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PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL  
COMMITTEE AND THE COMMITTEE OF THE REGIONS**

**2023 Rule of Law Report**

**The rule of law situation in the European Union**

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## 1. INTRODUCTION

The rule of law stands alongside democracy and fundamental rights as founding values of the Union. It is common to all Member States and a bedrock of the Union's identity. It is a core factor in Europe's political stability and economic prosperity. In recent years, these founding values have come under attack around the world, testing the resilience of the EU and its Member States. The Russian war of aggression against Ukraine serves as a tragic reminder that these values can never be taken for granted. Constant proactive action is needed to safeguard these values and protect European society in the face of evolving challenges.

Every year the rule of law cycle contributes to a strong and healthy European democracy. **The annual Rule of Law report takes the pulse of the rule of law situation in each Member State and the EU as a whole, detecting and preventing emerging challenges and supporting rule of law reforms.** The report continues to rest on a transparent and objective methodology, taking specific national contexts and traditions into account and ensuring equal treatment of all Member States. Since its launch in 2020, the annual reporting cycle has served as a basis for constructive discussions and a rich exchange of best practices among Member States – at both political and technical level – in the European Parliament, and in national parliaments. It has played a central role in the efforts to promote and safeguard the rule of law in practice.

As in previous years, the 2023 Rule of Law report examines rule of law developments in Member States under four pillars: **justice, anti-corruption, media freedom and pluralism, and broader institutional issues related to checks and balances.** Discussions in the Council on the 2022 report have been positive and constructive, with Member States welcoming the report's findings and recommendations. This is also illustrated by the efforts made by Member States to implement the recommendations. Almost 65% of the specific recommendations issued last year to Member States have already been followed up. This reflects a positive trend, while it should be acknowledged that certain rule of law reforms may take a longer time to bear fruit<sup>1</sup>.

The rules-based order is central to the credibility of the EU and a broader toolbox has been developed over recent years to safeguard respect for the rule of law. Infringement procedures, institutional mechanisms such as Article 7 proceedings, and policy drivers such as the Recovery and Resilience Facility all have significant rule of law dimensions. The general regime of conditionality offers a targeted tool to protect the EU budget where breaches of the rule of law affect or seriously risk affecting its sound financial management or the EU's financial interests<sup>2</sup>. These tools seek to ensure that the rule of law is not just a principle, but a tangible reality on which each and every person and business in the EU can rely.

The rule of law and a rules-based international order are a key protection against the spread of authoritarian regimes and the violation of international law. Upholding the rule of law is therefore a crucial element of the EU's external action, alongside consolidating democratic structures and protecting human rights. It is central to the EU's engagement with candidate countries and potential candidates through the enlargement process, its work with partners in the neighbourhood, and broader EU engagement with countries worldwide.

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<sup>1</sup> There was found to be significant progress or full implementation on over a quarter of recommendations, and some progress on about 40% of the recommendations. No progress was noted on the remainder.

<sup>2</sup> Regulation 2020/2092 of 16 December 2020, OJ L 433I, 22.12.2020.

## 2. KEY ASPECTS OF THE RULE OF LAW SITUATION IN MEMBER STATES

As in previous years, this report sets out significant common themes and trends, specific challenges, and positive developments. The examples given reflect these trends and are drawn from the assessments to be found in the 27 country chapters, which are an integral part of this report and provide the detailed context for each Member State<sup>3</sup>. The report also includes specific recommendations to Member States<sup>4</sup> and reports on progress in implementing the specific recommendations issued last year<sup>5</sup>. These are structured into four key pillars:

- **Justice systems** in the Member States, focusing on their independence, quality and efficiency. These are key parameters to ensure that the application and enforcement of EU law is effective and that the rule of law is upheld. Well-functioning and fully independent justice systems are crucial for ensuring that justice works to the benefit of citizens and of businesses. They are also essential for judicial cooperation across the EU, as well as for the functioning of the Single Market and the EU's legal order as a whole.
- **Anti-corruption frameworks**, focusing on the effectiveness of national anti-corruption policies and assessing different key areas of action taken by Member States to prevent and fight corruption. Effective anti-corruption action, transparency and integrity help ensure the strength and reliability of state power and are essential to citizen and businesses' trust in public authorities.
- **Media freedom and pluralism**, focusing on core areas including the independence of the media regulatory authorities; transparency and concentration of media ownership; transparency and fairness in the allocation of state advertising; the safety of journalists and access to information; and the governance of public service media. These are essential to how the media exercises its role in a healthy democracy.
- **Institutional issues related to checks and balances**, focusing on areas of key importance for the rule of law, such as: the quality and inclusiveness of the national legislative process; the role of Constitutional Courts and independent authorities such as the Ombudsperson, equality bodies<sup>6</sup> and national human rights institutions; and the role of civil society organisations in safeguarding the rule of law.

### *Methodology of the Rule of Law report and its recommendations*

The assessment in the country chapters has been prepared in line with the scope and methodology followed when drawing up the previous editions of the report<sup>7</sup>. The country chapters rely on a qualitative assessment autonomously carried out by the Commission,

<sup>3</sup> The country chapters are available [here](#).

<sup>4</sup> The recommendations are referenced in footnotes throughout this report, listed in the Annex by order of the pillars in the country chapters and included in the individual country chapters.

<sup>5</sup> The assessments included in the country chapter do not prejudice any future assessment under Article 24 of Regulation (EU) 2021/241 of the European Parliament and of the Council of 12 February 2021 establishing the Recovery and Resilience Facility or under Article 15 of Regulation (EU) 2021/1060 of the European Parliament and of the Council of 24 June 2021 laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the Just Transition Fund and the European Maritime, Fisheries and Aquaculture Fund and financial rules for those and for the Asylum, Migration and Integration Fund, the Internal Security Fund and the Instrument for Financial Support for Border Management and Visa Policy.

<sup>6</sup> In December 2022, the Commission proposed measures to strengthen the role and independence of equality bodies.

<sup>7</sup> The methodology is available [here](#).

focusing on a synthesis of significant developments since July 2022 and presenting both challenges and positive aspects identified in Member States. In each country chapter, the analysis focuses in particular on topics where there have been significant developments, or where significant challenges have been identified in the previous report and persist during this reporting period.

The analysis also contains a qualitative assessment of the progress made by the Member States towards implementing the 2022 recommendations. Progress on implementing the recommendations is based on a qualitative assessment of developments since July 2022, taking into account the overall context in the Member States. Depending on the progress made on the various subparts of each recommendation, the Commission concluded in each case using the following categories: no progress, some progress, significant progress, and full implementation<sup>8</sup>.

The objective of the 2023 recommendations continues to be to assist and support Member States in their efforts to take forward reforms and to identify where improvements or follow-up to recent changes or reforms may be needed, based on continuous dialogue<sup>9</sup>.

The report is the result of close collaboration with Member States and relies on a variety of national, international and other sources<sup>10</sup>. All Member States were invited to contribute to the process, provide written input<sup>11</sup> and participate in dedicated country visits. These country visits provided an opportunity to exchange on the follow-up to recommendations issued in the 2022 report and on all other significant developments<sup>12</sup>. In addition, the Commission at political level has discussed the report with national authorities and governments, as well as with representatives in national Parliaments. A targeted stakeholder consultation also provided valuable cross-cutting and country-specific contributions<sup>13</sup>. The Council of Europe also provided an overview of its recent opinions and reports on EU Member States<sup>14</sup>. Prior to the adoption of this report, Member States have been given the opportunity to provide factual updates to their country chapter.

## **2.1 Justice systems**

Well-functioning and fully independent justice systems are crucial to ensure that justice works to the benefit of citizens and of businesses. They are also essential for trust in operations across

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<sup>8</sup> Recommendations from 2022 are, in general, carried into this year's report, with adaptations as necessary, when the steps taken in Member States amount to no progress or notably where only some progress has been made.

<sup>9</sup> The principles on the basis of which the recommendations were prepared are the same as last year. See COM(2022) 500 final, p. 3-4 and the methodology for the Rule of Law report. The recommendations are without prejudice to any proceedings the Commission may initiate under other legal instruments, such as infringement procedures or the General Conditionality Regulation.

<sup>10</sup> The sources used to prepare this report include written input received from Member States, contributions received during the targeted stakeholder consultation and information produced by international organisations or received from national authorities and stakeholders during country visits. These sources inform the Commission's assessment, and do not as such represent the Commission's position. The Commission's conclusions remain its own responsibility.

<sup>11</sup> See [here](#).

<sup>12</sup> Information on the country visits can be found in the country chapters. During these country visits, held online, the Commission spoke to Member States' national authorities, including judicial and independent authorities, law enforcement, and other stakeholders, such as journalists' associations and civil society.

<sup>13</sup> See [here](#).

