

Commission's 2021 Rule of Law Report



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News

On 20 July 2021, the Commission presented its second EU-wide Report on the Rule of Law. The report consists of a [Communication](#) on the rule of law situation in the EU and of an assessment of the situation in [each Member State](#). The report follows the first Report on the Rule of Law presented on 30 September 2020 (→ [euCRIM 3/2020, 158–159](#)) and assesses the new developments that have occurred since.

Overall, there have been many positive developments in the Member States, including their response to the challenges identified in the 2020 report. According to the EU Commissioner for Justice, *Didier Reynders*, the “2020 Rule of Law Report has encouraged positive reforms related to the rule of law in a number of Member States.” The Vice-President for Values and Transparency, *Věra Jourová*, also addressed the importance of the Rule of Law Report as a useful preventive tool. She stressed that some serious concerns remain, however, with regard to a number of Member States – especially pertaining to the independence of the judiciary and the freedom and pluralism of media.

The 2021 Report on the Rule of Law uses the same methodology and scope as that of the previous report, focusing on the following four pillars:

Before dealing with the key aspects of the rule-of-law situation in Member States, the report addresses the special challenges the COVID-19 pandemic has posed for the rule of law. Beyond the immediate response to the health imperatives with emergency measures, it is necessary to reflect on how to better prepare for the impact of a crisis lasting for extended periods on the rule of law. In the Commission's view, the COVID-19 pandemic represents an opportunity to increase awareness of the importance of the rule of law and the Member States' responsiveness to crises. Consequently, the Commission is pushing for further debates at the EU level, in the European Parliament and the Council, and at the national level.

As to the justice system:

While the report reveals that almost all Member States have continued their efforts to reform their justice systems, the objectives, scope, form, and state of implementation of these reforms vary. It notes that a number of Member States have taken steps to strengthen judicial independence and to reduce the influence of legislative and executive powers on the judiciary. Judicial independence is strengthened through the Councils for the Judiciary, reforms on the method of appointing judges, and reforms regarding the autonomy and independence of the prosecution services. However, the report raises concerns over a few Member States, in which the direction of reform efforts has been towards lowering safeguards for judicial independ-

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ence. The Commission is concerned about the continued rise in political attacks against the judiciary and repeated attempts to undermine the reputation of judges in some Member States.

As to the anti-corruption framework:

The 2021 report stresses that EU Member States continue to be among the world's best performers, with ten Member States among the top twenty countries perceived as being least corrupt in the world. Several Member States have adopted or are in the process of adopting national anti-corruption strategies or action plans. The report notes that most Member States have extensive legislation in place, providing the criminal justice system with tools to fight corruption, and that continuous efforts are being undertaken to fill gaps in existing frameworks. While efforts to repress corruption have significantly increased in several Member States, yet others are cause for concern as regards the effectiveness of investigation, prosecution, and adjudication of high-level corruption cases. The COVID-19 pandemic has also affected the fight against corruption, as it slowed down legal reforms or the adjudication of corruption cases in some Member States and increased the risk of corruption.

As to media pluralism and media freedom:

The COVID-19 pandemic has also affected media freedom and pluralism in the Member States. In comparison to the Media Pluralism Monitor 2020, a deterioration is apparent in three key indicators: freedom of expression, protection of the right to information and the journalistic profession, and protection of journalists. The lack of specific legislation in many Member States on the transparency and fair allocation of state advertising has not changed since the 2020 report. There is still a lack of regulation against political interference. The report stresses that pressure on the media has been manifest in a number of cases.

As to institutional issues linked to checks and balances:

The progress of constitutional reform processes to strengthen safeguards and checks and balances has continued since last year. The Commission reinforces that drawing on different views and the expertise of Member States can help in the system of checks and balances. During the COVID-19 pandemic, national checks and balances – including the parliaments, the courts, the ombudspersons, and other independent authorities – have played a crucial role. The Commission stressed, however, that the legislative process is a matter of concern in terms of the rule of law in a few Member States (e.g., though frequent and sudden changes of legislation and through the expedited adoption of legislation for significant structural reforms of the judiciary).

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