staff has increased from 90 to 160 positions and a further increase is planned. The authority’s task is to control federal institutions’ compliance with national and European data protection rules.

Citation:

Die Bundesbeauftragte für den Datenschutz und die Informationsfreiheit (2017): 26. Tätigkeitsbericht zum Datenschutz für die Jahre 2015 und 2016, Bonn.

https://www.bfdi.bund.de/SharedDocs/Publikationen/Taetigkeitsberichte/TB_BfDI/26TB_15_16.html?nn=5217212

Greece

Score 9

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

Citation:

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

Ireland

Score 9

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

Lithuania

Score 9

An independent and effective data protection authority exists in Lithuania. The State Data Protection Inspectorate is responsible for the supervision and control of enforcement of legal protections for personal data. The status of the government agency gives the agency the legal and policy independence necessary for making regulatory decisions. With experience exceeding 20 years and a staff of about 30, the agency has adequate capacities and resources to focus on the implementation of the General Data Protection Regulation that came into force in 2018. However, despite the allocation of two additional positions, the State Data Protection Inspectorate was unable to recruit new staff in 2017 due to a shortage of financial resources.

Luxembourg

Score 9

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

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

Furthermore, the CNPD publishes an annual report regarding its performance, which is submitted to the government, parliament, European commission, and European committee on data protection. The CNPD is a collegiate body with three permanent and three substitute members.

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

Citation:

Commission nationale pour la protection des données. <https://cnpd.public.lu/fr.html>. Accessed 23 Oct. 2018.

Norway

Score 9

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

Slovenia

Score 9

Following the establishment of the Information Commissioner on 31 December 2005, Slovenia has an independent and effective data protection authority. The commissioner supervises the protection of personal data and access to public information. The office is led by Mojca Prelesnik, previously the general secretary to the parliament. 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 re-use public information; supervising the implementation of legislation regulating the processing and protection of personal data; acting as an appellate body on individual complaints regarding a refusal to make personal information available to the respective individual.

There is also a government Office for the Protection of Classified Information. The office monitors the classification and protection of information, and 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 2018 (<https://www.ip-rs.si/en/about/information-commissioner/>)

Sweden

Score 9

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

Citation:

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

Belgium

Score 8

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

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

Citation:

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

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

Czechia

Score 8

Data protection rests with the Office for Personal Data Protection (Úřad pro ochranu osobních údajů, ÚOOÚ), an independent body set up under a law passed in 2000 to supervise the observance of the legal obligations laid down for processing personal data; to maintain the register of notified data processing operations; to deal with initiatives and complaints from citizens concerning any breach of the law; and to

provide consultancy in personal data protection. The president of the republic appoints the president of the office at the proposal of the president of the upper house of parliament (Senate). The scope of the ÚOOÚ's activities has widened in the context of the adopted European legislation on the protection of personal data. In the period under review, the implementation of the EU's General Data Protection Regulation featured prominently on the agenda of the ÚOOÚ. In 2017, the ÚOOÚ received 1,684 infringement complaints.

Italy

Score 8

The Italian Data Protection Authority (Garante per la protezione dei dati personali) is an independent administrative authority set up by the so-called Privacy Law (Law No. 675 of 31 December 1996). Its four members are elected by the parliament for non-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/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. This figure heads the Data Protection Authority, which is both effective and independent. The authority's website provides information about the protection the office provides in various fields. It also provides assistance to citizens who believe their privacy has been invaded. Malta also abides by EU legislation and decisions by the Advocate General of the European Court in this area, and in May 2018 transposed the EU General Data Protection Regulation (GDPR) into law. Since the law has taken effect, 100 breaches of the data protection act have been reported, with 17 of these leading to a fine. Maltese courts can also be called upon to adjudicate complaints relating to data privacy infringements. A recent ruling by the Information and Data Protection Appeals Tribunal clarified that the data protection commissioner has the right to issue enforcement orders when a government ministry fails to issue certain information – in the case under review, information relating to government consultants' contracts.

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/>

Poland

Score 8

In May 2018, a new act on data protection entered into force. This replaced the 1997-era law, and is supposed to help implement the EU General Data Protection Regulation. The law has also introduced a new supervisory authority in Poland, the Office of Personal Data Protection, which replaced the Inspector General for Personal Data Protection. The president of this office is appointed for a four year term by the Sejm, with consent of the second chamber, the Senate.