<sup>14</sup> [2023 Rule of law report - stakeholder contribution - Council of Europe | European Commission \(europa.eu\)](#)

borders in the EU and judicial cooperation, as well as for the functioning of the Single Market, and the EU's legal order as a whole<sup>15</sup>.

Effective justice systems are crucial for the application and enforcement of EU law and upholding the rule of law. Judicial independence is a requirement stemming from the principle of effective judicial protection, referred to in Article 19 of the Treaty on European Union (TEU), and from the right to an effective remedy before a court or tribunal enshrined in Article 47 of the Charter of Fundamental Rights of the EU. Independent judges and courts guarantee the fairness of judicial proceedings and the protection of rights of individuals. They are also essential for safeguarding the values set out in Article 2 TEU<sup>16</sup>.

When reforming their justice systems, Member States must fully respect the requirements set by EU law and the case-law of the Court of Justice of the EU (CJEU)<sup>17</sup>. It is also important that Member States take European standards into account when designing reforms. European judicial networks and associations<sup>18</sup> also help promote and uphold the rule of law, as they work on further developing European standards concerning their professions and rule of law more broadly and make important contributions to the preparation of the Rule of Law report.

### *Perceived independence*

As set out in the 2023 EU Justice Scoreboard, Eurobarometer surveys conducted in 2023 show that the perception of independence among the general public improved in 12 Member States when compared to 2022<sup>19</sup>. However, among companies, surveys showed decreases in the perception of judicial independence in 13 Member States. In [Finland](#), [Denmark](#), [Austria](#), [Germany](#) and [Luxembourg](#), the level of perceived independence continues to be particularly high among the general public (above 75%), while in [Poland](#) and [Croatia](#), it remains very low (below 30%).

### *Councils for the Judiciary and procedures for the appointment and dismissal of judges as key safeguards for judicial independence*

Many Member States have continued to carry out reforms related to key elements of their justice system, such as the procedures for appointment and dismissal of judges or as regards Councils for the Judiciary. It is important that such reforms safeguard judicial independence, based on the principles established by the CJEU.

Where Councils for the Judiciary are established, they act as an important safeguard for judicial independence, as recognised in the case-law of the CJEU<sup>20</sup>. They can act as a buffer between the judiciary and the other branches of power in matters such as the appointment and career of judges or magistrates, and in the management of the justice system. Key European standards have been developed by the Council of Europe on how the Councils for the Judiciary should

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<sup>15</sup> The 2023 EU Justice Scoreboard sets out a comparative analysis of national justice systems.

<sup>16</sup> CJEU judgment of 5 June 2023, *Commission v. Poland*, C-204/21, ECLI:EU:C:2023:442, paras 64-74.

<sup>17</sup> A reference to the key judgments since the last report can be found in section 4.

<sup>18</sup> Such as the European Network of Councils for the Judiciary, the Network of the Presidents of the Supreme Judicial Courts of the European Union and the Association of the Councils of State and Supreme Administrative Jurisdictions of the European Union and the Council of Bars and Law Societies of Europe.

<sup>19</sup> Figures 49 and 51, 2023 EU Justice Scoreboard.

<sup>20</sup> The CJEU has recognised that where a Council for the Judiciary participates in an appointment process involving political bodies, it can contribute to making that process more objective, by circumscribing the discretion which the political bodies have in exercising their powers, provided that such Council is sufficiently independent from the executive and legislative powers and from the body to which it is submitting an opinion. See for example judgment of 2 March 2021, *AB and Others (Appointment of judges to the Supreme Court – Actions)*, C-824/18, paras. 123-125, and case-law cited.

be established to best safeguard their independence, including on their composition<sup>21</sup>. Councils for the Judiciary also need adequate resources to function in an effective way and fulfil their mandates, and they must be able to manage their budget independently.

Legislative efforts to strengthen the independence and effectiveness of Councils for the Judiciary were finalised in a number of Member States, following the 2022 report recommendations. In others, discussions are ongoing. In [Luxembourg](#), two significant reforms have been adopted: a constitutional reform creating the National Council for Justice and a legislative reform aligning the composition of the National Council for Justice with European standards and setting out the status of magistrates. In the [Netherlands](#), more than half of the members of the Council for the Judiciary are now judges. In [Hungary](#), a new law strengthens the role of the National Judicial Council, by allowing it to effectively counterbalance the powers of the President of the National Office for the Judiciary, including by ensuring that its opinions on a number of important matters are binding. In [Portugal](#), a new legislative framework for the High Council for Administrative and Tax Courts providing for administrative and financial autonomy has been finalised. In [Italy](#), the directly applicable provisions of the reform of the High Council for the Judiciary have now been put into use; the full extent of their effect on the work of the Council is being evaluated. In [Sweden](#), a Committee of Inquiry has completed its work and recommended measures to strengthening the independence of the judiciary, including setting up of a new court administration agency that would be more independent from the Government. In [Finland](#), the previously established National Courts Administration continued its work and developed new initiatives to further support the courts.

In other Member States, concerns regarding the Councils for the Judiciary have yet to be addressed. In [Slovakia](#), the issue of insufficient safeguards when it comes to dismissal of members of the Judicial Councils appointed by the executive branch and the Parliament remains. In [Bulgaria](#), the composition of the Supreme Judicial Council remains a concern. In [Spain](#), the situation of the Council for the Judiciary raises serious concerns, as firstly, the Council has not been renewed in spite of the urgency and, secondly, no steps have been taken to adapt the appointment procedure for its judges-members. This lack of renewal has an impact on the appointments at the Supreme Court and the justice system as a whole. In [Cyprus](#), following the recent reform on the appointments of judges, the composition of the Supreme Council of the Judicature was extended to include members who are not judges, with a view to enhancing the Council's democratic legitimacy, although there is not yet a broader participation of judges chosen by their peers, as the judicial component still consists exclusively of judges of the Supreme Court. In [Poland](#), serious concerns related to the National Council for the Judiciary remain to be addressed, as there are legitimate doubts as to its independence<sup>22</sup>.

The method used for the appointment and dismissal of judges acts as a key safeguard for judicial independence and can have an impact on public perception of independence. As established by the CJEU, in order to guarantee judicial independence, substantive conditions and procedural rules governing judicial appointments must be sufficient to prevent reasonable doubts as to the imperviousness of these judges to external factors, and as to their neutrality as judges<sup>23</sup>.

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<sup>21</sup> See in particular Recommendation CM/Rec(2010)12 of the Council of Europe.

<sup>22</sup> Recommendations concern BG, ES and SK..

<sup>23</sup> See judgments of 15 July 2021, *Commission v Poland*, C-791/19, paras. 98-108; of 20 April 2021, *Repubblika and Il-Prim Ministru*, C-896/19, para. 66; of 2 March 2021, *AB and Others (Appointment of judges to the Supreme Court – Actions)*, C-824/18, paras. 66, 124 and 125; and of 19 November 2019, *AK et al*, joined cases C-585/18, C-624/18 and C-625/18, paras. 137 and 138.



Since the last report, several Member States have improved judicial appointment procedures and the functioning of their highest courts, including as a follow-up to the 2022 recommendations. In [Finland](#), a Ministry of Justice working group proposed constitutional amendments to strengthen judicial independence, including to reform the appointment procedure for lay judges, to set a maximum number of judges on the Supreme Court, and to set a compulsory retirement age for judges. In [Austria](#), a law was adopted to provide for judicial involvement in the appointment of the Supreme Court president and vice-president, though the lack of judicial involvement in appointments for administrative court presidents continues to raise concerns. In [Slovenia](#), new reforms envisage transferring the power to appoint judges from Parliament to the President and Judicial Council, though the lack of safeguards for judicial independence raises concerns. In [Cyprus](#), a new system of appointments of judges to the Supreme Constitutional Court and the Supreme Court includes a positive step involving the judiciary, in line with European standards. In [Sweden](#), recent developments led to a wider societal discussion on the nomination system for lay judges, which is done via political parties and therefore raises concerns on ensuring their independence. In [Hungary](#), the risk of arbitrary decisions on the career of judges is expected to be limited by a new law, which ensures that the National Judicial Council gives a binding opinion. New laws addressed several concerns related to the functioning of the Kúria (supreme court), including removing the Kúria's power to review the necessity of preliminary references, in line with EU law requirements. Case allocation in the Kúria is expected to be more transparent following a legislative reform and the full implementation of the reform.

In other Member States, challenges remain regarding appointments to high-level judicial positions and for court president positions. In [Malta](#), there is still no involvement of the judiciary in the procedure for appointment of the Chief Justice. In [Greece](#), no steps have been taken with regard to the involvement of the judiciary in the appointment procedure for senior positions of judges. In [Lithuania](#), there was some progress in improving the transparency of judicial appointments, with new legislation, though there are calls for additional safeguards. In [Latvia](#), no process has been initiated to ensure appropriate safeguards against undue political influence in the appointment of Supreme Court judges. In [Ireland](#), the envisaged composition of the Judicial Appointment Commission continues to raise concerns<sup>24</sup>.

In a few Member States, other concerns exist with regard to judicial independence. In [Slovakia](#), the crime of abuse of law introduced for judges as regards their judicial decisions continues to raise concerns, as it creates a negative psychological effect on judges, as well as being burdensome for the investigatory authorities<sup>25</sup>.

In [Poland](#), serious doubts remain as to whether a number of Supreme Court judges appointed in 2018 and 2019, including its First President, comply with the requirements of a tribunal established by law. A preliminary ruling by the CJEU related to a judicial appointment to the Chamber of Extraordinary Control has so far not been implemented. In [Hungary](#), steps are being taken to address the milestones related to judicial independence under the Recovery and Resilience Plan. Other concerns relate to the case allocation systems in lower courts<sup>26</sup>.

*The autonomy and independence of the prosecution service continue to be important topics of reforms*

There is no single model in the EU for the institutional set-up for prosecution services. However, institutional safeguards are always needed to ensure that prosecution is sufficiently

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<sup>24</sup> Recommendations include IE, EL, LV, LT, MT, AT, SI, FI and SE.

<sup>25</sup> A recommendation concerns SK.

<sup>26</sup> A recommendation concerns HU.

autonomous and can carry out effective and impartial investigations, bringing cases to court without political pressure. This is not only essential for national and EU criminal law, but also has a direct impact on the EU in ensuring issues such as the protection of the financial interests of the EU or application of sanctions since Russia's invasion of Ukraine.

Following the 2022 report recommendations, several Member States have initiated or continued reforms of their prosecution services, with varying degrees of progress. In [Malta](#), a new disciplinary system for prosecutors has been set up establishing different levels of disciplinary offences as well as the procedure to be followed. In [Luxembourg](#), a constitutional reform strengthens the independence of the Prosecutor's Office in exercising individual investigations and prosecutions. In the [Netherlands](#), the removal of the executive's power to give instructions to prosecutors in individual cases is under discussion. In [Czechia](#), a draft law was tabled in Parliament, introducing certain safeguards for the dismissal of the Prosecutor General by the Ministry of Justice. In [Slovenia](#), legislative amendments are being prepared to introduce safeguards for judicial independence and autonomy of prosecutors in the rules on parliamentary inquiries.

However, a number of issues identified in previous Rule of Law reports, and reflected in the recommendations of the 2022 report, remain unaddressed. In [Spain](#), no measures have been taken to strengthen the statute of the Prosecutor General and address the separation of the term of office of the Prosecutor General from that of the Government. In [Austria](#), plans to establish an independent Federal Prosecution Office, including to ensure the independent operation of specialised anti-corruption prosecution service, have not progressed further. In [Cyprus](#), the prosecution service, headed by the Attorney General, is part of the Law Office of the Republic and there is no clear separation between staff entrusted with advisory tasks and those carrying out prosecutorial tasks. The absence of a possibility to review decisions of the Attorney General not to prosecute or to discontinue proceedings also raises concerns. In [Slovakia](#), the power of the Prosecutor General to annul decisions by lower ranking prosecutors remains a concern, in relation both to a lack of judicial review and to its application by the Prosecutor General in several high-profile corruption cases. In [Poland](#) some progress has been made to ensure the functional independence of the prosecution service from the Government, but the functions of the Minister of Justice and the Prosecutor General have still not been separated<sup>27</sup>.

#### *Ensuring accountability and safeguarding independence in disciplinary procedures involving judges and prosecutors*

In its case-law, the CJEU has established essential safeguards to ensure that the disciplinary framework cannot be used as a manner of political control on the judiciary<sup>28</sup>. These safeguards include rules defining conduct amounting to disciplinary offences and the applicable penalties. Disciplinary proceedings need to be carried out with the involvement of an independent body, in accordance with a procedure which fully safeguards the rights enshrined in Articles 47 and 48 of the Charter, in particular the rights of defence. Rules must also allow for the possibility of challenging the disciplinary bodies' decisions in Court<sup>29</sup>.

Continuing a trend observed in previous Rule of Law reports, some Member States have implemented or are preparing reforms to increase safeguards for judicial independence in

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<sup>27</sup> Recommendations concern CZ, ES, CY, AT, PL, SI and SK.

<sup>28</sup> The Court has recalled this principle in cases referring to the disciplinary chamber of the Polish Supreme Court (Judgment of 5 June 2023, C-204/21, *Commission v Poland*) and the Romanian Judicial Inspection (Judgments of 11 May 2023, *Inspekția Judiciară*, case 817/21, and of 18 May 2021, *Asociația 'Forumul Judecătorilor din România' and Others v Inspekția Judiciară and Others*, joined Cases C-83/19, C-127/19, C-195/19, C-291/19, C-355/19 and C-397/19).

<sup>29</sup> Court of Justice of the European Union, Judgment of 25 July 2018, *LM*, C-216/18 PPU, para. 67.



disciplinary proceedings. In [Slovakia](#), a new disciplinary procedure for judges, prosecutors, enforcement agents and notaries before the Supreme Administrative Court is in place and is reported to function well. In [Czechia](#), a reform to the disciplinary procedure for judges is being prepared, to introduce the possibility of appealing decisions taken by a disciplinary court. In [Slovenia](#), changes to the Judicial Council Act are being drawn up, focusing on its procedural role in disciplinary proceedings. In [Croatia](#), following last year's recommendations, periodic security checks on all judges were removed by way of a Constitutional Court decision and those on all state attorneys are envisaged to be removed by amendments being prepared. In [Romania](#), changes to the civil and disciplinary liability regimes have strengthened the independence of the judiciary.

However, there are also situations where challenges exist regarding the disciplinary framework, and concerns remain that disciplinary proceedings may be used as a means to curtail judicial independence. In [Poland](#), a number of judges continued to be subject to disciplinary investigations and proceedings related to the content of their judicial decisions and forced transfers. To strengthen provisions protecting judges against disciplinary liability based on the content of their judicial decisions, a new law was adopted by Parliament and is currently under examination by the Constitutional Tribunal. In [Bulgaria](#), the functioning of the Inspectorate to the Supreme Judicial Council, responsible for opening disciplinary proceedings, has been at risk of political influence<sup>30</sup>.

The effective protection of judicial independence also requires a culture of integrity and impartiality. Several Member States are implementing policies and practices to promote integrity within the judiciary. In [Portugal](#), the High Council for the Judiciary has presented a proposal to regulate 'revolving doors' in the judiciary. However, the incompatibilities regime for judges continues to raise concerns in [Spain](#). In [Belgium](#), the Government is now reflecting on revisions to the proposal to introduce regular security checks conducted by the National Security Agency on all judges, following criticism by the High Council for Justice.

#### *Efforts to improve the quality and efficiency of justice*

An efficient justice system manages its caseload and backlog of cases and delivers its decisions without undue delay. Excessively long proceedings and substantial backlogs undermine the trust citizens and businesses place in national justice systems. For the justice system to work properly, adequate resources, including the necessary investments in physical and technical infrastructure, and well qualified, trained and adequately paid staff, are indispensable. A number of Member States have recognised this by allocating additional resources to strengthen the resilience of justice systems in their national Recovery and Resilience Plans, which continue to be implemented.

One method of ensuring the long-term resilience of the justice system is to ensure the attractiveness of judicial professions, including through adequate remuneration, and to minimise the number of vacancies open for judges, prosecutors and court staff. Following the 2022 report recommendations, positive steps have been taken in several Member States. In [Ireland](#), the Government has announced a significant increase in the number of judges, following the recommendations of a judicial planning working group. In [Spain](#), the total number of judges has increased and measures are being taken to address challenges regarding the resourcing of the justice system. In [France](#), the human and financial resources allocated to the justice system have again increased significantly, and initiatives are in progress to further address current needs. In [Finland](#), the resources for the justice system have increased, however, the Government's report on the administration of justice has identified that shortages remain.

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<sup>30</sup> A recommendation concerns BG.

In [Portugal](#), efforts are being taken to ensure adequate human resources for the justice system, although concerns continue regarding a shortage of non-judicial staff.

In other Member States, concerns regarding resources persist. In [Lithuania](#), there are serious concerns regarding the level of remuneration for prosecutors, and court staff, which has remained largely unchanged since 2008, although new legislation has been enacted. In [Croatia](#), the level of remuneration of judges, state prosecutors and judicial staff is being addressed, although concerns remain. In [Belgium](#), further policy and legislative initiatives have been taken to remedy the budgetary and staff shortages in the justice system, but structural resource deficiencies persist despite these significant investments. In [Denmark](#), although analyses are ongoing to ensure sufficient human and financial resources for the justice system, the resource situation is a concern and increasingly affects the length of proceedings. In the [Netherlands](#), judges and public prosecutors have expressed concerns regarding staff shortages and challenging working conditions due to a high workload. In [Czechia](#), funding for assistant staffing in courts and public prosecution is insufficient, leading to difficulties in recruiting qualified staff and undermining the proper functioning of the prosecution and judiciary. In [Germany](#), the Pact for the Rule of Law which had provided federal funding for the justice system has not been prolonged, and no further steps have been taken at the federal level to ensure adequate resources for the judiciary and in relation to the level of salary of judges. In [Slovenia](#), the level of remuneration of judges and state prosecutors, largely unchanged since 2012, raises concerns and was, as far as judges' salaries are concerned, declared unconstitutional by the Constitutional Court. In [Poland](#), the budgetary law for 2023 adversely affected the remuneration of judges and prosecutors. Those voicing concerns include the Supreme Court, the National Council for the Judiciary, the Ombudsperson, and associations of judges and prosecutors<sup>31</sup>. In [Romania](#), despite continued efforts to improve the situation, the increasing shortage of magistrates is generating serious concerns<sup>32</sup>.

Investing in infrastructure and digitalisation of the justice system is essential to meet the broader efficiency challenges in a number of Member States. In [Malta](#), [Cyprus](#) and [Greece](#), increased resources for the judiciary and other measures taken have not yet resulted in a reduction as regards the length of proceedings, and backlogs of cases remain a serious challenge. In [Croatia](#), the justice system further extended electronic communication tools and decreased backlogs, but significant efficiency and quality issues remain, as the length of trials generally increased. In [Italy](#), two Legislative Decrees were adopted to implement the civil and criminal justice reforms to improve the quality and efficiency of the justice system, including as regards the length of proceedings. The effectiveness of the reforms remains to be seen. In [Portugal](#), measures to address efficiency challenges, in particular in administrative and tax courts have been enacted, with others in preparation. The Portuguese Recovery and Resilience Plan also includes measures to increase the efficiency of administrative and tax courts.

Initiatives to improve digitalisation have continued and Member States are taking further steps in this respect, also following 2022 report recommendations. It is particularly important to ensure that digital tools can be effectively used in practice, including through sufficient training. The digitalisation of the justice system continues to be overall very advanced in [Estonia](#), [Germany](#), [Latvia](#), [Poland](#), [Spain](#), [Slovakia](#), [Lithuania](#), [Hungary](#) and [Austria](#). In [Croatia](#), the use of the electronic communication system was further increased and most remaining courts were integrated into a unified system already used by all other courts. In [France](#), work to complete the full digitalisation of civil and criminal court proceedings has

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<sup>31</sup> The President of the Supreme Administrative Court and the First President of the Supreme Court requested that the Constitutional Tribunal declare the contested provisions unconstitutional (the case remains pending).

<sup>32</sup> Recommendations concern BE, DK, DE, FR, HR, LT, PT, RO and SI.

further advanced. In the [Netherlands](#), the level of digitalisation has improved, with the introduction of more digital solutions for court proceedings. In [Estonia](#), further improvements have been made in digitalisation, improving cross-system document access. In [Bulgaria](#), steps have been taken to amend legislation related to the digitalisation of justice. In [Italy](#), the digitalisation of the civil justice system has progressed significantly, while the amended procedural rules allowing digitalisation in the criminal justice system remain to be fully implemented<sup>33</sup>.

#### *Access to justice and the role of lawyers in the justice system*

Lawyers play a key role in ensuring the protection of fundamental rights and the strengthening of the rule of law, including the right to a fair trial. Steps towards ensuring the right of access to a lawyer are ongoing in several Member States. In [Spain](#), the legal aid framework has been further strengthened, and in [France](#) the budget for legal aid further increased. In [Finland](#), new legislation provides courts with wider discretion in allocating legal costs in civil cases, which is expected to make the justice system more accessible. In [Bulgaria](#), new laws regarding judicial mediation and legal assistance have been adopted to improve access to justice. In [Malta](#), work on draft legislation regulating the lawyers' profession is ongoing. In [Lithuania](#), targeted changes to the legal aid system were introduced, although these do not address concerns regarding the workload and remuneration of legal aid providers. In [Ireland](#), while an analysis of models to reduce litigation costs is pending publication, the high level of litigation costs continue to be a cause of concern and no further steps were taken to reduce them. In [Denmark](#), the review of the legal aid system that commenced in 2020 has been put on hold. Similarly, in [Luxembourg](#) the reform aiming to make legal aid more accessible remains pending. In [Hungary](#), access to justice for vulnerable groups could be improved.

One essential element of the freedom of exercise of legal professions is respect for the confidentiality of the relationship with clients, as confirmed in the Council of Europe standards<sup>34</sup>. In [Slovakia](#), the Bar Association has warned of repeated breaches of confidentiality between lawyer and client by law enforcement services during searches of law firms' premises. In [Lithuania](#), concerns are still present regarding the respect for lawyers' professional confidentiality, and questions in this respect remain pending before the European Court of Human Rights. In [Latvia](#), new rules reinforced the protection of professional secrecy for lawyers<sup>35</sup>.

## **2.2 Anti-corruption framework**

The fight against corruption is essential to maintain the rule of law and preserve citizens' and companies' trust in public institutions. A comprehensive approach to fighting corruption must rely on a combination of preventive and punitive measures. This requires a robust legal and institutional framework, sufficient administrative and judicial capacity, effective investigations and prosecutions and the clear political will to enforce the anti-corruption framework. It also needs reliable and effective integrity measures to minimise the space for corruption.

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<sup>33</sup> Recommendations concern FR, IT, MT, NL and PT.

<sup>34</sup> Recommendation No. R(2000)21 of the Committee of Ministers of the Council of Europe on the freedom of exercise of the profession of lawyer.

<sup>35</sup> Recommendations concern LT, LU, IE.

### *Corruption perceptions across the EU*

The results of the Corruption Perceptions Index (CPI)<sup>36</sup> show that nine Member States are in the top 20 of the countries perceived as least corrupt in the world<sup>37</sup>. Differences remain across Member States, with some having improved their score compared to previous years, while others still score significantly lower than the average<sup>38</sup>.

The 2023 Eurobarometer survey on corruption<sup>39</sup> show that corruption remains a serious concern for citizens and businesses in the EU. 7 in 10 Europeans (70%) believe that corruption is widespread in their country and over 4 in 10 Europeans (45%) consider that the level of corruption has increased in their country. More than half of citizens (60%) think that their government's efforts to combat corruption are not effective. In addition, most European companies (65%) consider that the problem of corruption is widespread in their country and half (50%) think that it is unlikely that corrupt people or businesses in their country would be caught, or reported to the police or prosecutors.

### *National anti-corruption strategies and their implementation*

The importance of maintaining effective and coordinated anti-corruption policies is recognised in international law<sup>40</sup>. National anti-corruption strategies can ensure that countries follow a comprehensive, coherent and integrated approach, allowing anti-corruption provisions to be mainstreamed in all relevant policy sectors. Almost all Member States currently have national anti-corruption strategies in place. Since July 2022, [Czechia](#), [Italy](#) and [Latvia](#) have updated their national strategies and/or action plans<sup>41</sup>. [Hungary](#), [Slovenia](#) and [France](#) have started the process of revising their existing strategies, and preparatory revision processes are also ongoing in [Slovakia](#) and [Germany](#)<sup>42</sup>.

### *Strengthening the capacity of institutions and the legal framework to combat corruption*

An effective response to corruption depends on a robust legal and administrative anti-corruption framework<sup>43</sup> and on strong and independent institutions to enforce the rules. Since the last Rule of Law report, and also following its recommendations, several Member States have taken forward criminal law reforms to strengthen the fight against corruption. [Hungary](#)

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<sup>36</sup> Transparency International (2023) <https://www.transparency.org/en/cpi/2022>

<sup>37</sup> Four Member States (Denmark, Finland, Sweden, and the Netherlands,) score 80/100 or above on the index, and a further five (Germany, Ireland, Estonia, Belgium and France) score above 72/100. The EU average is 64/100.

<sup>38</sup> Scores below 50 can be seen in Romania (46), Bulgaria (43), and Hungary (42).

<sup>39</sup> Special [Eurobarometer 534](#) on Corruption (2023) & Flash [Eurobarometer 524](#) on Businesses' attitudes towards corruption in the EU (2023). The previous data sets are the Special Eurobarometer 523 (2022) and the Flash Eurobarometer 507 (2022).

<sup>40</sup> The United Nations Convention against Corruption (UNCAC) asks State Parties, in accordance with the fundamental principles of their legal systems, to develop and implement or maintain effective, coordinated anti-corruption policies that promote the participation of society and reflect the principles of the rule of law, proper management of public affairs and public property, integrity, transparency and accountability. All Member States and the EU are parties to the Convention. See also The Kuala Lumpur [Statement on Anti-Corruption Strategies](#).

<sup>41</sup> Currently 20 Member States have dedicated anti-corruption strategies or programmes; almost all others have anti-corruption components in other national strategies and action plans.

<sup>42</sup> A recommendation concerns SI.

<sup>43</sup> International standards are primarily the UNCAC; the Council of Europe's Criminal Law Convention on Corruption and its Civil Law Convention on Corruption; and the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions. At EU level, on 3 May 2023, the Commission proposed a Directive on combating corruption, COM (2023) 234 final which aims to update and strengthen the EU criminal justice framework.

adopted legislation to introduce the possibility for prosecutorial decisions not to investigate and prosecute corruption crimes to be subject to judicial review. In [Bulgaria](#), as per the commitments under its Recovery and Resilience Plan, the Parliament adopted a law establishing a mechanism to ensure the effective accountability and criminal liability of the Prosecutor General and their deputies, as well as providing for judicial review of prosecutorial decisions not to open an investigation. Reforms of substantive or procedural criminal law are under discussion in other Member States. [Austria](#) tabled draft legislation to extend bribery offences to cover candidates for public office, and included additional sanctions, such as prohibition to hold public office.

Although some progress has been made, specific gaps remain in criminal law in other Member States, and many related 2022 report recommendations remain to be fully implemented. In [Finland](#), work is ongoing on a draft proposal on trading in influence to further strengthen the criminal legal framework on corruption, while a proposal to revise the criminal offence of foreign bribery is pending. In [Sweden](#), efforts have been made to prosecute foreign bribery cases, but so far, the limited legal definitions of foreign bribery remain unchanged<sup>44</sup>.

The capacity of law enforcement services, prosecution authorities, and the judiciary more generally, to enforce anti-corruption criminal law provisions is essential to effectively combat corruption. [Slovenia](#) and [Luxembourg](#) took steps to increase the capacity of the prosecution authorities responsible for the fight against corruption by allocating additional resources. Resource limitations are cited by prosecution services in many Member States as a challenge, sometimes exacerbated by additional shortcomings. In [Belgium](#), law enforcement and prosecution continue to fight corruption with generally limited resources. For [Slovakia](#), the level of human and financial resources to tackle corruption cases within the police and the prosecution service are not considered fully adequate to carry out their tasks, particularly for complex high-level corruption cases, and coordination among the different law enforcement entities still requires improvement. In [Portugal](#), stakeholders report serious resource-related issues for preventing, investigating and prosecuting corruption. In [Cyprus](#), efforts are being made to address limitations in human, financial and technical resources to the Office of the Attorney General, as they continue to affect investigations<sup>45</sup>.

Specialisation is another key element for boosting anti-corruption capacity, as is access to relevant information, the interconnection of registries and good cooperation between law enforcement authorities and other agencies, such as financial intelligence units and tax, audit and competition authorities. Responding to the 2022 report recommendations, [Slovenia](#) reinstated the operational autonomy of its National Bureau of Investigation, restoring the State Prosecutor's power to direct pre-trial and criminal proceedings without direction from the Ministry of Interior. [Romania](#) has made significant progress in addressing operational challenges relating to anti-corruption prosecution in the National Anti-Corruption Directorate (DNA), although recruitment remains to be further improved. In [Bulgaria](#), the institutional restructuring of the Anti-Corruption Commission is envisaged as part of Bulgaria's commitments under the Recovery and Resilience Plan, and draft legislation is being discussed in Parliament<sup>46</sup>.

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<sup>44</sup> Recommendations concern FI and SE.

<sup>45</sup> Recommendations concern SK and PT.

<sup>46</sup> Recommendations concern BG and RO.



### *Removing obstacles to criminal investigations and prosecution and establishing dissuasive sanctions for high-level corruption*

Procedural shortcomings can obstruct the effective investigation and prosecution of corruption cases. Examples include excessively cumbersome or unclear provisions on lifting immunities and statutes of limitations that are too short. These obstacles can be particularly harmful for complex corruption cases, in particular where lengthy proceedings are already an issue, generating risks of impunity and depriving anti-corruption efforts of their deterrent effects. According to the Special Eurobarometer on citizens' attitudes towards corruption, around seven in ten of Europeans (67%) think that high-level corruption cases are not pursued sufficiently<sup>47</sup>. In some Member States, reforms to reduce the length of criminal proceedings are needed to improve the track record of final judgments, in particular in relation to high-level corruption cases. Last year's report issued recommendations in this regard to several Member States. In [Croatia](#), the length of proceedings to investigate, prosecute and adjudicate corruption offences continues to undermine the effectiveness of the anti-corruption system; legislation to shorten this has yet to be introduced. [Spain](#) also still needs to address challenges related to the length of investigations and prosecutions, to increase efficiency in handling high-level corruption cases. In [Czechia](#), high-level corruption cases remain a point of attention due to delays in some proceedings<sup>48</sup>.

In some Member States, immunity for corruption offences for members of the Government has been an issue of concern. Some countries have taken action to address this. In [Luxembourg](#), a constitutional reform abolished the Parliament's exclusive right to bring charges against members of Government. The Prosecutor's Office became competent to carry out criminal investigations into members of Government, who can now be held criminally liable for corruption offences committed in the exercise of their duties. In [Romania](#), the Senate adopted rules with objective criteria to decide on requests for lifting parliamentary immunities, mirroring the rules already adopted in 2019 by the Chamber of Deputies. However, in [Poland](#), concerns regarding the broad scope of immunities for persons exercising top executive functions who are also Members of Parliament have not yet been addressed and new impunity provisions were adopted, creating exemptions from criminal responsibility and increasing the risk of corruption<sup>49</sup>.

Some Member States continue to consolidate their track record of investigating, prosecuting and sanctioning high-level corruption<sup>50</sup>, in line with recommendations in the 2022 report. In [Croatia](#), the effective investigation of high-level corruption continued, and the overall number of indictments and judgments increased. Efforts to fight high-level corruption also continued in [Slovakia](#), with several former high-ranking officials charged with bribery offences, and in [Austria](#), where prosecutors continue to experience high scrutiny on individual cases. Results have been achieved in prosecuting and sanctioning high-level corruption offences in [France](#), despite structural and resource challenges. [Romania](#) has continued to maintain a positive track record in combating corruption, including on high-level cases.

In other Member States, a solid track record in the investigation and prosecution of high-level corruption cases, leading to dissuasive sanctions by final convictions, remains to be established. In [Bulgaria](#), a robust track record of final convictions in high-level cases of corruption is still

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<sup>47</sup> Special [Eurobarometer 534](#) on Citizens' attitudes towards corruption in the EU (2023).

<sup>48</sup> Recommendations concern CZ, ES and HR.

<sup>49</sup> A recommendation concerns PL.

<sup>50</sup> As noted in the 2020 Rule of Law report, the lack of uniform, up to date and consolidated statistics across all Member States makes it difficult to track the comparative success of the investigation and prosecution of corruption offences. The assessment is based on the data provided by Member States.



lacking. In [Malta](#), prosecution was launched by the Attorney General's office in relation to some cases, challenges relating to the length of investigations of high-level corruption cases remain and further measures are needed to establish a robust track record of final judgments. Although some high-level cases reached the indictment and conviction stage in [Hungary](#), the lack of a robust track record of investigations of corruption allegations concerning high-level officials and their immediate circle remains a serious concern. The Hungarian Recovery and Resilience Plan includes commitments aimed at improving prosecution in corruption cases. In [Greece](#), while some progress has been made on the rate of prosecutions and convictions for bribery offences, the relatively high number of acquittals and suspended sentences may raise doubts as to the deterrent effect of the criminal justice response. In [Slovenia](#), criminal investigations, indictments and judgments in corruption cases remain limited, including for high-level corruption<sup>51</sup>.

### *Strengthening corruption prevention measures and fostering integrity in public life*

A political and institutional system based on integrity, transparency and accountability in public life is the best guarantee against corruption. This is why effective anti-corruption approaches often build on measures to enhance transparency, ethics and integrity, as well as regulating areas such as conflict of interest, lobbying and 'revolving doors'<sup>52</sup>.

Conflicts of interest arise when a public official has a private or professional interest that could interfere with the impartial and objective performance of their duties<sup>53</sup>. To prevent such conflicts of interest, most Member States have measures in place covering a wide range of elected and appointed public officials. In the [Netherlands](#), the Government adopted a comprehensive policy on integrity in public office, covering civil servants and holders of political office. [Lithuania](#) also took further measures to implement its existing integrity rules. In [Czechia](#), legislation to revise the system of declaration of conflicts of interest is progressing through Parliament.

Challenges remain in other Member States. In [Italy](#), where no comprehensive rules on conflicts of interest exist, new draft legislation is under discussion in Parliament. In [Slovenia](#), the rules on conflicts of interest and incompatibility of office indicate certain gaps in monitoring, particularly at the municipal level.

Senior government officials and Members of Parliament are often subject to specific integrity rules. Many Member States have in place codes of conduct and rules on preventing conflicts of interest and incompatibilities with other activities. It is important that the practical implementation of these rules is subject to regular verification and evaluation. Some Member States have taken steps in this area, including in the light of the 2022 recommendations. In [Estonia](#), new procedures were introduced to ensure more effective implementation of the guidelines on conflicts of interest for ministers and their political advisers, although enforcement mechanisms are still lacking. In [Belgium](#), the ministerial Code of Conduct for federal public office holders is to be extended to cover all members of ministerial private offices and a Code of Conduct for ministers was put in place, which includes guidance on conflicts of interest, revolving doors and gifts and benefits. In [Croatia](#), codes of conduct were adopted for Members of Parliament and almost all local and regional administrations have followed. The [Netherlands](#) adopted a Code of Conduct for ministers and state secretaries.

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<sup>51</sup> Recommendations concern BG, EL, HU, MT and SI.

<sup>52</sup> JOIN (2023) 12 final, p. 4.

<sup>53</sup> Conflicts of interest arise when a public official has a private or professional interest that could interfere with the impartial and objective performance of their duties. See Council of Europe, Recommendation Rec(2000)10 on codes of conduct for public officials.

In [Finland](#), while civil servants and persons entrusted with top executive functions are covered by the Code of Conduct, ministers are still excluded. In [Bulgaria](#), serious gaps remain on integrity measures for top-level functions. In [Portugal](#), concerns remain regarding the application and monitoring of rules on conflicts of interest for high-level officials in Parliament and in the Government. In [Spain](#), rules on conflicts of interest of top executive officials are not adequately implemented. In [France](#), not all Members of Parliament seem to declare their interests in line with the applicable integrity rules<sup>54</sup>.

#### *Ensuring transparent lobbying and regulating ‘revolving doors’*

To be a legitimate act of political participation<sup>55</sup>, lobbying needs to be accompanied by strong requirements for transparency and integrity to ensure accountability and inclusiveness in decision-making<sup>56</sup>. Developments in these areas continued in 2023, as some Member States revised their lobbying transparency rules, in line with 2022 recommendations. In [Latvia](#), a new lobbying law was adopted, which provides for the creation of a lobbying register. In [Estonia](#), the authorities have continued efforts to effectively implement the guidelines on lobbying. [Cyprus](#) adopted an implementing regulation on lobbying, which clarifies the procedure for declaring, recording, and publishing lobbying activities. In [Lithuania](#), current rules on lobbying gave positive results in terms of submitted declarations. In [Belgium](#), [Czechia](#), [Croatia](#), [Spain](#), [Ireland](#), and [Portugal](#), discussions on new lobbying legislation are ongoing. Dedicated regulation on lobbying is still missing in [Slovakia](#), and existing legislation could be improved in [Austria](#), [Germany](#), [France](#), [Luxembourg](#), the [Netherlands](#), [Poland](#), , [Romania](#) and [Hungary](#)<sup>57</sup>.

The regulation and enforcement of rules on ‘revolving doors’ between public and private functions is increasingly an area of attention in many Member States, including to prevent foreign interference . In [Sweden](#), an evaluation of the post-employment rules for top executive functions in the Government is ongoing. Discussions on introducing or revising existing rules on revolving doors are progressing in [Finland](#) and the [Netherlands](#). In other Member States, progress has been slower. In [Hungary](#), post-employment restrictions and cooling-off periods are fragmented and apply only to a small group of public officials, but there are plans to provide further guidance on post-employment restrictions. In [Denmark](#), no steps have been taken to introduce rules on revolving doors for ministers<sup>58</sup>.

#### *Asset and interest disclosure*

Asset and interest declarations by public officials support public sector transparency and accountability and are important tools to promote integrity and prevent corruption. Rules are in place in most Member States to ensure that public sector officials are subject to asset and interest disclosure obligations. However, there are wide variations in the scope, transparency and accessibility of disclosed information, as well as in the level and effectiveness of verification and enforcement measures.

Several Member States saw reforms in 2023 to address issues covered in the 2022 recommendations. In [Czechia](#), the asset declarations system was revised, bringing it into compliance with a Constitutional Court ruling, and declarations are again being made publicly available, albeit upon request. In [Greece](#), a new law to strengthen the system and procedure for

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<sup>54</sup> Recommendations concern BE, BG, CZ, EE, IT, SK and FI .

<sup>55</sup> OECD (2021) Lobbying in the 21<sup>st</sup> century.

<sup>56</sup> OECD (2010), Recommendation of the Council on Principles for Transparency and Integrity in Lobbying; Council of Europe standards on lobbying transparency, Recommendation CM/Rec(2017)2.

<sup>57</sup> Recommendations concern BE, CZ, DK, DE, IE, ES, FR, HR, IT, LV, LU, HU, NL, AT, PL, RO and SK..

<sup>58</sup> Recommendations concern BE, CZ, DK, DE, HU, NL, and SE [...].

verifications entered into force. [Latvia](#) and [Romania](#) continue to successfully implement their electronic system for asset declarations.

In some other Member States, the pace of reform has been slower and challenges remain. In [Portugal](#), the start of operations of a new entity that will be in charge of monitoring and verification of asset declarations remains delayed. In [Slovakia](#), a body intended to oversee the majority of asset declarations and deal with conflicts of interest, violations of codes of conduct and lobbying has not yet been set up. In [Belgium](#), shortcomings remain regarding the verification and transparency of asset declarations, as these declarations are only accessible in the context of criminal investigations. In [Denmark](#), no progress has been made on asset declarations submitted by persons entrusted with top executive functions, and there continues to be no verification and monitoring system in place for integrity risks. In [Poland](#), a uniform, centralised submission and monitoring system for asset declarations is still lacking, and the level of digitalisation of politicians' asset declarations continues to be low. In [Austria](#), a working group has been created to follow up on asset and interest disclosure rules for Members of Parliament, but no concrete results have been reported so far. Similarly, in [Cyprus](#), the asset declaration system remains incomplete, as the relevant act is still in Parliament. In [Ireland](#), some steps were taken to strengthen the asset disclosure rules<sup>59</sup>.

### *Whistleblower protection*

The protection of whistleblowers plays an essential role in the detection and prevention of corruption. The transposition of the EU Directive on whistleblower protection<sup>60</sup> has resulted in revised or new legislation in many Member States, as noted in last year's report. Since July 2022, laws to transpose the Directive or to otherwise strengthen the protection of whistleblowers have been adopted and/or entered into force<sup>61</sup>.

However, there are still major obstacles to reporting corruption cases in practice with less than half of Europeans (45%) knowing where to report a case of corruption and 30% of Europeans believing that cases of corruption are not reported because reporting would be pointless because those responsible will not be punished<sup>62</sup>. Legislative steps are being complemented by other efforts to implement the new laws and encourage whistleblowers to use the new channels for reporting. [Slovakia](#)'s dedicated Whistleblower Protection Office is investing in public awareness campaigns to address the persistently low levels of reporting. In [Cyprus](#), with no whistleblowing complaints received so far, awareness-raising actions have been launched. [Denmark](#) and [Malta](#) have produced new guidelines and information tools.

### *Addressing areas of high risk*

No sector or area of activity is safe from corruption risks, but common high-risk areas deserve particular attention – usually those involving management of significant public funds or access to permits or to a critical service. Sectors such as healthcare, construction or urban planning are therefore vulnerable, and public investments need to take account of new corruption-related risks. Areas with a risk of serious criminality such as ports, which are pressure points for

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<sup>59</sup> Recommendations concern DK, IE, ES, CY, HU, AT, PL, PT and SK.

<sup>60</sup> Directive 2019/1937 on the protection of persons who report breaches of Union law (OJ L 305, 26.11.2019).

<sup>61</sup> Austria, Bulgaria, Czechia, Finland, France, Germany, Greece, Luxembourg, Ireland, Italy, Hungary, the Netherlands, Romania, Slovenia, Spain. The Commission is currently assessing the compliance of the transposition measures notified with regard to Directive (EU) 2019/1937.

<sup>62</sup> Special [Eurobarometer 534](#) on Citizens' attitudes towards corruption in the EU (2023).

organised crime groups trafficking drugs, also need constant monitoring. Other areas of risk relate to political party financing and investor citizenship and residence schemes<sup>63</sup>.

*Political party financing* is an important risk area for corruption raised in a number of 2022 recommendations and several Member States have adopted or are considering reforms to increase transparency and oversight. In [Austria](#), a significant reform of the political party financing framework has been finalised, strengthening the role of the Court of Audit. Revised rules on political party financing entered into force in the [Netherlands](#), prohibiting foreign donations and increasing transparency and reporting obligations, with further legislative reforms on the way. In [Belgium](#), reform of political party financing continues to be extensively discussed, albeit without concrete results yet. In [Poland](#), new measures have entered into force increasing the transparency of political party finances, though concerns remain regarding party donations and election campaigns. In [Spain](#), despite a formal request by the Court of Auditors, the law governing financing of political parties remains unchanged. In [Czechia](#), some steps were taken towards reforming the political party financing framework. In [Denmark](#), a new law on public financing of political parties was adopted and discussions on a legislative initiative on the private financing of political parties have started.

Challenges continue to exist in other Member States. In [Italy](#), the practice of channelling donations through political foundations and associations remains unchanged although discussions on a draft law have begun in Parliament. The verification of party financing in [Slovenia](#) is not systematic, and the Court of Audit is reflecting on ways to improve the effectiveness of political party audits. In [Germany](#), a number of reforms set out in the Government's coalition agreement are still outstanding, including the revision of political party financing rules<sup>64</sup>.

*Investor citizenship and investor residence schemes* create corruption risks. They also raise concerns about security, money laundering and tax evasion,<sup>65</sup> as well as the use of such schemes to avoid extradition, evade sanctions and launder illicit proceeds. The schemes may also encourage bribery of public officials and private intermediaries. Moreover, the Commission considers that the granting of EU citizenship in return for pre-determined payments or investments, without any genuine link to the relevant Member State, undermines the essence of EU citizenship and is in breach of EU law, and has taken steps to ensure that all investor citizenship schemes in the EU are abolished<sup>66</sup>. [Bulgaria](#) has begun a process of revoking Bulgarian citizenship previously granted under its (now abolished) investor citizenship scheme due to investors' failure to comply with the national legal framework. [Cyprus](#) has stopped applying its investor citizenship scheme in practice, although the scheme's legal framework remains in force. [Malta](#) continues to operate its scheme, although it has ceased naturalising Russian and Belarusian investors<sup>67</sup>. Both [Cyprus](#) and [Malta](#) have also withdrawn nationality from investors previously naturalised under their investor residence schemes, implementing the Commission's Recommendation on investor schemes issued in the context of the Russian full-scale invasion of Ukraine<sup>68</sup>. Investor residence schemes remain highly

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<sup>63</sup> Joint Communication on the fight against corruption on the fight against corruption, JOIN(2023) 12 final Brussels, 3.5.2023, p. 7.

<sup>64</sup> A recommendation concerns IT.

<sup>65</sup> Commission report on 'Investor Citizenship and Residence Schemes in the EU' adopted on 23 January 2019, COM(2019) 12.

<sup>66</sup> The Commission launched infringement procedures regarding the schemes operated by Cyprus and Malta.

<sup>67</sup> The Commission referred Malta to the Court of Justice of the European Union on 21 March 2023, (case C-181/23 pending).

<sup>68</sup> Recommendation in the context of the Russian invasion of Ukraine in relation to CBI and RBI schemes

susceptible to corruption-related risks and continue to require careful risk screening. The 2019 Commission report on Investor Citizenship and Residence Schemes identified 19 Member States as having an investor residence scheme<sup>69</sup>. Recently some Member States have terminated their schemes or are in the process of terminating them<sup>70</sup>, and work is ongoing in other Member States to assess specific risks and/or take mitigating measures<sup>71</sup>.

In many Member States, *public procurement* and the *health sector* remain the main areas at high risk of corruption. Other areas highlighted for their corruption risk include environmental protection, the protection of cultural heritage, and the energy sector. Further work is required to map common high-risk areas, as corruption activities are constantly developing and adapting to new opportunities. The Commission has committed to work with Member States in this respect. One of the first tasks of the new EU network against corruption that the Commission will set up will be to map common risk areas by 2024<sup>72</sup>. Some Member States are making efforts to mitigate corruption risks in specific areas, in particular in relation to public procurement. The Flash Eurobarometer on Businesses' attitudes towards corruption in the EU shows that 26% of companies in the EU think that corruption has prevented them from winning a public tender or a public procurement contract in practice in the last three years<sup>73</sup>. [Finland](#) is organising tailored training to address risks in public procurement. In [Slovenia](#), efforts have continued to increase transparency by upgrading the public procurement registry to include more detailed information about the entire lifecycle of public contracts. In [Lithuania](#), the launch of a new e-procurement system is being finalised, with the intention to create links with other state registries for ease of use.

### **2.3 Media pluralism and media freedom**

A free and pluralistic media environment is key for safeguarding the rule of law, as independent and free media hold power and institutions to account when they carry out their role as watchdogs of democracy. Political and state pressure or control over the media undermines media freedom, as well as the freedom to seek, receive and impart information. A highly concentrated market dominated by only a few players may also undermine media pluralism, in particular in the absence of strong safeguards for editorial independence. In the EU, Member States have an obligation to guarantee an enabling environment for journalists, protect their safety and promote media pluralism and freedom.

The Media Pluralism Monitor<sup>74</sup> assesses the risks to media freedom and pluralism in all Member States, focusing on four areas – fundamental protection of media freedom, market

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adopted on 28 March 2022, C(2022) 2028.

<sup>69</sup> Residence by investment schemes were in use in a total of 19 Member States: Bulgaria, Czechia, Estonia, Ireland, Greece, Spain, France, Croatia, Italy, Cyprus, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Romania and Slovakia.

<sup>70</sup> Ireland, Portugal and the Netherlands.

<sup>71</sup> Spain and Lithuania.

<sup>72</sup> The Commission will lead this work in close consultation with Member States. This will form an important component in developing future initiatives on fighting corruption. See Joint Communication on the fight against corruption, JOIN(2023) 12.

<sup>73</sup> Flash [Eurobarometer 524](#) on Businesses' attitudes towards corruption in the EU (2023).

<sup>74</sup> The Media Pluralism Monitor is an important source of information for the Commission's Rule of Law reports. It is a scientific holistic tool that documents the health of media frameworks, detailing threats to media pluralism and freedom in Member States and in certain candidate countries. It is co-financed by the EU and has been carried out, in an independent manner and on a regular basis, by the Centre for Media Pluralism and Media Freedom, since 2013-14. The Commission has also used other sources, such as Reporters Without Borders' World Press Freedom Index and the Council of Europe's Platform to promote the protection of journalism and safety of journalists, as referenced in the country chapters.



plurality, political independence, and the social inclusiveness of media. The Monitor's latest results (MPM 2023) reveal that there has been no major change across these areas since the last MPM report, though there has been some variance in specific indicators within those general areas. The indicators relating to the journalistic profession and the protection of journalists and relating to access to information remain overall unchanged, both registering the same medium risk scores. There has been some further improvement in the indicator relating to transparency of media ownership due also to the implementation of EU legislation by several Member States. News media concentration<sup>75</sup> retains its 'high risk' level across the EU, while the area of political independence, remains largely unchanged at medium risk. This year's overall ranking classifies media pluralism to be at 'high risk' in five Member States and at 'very high risk' in four Member States<sup>76</sup>.

#### *Strengthening the independent functioning of media regulators*

The functional and effective independence of media regulators is essential for upholding media pluralism. Media regulators also require sufficient resources and must be able to exercise their powers in an impartial and transparent way. All Member States have legislation in place setting out the competences and independence of media regulators, as the Audiovisual Media Services Directive (AVMSD) includes a clear list of requirements which Member States must ensure with regard to their media regulators: independence from government, impartiality, transparency, accountability, adequate resources, appointment and dismissal procedures and effective appeal mechanisms<sup>77</sup>. The Commission is currently assessing in detail the transposition of the AVMSD by Member States, including in relation to the independence of media regulators.

Since the 2022 Rule of Law report, [Czechia](#), [Lithuania](#) and [Ireland](#) have followed other Member States and adopted provisions to increase the independence of media authorities or extend the authorities' powers to cover new areas. A restructuring process is ongoing or under preparation in [Estonia](#), [Spain](#), and [Sweden](#).

Concerns persist with regard to the effectiveness or the functional independence of regulators in practice in several Member States. Some of these concerns relate to insufficient safeguards against undue political influence over the nomination process or in the functioning of regulators, as is the case in [Hungary](#), [Slovenia](#), and [Poland](#). In [Greece](#) and [Romania](#), resources continue to be insufficient for the authorities to fully carry out their tasks<sup>78</sup>.

#### *Increasing the transparency of media ownership*

Media ownership can result in direct or indirect control of or significant influence over the editorial decisions and the news content provided. Transparency of media ownership therefore allows users to make better informed judgements. European standards<sup>79</sup> encourage Member

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<sup>75</sup> This indicator has been renamed "Plurality of media providers" in MPM 2023.

<sup>76</sup> In ascending order of risk, Croatia, Cyprus, Greece, Slovenia and Malta are considered 'high risk' while Bulgaria, Poland, Romania, and Hungary are considered to be 'very high risk' countries. The Media Pluralism Monitor calls for caution in any comparison between its rankings and those published by other indexes (such as the Reporters without Borders' World Press Freedom Index), given the different methodologies used, indicators and scope.

<sup>77</sup> Directive (EU) 2018/1808 of 14 November 2018.

<sup>78</sup> A recommendation concerns HU.

<sup>79</sup> Recommendation CM/Rec(2018)11 of the Committee of Ministers to Member States on media pluralism and transparency of media ownership.



States to adopt specific measures in this area<sup>80</sup>. Since the last report, new legislation increasing the transparency of media ownership or improving public availability of media ownership information has been adopted in [Greece](#), [Luxembourg](#), [Sweden](#) and strengthened in [Cyprus](#). Reflections have continued in [Bulgaria](#) with a view to ensure a more effective enforcement of media ownership obligations. Following the 2022 report recommendations, the media regulator in [Czechia](#) has been given additional rights to access data on media ownership held by the Ministry of Justice, but legislation clarifying the definition of ownership remains pending. Discussions on revising the rules on the transparency of media ownership have started in [France](#), where transparency concerns had been raised as regards complex shareholding structures<sup>81</sup>.

### *Safeguarding media from political pressure and influence*

Undue political pressure and political influence on the media, notably from state authorities and ruling parties, undermines media independence and can thereby negatively impact the rule of law. Transparent rules for the fair allocation of state advertising and strong safeguards to prevent the politicisation of public service media are particularly important in this regard.

*State advertising* includes all use of the state budget, at all levels, or of state-controlled companies for the purposes of advertising and campaigns. It is important that allocations are transparent and take place based on fair criteria, to prevent the risk that state advertising is used as a means of political influence and to leverage funds to favour certain media outlets. There have been developments in several Member States in line with the 2022 report recommendations, but challenges remain. In [Austria](#), Parliament adopted a law improving the transparency of state advertising, while the fairness of its allocation remains unaddressed. In [Bulgaria](#), an expert group was set up to examine the issue, as the lack of a clear framework to ensure transparency in the allocations of state advertising remains a concern. In [Lithuania](#), a new law requires public institutions and bodies to publish online information about the funds they have allocated for state advertising.

In other Member States, measures are needed to increase the transparency and fairness of state advertising. In [Hungary](#), no measures have been adopted or planned to regulate and thereby increase the fairness of the channelling of the significant volumes of state advertising to media outlets. In [Croatia](#), no further steps have been taken since the last legislative reform in 2021 to further strengthen the framework for the public tender procedure for state advertising in local and regional media<sup>82</sup>.

A regulatory framework and safeguards that ensure the *independent governance and editorial independence of public service media* is key to preventing political interference. The funding granted to broadcasting organisations to fulfil this public service is the responsibility of each Member State, as long as EU trade and competition rules are respected<sup>83</sup>. However, all Member States have agreed to a set of European standards and guiding principles relating to

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<sup>80</sup> EU legislation also contains relevant provisions: Directive 2010/13/EU of 10 March 2010, as amended by Directive 2018/1808 of 14 November 2018; General (non-sectoral) obligations of transparency of beneficial ownership in the Anti-Money Laundering Directives (Directive 2018/843 of 30 May 2018 and Directive 2015/849 of 20 May 2015); transparency of media ownership provisions are also included in the [European Media Freedom Act - Proposal for a Regulation and Recommendation](#).

<sup>81</sup> Recommendations concern CZ and FR.

<sup>82</sup> Recommendations concern BG, HR, CY, HU and AT.

<sup>83</sup> Protocol (No 29) on the system of public broadcasting in the Member States, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union.

independence, the regulatory and policy framework, funding, appointments, accountability, management, transparency, and openness in this domain<sup>84</sup>.

Reforms aimed at strengthening the independence of national public service broadcasters are under way in several Member States. In [Luxembourg](#), legislation has enshrined a new public service media radio station, strengthening its independence, clarifying its mission, and providing a stable financial framework. In [Slovenia](#), a new law was adopted to reform the governance structure of the public service media and introduced safeguards for their independence. In [Germany](#), amendments concerning the remit of the public service broadcasters have been agreed and further changes to improve compliance and control mechanisms are being prepared. [Estonia](#) increased the resources allocated to public service media. In [Slovakia](#), the independent governance of public service media has been improved, but its sustainable financing remains a concern. In [Czechia](#), a newly adopted law is expected to strengthen the independence of the supervisory bodies of public service media. Reforms are being discussed in [Cyprus](#), [Ireland](#) and [Sweden](#). However, no measures have been taken to improve the independent governance and editorial independence of public service media in [Romania](#), [Malta](#), [Poland](#) and [Hungary](#)<sup>85</sup>.

#### *Access to information*

The right to access information held by public authorities is one of the main transparency and accountability tools available for civil society and citizens, and is fundamental for journalists to do their work. The 2022 report contained a number of recommendations in this domain. Since the publication of the report, several Member States have proposed or introduced legislation, or established practices which are expected to facilitate the right to access public information or which clarify one or more aspects of this right. In [Czechia](#), amendments have been made to the law regulating access to information held by public authorities. In [Lithuania](#), measures were taken to improve journalists' access to information held by public authorities. In [Slovakia](#), the Freedom of Information Act has undergone amendment to extend the list of entities that are required to provide access to information. In [Spain](#), the Government is working on a draft law on access to classified information. In [Hungary](#), a new reform aims to facilitate access to public information including by making the charging of fees exceptional. [Luxembourg](#) has taken steps to reduce delays in processing requests from journalists for the disclosure of official documents, although a clear fast-track option for journalists is not yet available. In [Croatia](#), the legislation on general access to information and public documents has been revised, although in some cases delays remain an issue in practice. [Germany](#) has started internal preparations to follow up on the plan to establish in law the right to information of the press as regards federal authorities.

Issues highlighted in last year's report remain unaddressed in some Member States. In [Malta](#), where citizens and media houses continue to face obstacles when requesting access to information, the review of the Freedom of Information Act remains pending. In [Austria](#), while consultation continued, no progress has been made with regard to planned amendments of the freedom of information legislation. In [Finland](#), a proposal was presented to reform the law, clarifying exceptions to access relating to documents in criminal proceedings, but this has not yet been adopted into law<sup>86</sup>.

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<sup>84</sup> Council of Europe Recommendation CM/Rec(2012)1 on public service media governance.

<sup>85</sup> Recommendations concern CZ, CY, HU, MT, PL, RO and SK.

<sup>86</sup> Recommendations concern BE, DK, DE, EE, ES, LU, MT, AT and FI.

*Improving the safety and protection of journalists and addressing legal threats and abusive court proceedings against public participation*

Threats to physical safety, online attacks, smear campaigns, legal threats and censorship compromise the safety of journalists, although in 2022 the Council of Europe's Platform registered a decrease (25%) in alerts in EU Member States compared to 2021<sup>87</sup>. The 2021 Commission Recommendation on the safety of journalists<sup>88</sup> includes measures relating to: effective and impartial investigation and prosecution of crimes; independent response and support mechanisms; access to venues and information; safety during demonstrations; training and online safety; and digital empowerment. In the coming months, Member States are expected to report on actions taken to implement this recommendation<sup>89</sup>.

Several Member States have adopted measures to improve the safety of journalists, in line with the 2022 report recommendations. In [Greece](#), a specialised task force has been established, whose work includes the setting up of an observatory to record threats and attacks against journalists and a dedicated international training centre for the safety of journalists and media professionals. In [Belgium](#), measures such as training for journalists, ad hoc legal and non-legal assistance, and a platform to report attacks have been launched. In [Sweden](#), the Government has taken steps to increase criminal law protection for journalists, as a growing number of instances of hate speech, threats, and insults have been reported. In [Finland](#), the Criminal Code has been amended to address online threats directed towards female journalists by making restraining orders against perpetrators more effective. In [Ireland](#), the national journalists' union and other media organisations set up a 'media engagement group' with the national police to discuss threats and violence against journalists and monitor their safety, with the intention to serve as a direct reporting system to the police. In a number of other Member States, reforms remain pending.

Strategic lawsuits against public participation (SLAPPs) are a particular form of harassment used against journalists and rights defenders engaged in public participation on matters of public interest. Effective safeguards are needed to prevent such harassment from silencing journalists and create a chilling effect on media freedom and freedom of expression<sup>90</sup>.

Defamation is one of the most common grounds on which SLAPPs are brought against journalists. To address the threat of SLAPPs and respond to the 2022 report recommendations, several Member States envisage introducing specific procedural safeguards and/or revising their defamation laws. Legislation geared towards allowing for the early dismissal of such cases and revising criminal liability for defamation was adopted in [Lithuania](#). In [Italy](#), work has begun to reform provisions on defamation and the protection of professional secrecy and journalistic sources. In [Slovakia](#), a bill aimed at strengthening the protection of journalists,

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<sup>87</sup> Alerts are registered by the Council of Europe Platform to Promote the Protection of Journalism and Safety of Journalists and the Mapping Media Freedom (MFF) