

Commission's 2023 Rule of Law Report



Anna Pinggen

News

On 5 July 2023, the Commission published its [4th Rule of Law Report](#). It includes 27 country chapters and examines developments – both positive and negative – across all EU Member States in four key rule-of-law areas:

- The justice system;
- The anti-corruption framework;
- Media pluralism and freedom;
- Other institutional issues related to checks and balances.

The first Rule of Law Report was presented on 30 September 2020 (→ [eucrim 3/2020, 158–159](#)); the second report on 20 July 2021 (→ [eucrim 3/2021, 134–135](#)); and the third on 13 July 2022 (→ [eucrim 3/2022, 166–167](#)).

The fourth report not only builds on last year's report, in which specific recommendations for all Member States were included for the first time, but it also contains a qualitative assessment of progress made by the Member States towards implementing the 2022 recommendations. The 2023 report notes that almost 65% of the specific recommendations issued to Member States last year have been followed up on. However, systemic concerns remain in several Member States. Looking at said four key areas, the report highlights the following:

Justice Systems

In order for a justice system to function and benefit all citizens and businesses, it must be independent. The perception of judicial independence by the general public has improved in 12 Member States compared to 2022, but the perception of judicial independence by companies has decreased in 13 Member States.

The recommendations of the 2022 report were followed in many Member States: Legislative efforts to strengthen the independence and effectiveness of the Councils for the Judiciary were undertaken; this network plays an important role for independence in the appointment and professional careers of judges and in the management of the judicial system. In Slovakia, Bulgaria, Spain, Cyprus, and Poland, however, concerns regarding the Councils for the Judiciary have yet to be addressed.

Another important issue is the autonomy and independence of the prosecution service: While several Member States have initiated or continued reforms of their prosecution services, a number of problems remain. In Spain, for instance, no steps have been taken to strengthen the statute of the Prosecutor General and to address the separation of the Prosecutor General's term of office from that of the government.

AUTHOR

Anna Pinggen 

Researcher
Max Planck Institute for the
Study of Crime, Security and
Law

Published in
2023, Vol. 18(2) [eucrim](#) pp 110
– 111

ISSN: 1862-6947

<https://eucrim.eu>



Positive steps have been taken in numerous Member States in an effort to improve the quality and efficiency of the judiciary (e.g., by increasing the number of judges and financial resources). There has also been an improvement in digitisation and a strengthening of the right of access to a lawyer in some Member States.

The Fight against Corruption

Corruption remains a serious concern for EU citizens and businesses, with 60% of citizens believing that their government's efforts to fight corruption are not effective. Since last year's report, various Member States have updated their national anti-corruption strategies and/or action plans or started the process of revising their existing strategies. Several have undertaken criminal law reforms to strengthen the fight against corruption. For example, Austria drafted legislation to extend bribery offences to candidates for public office and to include additional sanctions, such as prohibition from holding public office.

For many Member States, however, the limited resources of prosecution services remain a challenge in the fight against corruption. In order to improve criminal investigations and prosecutions, Member States need to reform and reduce the length of criminal proceedings.

While some have taken measures to address the issue of immunity for members of the government with respect to corruption offences, Poland still needs to address this issue. A number of Member States introduced reforms in 2023 to address issues raised in the recommendations of 2022 regarding declarations of assets and interests by public officials (e.g., Czech Republic, Greece, Latvia, and Romania).

Media Pluralism and Freedom

In order to increase the independence of media authorities or to extend their powers to other areas, new provisions have been adopted in the Czech Republic, Lithuania, and Ireland. New legislation has also been adopted in Greece, Luxembourg, and Sweden to increase the transparency of media ownership or to improve the public availability of information on media ownership.

Since the 2022 report, several Member States have proposed or adopted legislation or established practices to improve the right of access to public information or to clarify one or more aspects of this right.

In order to address the threat of strategic lawsuits against public participation (SLAPPs) and respond to the recommendations identified in the 2022 report, many Member States are considering introducing specific procedural safeguards and/or revising their defamation laws (e.g., Lithuania, Italy, and Slovakia).

Other Institutional Issues Related to Checks and Balances

With regard to the development of constitutional courts, the report expresses concern over developments in Poland and notes that the Commission has referred Poland to the ECJ for violations of EU law by the Constitutional Tribunal and its jurisprudence (→ [eucrim 1/2023, 4](#)). Like last year, around 40% of the ECtHR's leading judgments on EU Member States from the last 10 years had not been implemented.

The report notes that civil society organisations and human rights defenders increasingly face challenges related to the narrowing of civic space and that some of the recommendations of the 2022 report have only been partially implemented.

Perspectives

The European Parliament and the Council are called on to continue general and country-specific debates on the basis of the Rule of Law Report. National parliaments, civil society organisations, and key stakeholders

are encouraged to hold national dialogues on the rule of law with increased citizen participation. The Commission will offer support to the Member States in addressing the challenges identified in the report and in implementing its recommendations. For the upcoming new cycle of the Rule of Law report, the Commission looks forward to the evaluation of the Council's Rule of Law Dialogue under the Spanish Presidency.

About eucrim

eucrim is the leading journal which regularly informs about current developments in European criminal and “criministrative” law.

All news items are freely accessible at: <https://eucrim.eu/news/>

Stay informed by emailing to eucrim-subscribe@csl.mpg.de to receive alerts for new releases of issues.

The project is co-financed by the Union Anti-Fraud Programme (UAFP), managed by the European Anti-Fraud Office (OLAF).



**Co-funded by
the European Union**