Spain

Score 8

The Spanish Data Protection Agency (Agencia Española de Protección de Datos, AEPD) is a public authority that acts fully independently of the public administration. According to Organic Law 15/1999, the director of this body is to exercise his or her functions independently and objectively, and is not to be subject to any instructions. The Advisory Board is made up of two members of parliament, a representative of the central administration, representatives of the autonomous regions that have their own data protection agencies, a local-administration representative, a member of the Royal Academy of History, an expert, a member representing users and consumers, and a representative from the private business sector. The AEPD carries out its investigations primarily at the request of citizens, although it is also empowered to initiate its own investigations. The agency communicates to the government through the Ministry of Justice. So far there is no evidence that the agency is incapable of holding government offices accountable. Being integrated in a wider international and subnational network of agencies, the AEPD has the capacities and personnel resources to advocate data protection and privacy issues vis-à-vis the government and against vested interests.

Citation:

ORGANIC LAW 15/1999 of 13 December on the Protection of Personal Data

Google Spain SL, Google Inc. v Agencia Espanola de Proteccion de Datos.” Court of Justice of the European Union. May 13, 2014. <https://curia.europa.eu/jcms/upload/docs/application/pdf/2014-05/cp140070en.pdf>

United Kingdom

Score 8

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

by the GDPR will be maintained after the United Kingdom leaves the European Union.

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

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

Australia

Score 7

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

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

Citation:

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

Bulgaria

Score 7

The Personal Data Protection Commission was established in 2002. Bulgarian legislation treats all personal data administrators (from both the public and the private sector) similarly and the commission has equal powers with respect to both. The commission can regulate the implementation of the law, review personal data administrators' activities, provide critical assessments, propose changes and in case

of infringements temporarily suspend administrator's privileges. It can also be addressed by citizens with complaints about infringements of personal data rights by government and private bodies. However, the factual protection of citizens against infringements on their privacy rights lags behind the significant formal powers of the commission.

Croatia

Score 7

The Croatian Personal Data Protection Agency 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. As a result, it requested that the Croatian Employers' Association be more intensively involved in implementing the GDPR.

Israel

Score 7

Israel's cyber security policy in the civilian sector has evolved over the past two decades, starting with the Management of Security in Public Corpora Act of 1998. The act detailed the security requirements for information systems belonging to entities defined as "essential" to the state's function, such as companies operating and maintaining national level infrastructure. In 2002, the government decided that the National Authority for Information Security in the Israeli Security Agency (in Hebrew "Shabak") would direct these essential entities. In 2011, the government decided to develop its national cyber capabilities further by establishing the National Cyber Headquarters in the Prime Minister's Office, charged with, among other things, the responsibility for managing the national cyber policy and strategy, and

developing the national cyber capabilities. In 2015, the government established another cyber-related unit in the Prime Minister's Office named the National Cyber Security Authority, whose role is to defend the civilian cyber space in general and critical state assets more specifically. Lastly, in 2018, the authority and the headquarters were conjoined to form the National Cyber Directorate, which reports directly to the prime minister.

The National Cyber Directorate and the Authority for the Protection of Privacy are distinct in character and operation. The former has a more active character, actively defending the Israeli cyberspace and fighting hostile or criminal elements. The latter, on the other hand, has a more passive character, concerns first and foremost with the protection of citizen privacy, and secondly with how individuals and organizations should ensure the security of information they hold.

While the directorate appears to be mostly entrusted with the regulation and defense of essential infrastructure, the services it offers extend to the individual citizen too. The directorate's official website provides advice and information concerning cyber activity and security, including contact details (phone and email) in the event of a cyber assault. The directorate is also entrusted with training and certifying professionals across different cyber-related professions, and lately announced the launch of a first course to train certified inspectors. In addition, in light of the upcoming Israeli national elections, the directorate has also published a guide for safe behavior in and management of cyberspace, which aims to strengthen the integrity of the electoral process. The guide is targeted at individuals as well as organizations, and details common cyber assault methods, and practical advice for protection and safety.

Citation:

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).

Goichman, Rafaela. "A Hacker Attack or Just an Amateurish Website? What Brought Down the Website Made for the Elections Day," TheMarker, November 1st, 2018, p. 2. (Hebrew).

Goichman, Rafaela. "'There Was No Internet Reception': the Crashed Elections Results' Website Still Isn't Back Running." In TheMarker website. November 1st, 2018. (Hebrew). <https://www.themarker.com/technation/1.6614011>.

Memorandum for the Cyber Security and the National Cyber Directorate Act, 2018. (Hebrew). Full text: https://www.nevo.co.il/law_html/law11/44319.htm

Siboni, Gabi, and Ido Sivan-Sevilla. Cyber Regulation. Memorandum 180. Tel Aviv: The Institute for National Security Studies, 2018. (Hebrew).

"The Government ICT Authority | About the Government ICT Authority." In the Government ICT Authority's official website. Last updated: May 2nd, 2015. (Hebrew). https://www.gov.il/he/Departments/about/about_ict_authority.

"The National Cyber Directorate | About the National Cyber Directorate." In the Israel National Cyber Directorate's official website. Last updated: October 24th, 2018. (Hebrew). <https://www.gov.il/he/Departments/about/newabout>.

"The National Cyber Directorate." In the Israel National Cyber Directorate's official website (main page). Last seen:

November 1st, 2018. (Hebrew). https://www.gov.il/he/Departments/israel_national_cyber_directorate.

“The National Cyber Directorate | The Directorate is Happy to Announce the Opening of the First Course for the Training of Certified Inspectors in the Market [lit. economy].” In the Israel National Cyber Directorate’s official website. September 12th, 2018. (Hebrew). <https://www.gov.il/he/Departments/news/supplychaintraining>.

Ziv, Amitai, ‘A Shin Bet Puppet.’ What Went Wrong With Israel’s Cybersecurity Agency, Ha’aretz, 29.8.2018: <https://www.haaretz.com/israel-news/business/.premium-cybersecurity-agency-drops-role-of-protecting-business-1.6429506>

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 Privacy Commissioner administers the Privacy Act 1993. In recent years, both the New Zealand Law Commission and the Office of the Privacy Commissioner have made recommendations for particular areas of reform (including mandatory breach notification and stronger enforcement powers) to bring New Zealand’s privacy law in to line with other jurisdictions. The minister of justice introduced a bill amending the current Act on 20 March 2018. The proposal includes stronger powers for the privacy commissioner, mandatory reporting of privacy breaches, new offenses and increased fines.

Citation:

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

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

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

Slovakia

Score 7

Based on the 2013 Act on Personal Data Protection, the Office for Personal Data Protection was established in 2014. Headed by Soňa Pótheová, 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 EU’s General Data Protection Regulation, has further aggravated the problems.

United States

Score 7

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

Many state attorneys generally have similar enforcement authority over unfair and deceptive business practices, including the failure to implement reasonable security measures and violations of consumer privacy rights that harm consumers in their states. In addition, a wide range of sector-specific regulators, particularly those in the health care, 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/>

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. She/he must have the qualifications for appointment as a judge of the Supreme Court, which is, however, somewhat vague. The commissioner’s authority is extended to both public and private persons, except on processing operations by courts when acting in their judicial capacity.

Violations of personal data by various agents, including the authorities, politicians and political parties, has always been an issue of concern. Massive numbers of SMS and other messages to citizens during election campaigns prompted a limited number of complaints, with fines imposed on senders. No independent report exists evaluating the effectiveness of the office.

Citation:

1. Law on the Protection of Personal Data, L.125(I)/2018
[http://www.dataprotection.gov.cy/dataprotection/dataprotection.nsf/BAE2F781893BC27DC225820A004B7649/\\$file/Law%20125\(I\)%20of%202018%20ENG%20final.pdf](http://www.dataprotection.gov.cy/dataprotection/dataprotection.nsf/BAE2F781893BC27DC225820A004B7649/$file/Law%20125(I)%20of%202018%20ENG%20final.pdf)

Hungary

Score 6

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

Japan

Score 6

Pursuant to the terms of the recently amended and now fully effective Act on the Protection of Personal Information, a Personal Information Protection Commission (PPC) was established in January 2016. The commission is a cross-sectoral, independent government body oversees the implementation of the act. Its chairperson and commissioners are appointed by the prime minister with the consent of both chambers of parliament. It is too early to judge whether this commission will in fact be able to maintain independence from the government, and whether it will be effective. The current public discussion is still dominated by the difficulties of how to implement the act under complex real-world conditions.

Citation:

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

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

Portugal

Score 6

Since 1994, Portugal has had a National Authority for Data Protection (Comissão Nacional de Protecção de Dados, CNPD). The CNPD plays an active role in data protection issues. However, budgetary restrictions, under the previous and current governments, are limiting the CNPD's ability to carry out its tasks. Indeed, the introduction to the most recent CNPD 2016 activity report noted that the authority has faced "increasing difficulties" due to budgetary restraints and limitations on public sector hiring.

Citation:

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

Latvia

Score 5

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

Citation:

1. Personal Data Processing Law (2018) Available at: <https://likumi.lv/ta/en/en/id/300099>, Last assessed: 06.01.2019

2. Data State Inspectorate (2016) Annual Report 2016, Available at: http://www.dvi.gov.lv/en/wp-content/uploads/2013/01/Data_State_Inspectorate_Annual-Report_2016.pdf, Last assessed: 06.01.2019

Mexico

Score 5

Legislation on data protection in Mexico has been ineffective since 2010. The National Institute for Transparency, Access to Information and Personal Data Protection (INAI) is an autonomous constitutional body that oversees data protection. Implementation of data protection is limited, especially in remote areas, for poor and uneducated people, and where security issues are involved. Thus, while there is an adequate institutional framework and organizational setup, the reality of data protection, particularly at the lower levels of government, is sobering.

Romania

Score 5

Romania updated its data protection legislation in accordance with EU GDPR policy in May 2018. The responsibility for protecting personal data rests with the National Authority for the Supervision of Personal Data Processing (DPA) established in 2005. With a staff of about 50 and an operating budget of little more than €1 million, the DPA's resources are limited. The position of the DPA's vice-president has remained vacant for some time, and the position of Ancuța Gianina Opre, the DPA's president since 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 (PIPC) was established on 30 September 2011, and aims to protect the privacy rights of individuals by deliberating on and resolving personal data-related policies. Data protection is regulated by the Personal Information Protection Act (PIPA). Compared to the European Union's General Data Protection Regulation (GDPR), data-protection rules are weak, and the issue remains a problem particularly in the private sector. For example, PIPA lacks the right to be forgotten and the right to refuse profiling. Maximum fines for violations are also much lower in Korea, at €40,000 compared to €20 million under the GDPR. Data security in the private sector remains a significant problem in Korea, where companies have been slow to adapt to international security and encryption standards.

Netherlands

Score 4

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

Effective data protection is practically impossible since 2016 for a number of reasons: many capable personnel have left the DPA, even though the number of staff has increased; the new leadership is considered to be in disarray; the organization is under-financed; hardly any consequential fines have been imposed; "naming and shaming" appears to work, but oversight capacity is lacking; laws and regulations are frequently changing, and consequently monitoring and jurisprudence are constantly "in the making." It looks like the DPA is evolving from a supervisory body to an organization that advises both public and private organizations, and individual citizens on privacy issues, and on how to deal with personal data in ways that (more or less) comply with ever changing regulations and interpretations. All in all, the DPA operates in self-contradictory ways (as both a "hard" inspectorate, and a "soft" advisory body that "names and shames," and advises commercial and public data-users and data-providers) in a technologically turbulent environment.

Citation:

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

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

<https://www.techzine.nl/nieuws/411568/nationale-politie-krijgt-boete-van-de-autoriteit-persoonsgegevens.html>

Volkskrant, Tweede kamer is gerommel by Autoriteit Persoonsgegevens zat, 13 July, 2018

Turkey

Score 3

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

Citation:

European Commission Turkey Report 2018, <https://ec.europa.eu/sites/.../20180417-turkey-report.pdf>, (accessed 27 October 2018)

Kişisel Verilerin Korunması Kanunu, <http://www.mevzuat.gov.tr/MevzuatMetin/1.5.6698.pdf> (accessed 1 November 2018)

İ. Korkmaz, “Kişisel Verilerin Korunması Kanunu Hakkında Bir Değerlendirme,” *TBB Dergisi*, 124, 2016: 81-152.

Chile

Score 2

To date, Chile lacks effective data protection, despite Article 19 of the constitution guaranteeing a right to privacy. As stated by the International Comparative Legal Guides, there is no data protection authority established by law. Therefore, the enforcement of the law is delivered by the courts of justice with those affected enforcing their rights individually.

During the period under review, a draft law has been elaborated which would transform the Chilean Transparency Council (Consejo para la Transparencia) into the Chilean Council for Transparency and Personal Data Protection (Consejo para la Transparencia y Protección de Datos Personales). It's effectiveness will have to be evaluated once the new law is enacted.

Citation:

<https://www.consejotransparencia.cl/presidente-del-cplt-asegura-estar-cada-vez-mas-cerca-el-fin-del-abuso-tras-anuncio-de-urgencia-al-proyecto-de-proteccion-de-datos-personales/>

<https://www.consejotransparencia.cl/consejo-para-la-transparencia-reitero-llamado-a-mejorar-normativa-en-proteccion-de-datos-personales-y-que-impacta-en-ciberseguridad/>

<http://www.eldesconcierto.cl/2018/06/03/carta-abierta-sobre-la-agencia-de-proteccion-de-datos-personales-debe-ser-especializada-e-independiente/>

<http://www.t13.cl/noticia/politica/nacional/la-moneda-deja-manos-del-consejo-transparencia-proteccion-datos-personales>

Chilean Constitution:

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

On data protection in Chile:

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

International Comparative Legal Guides:

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

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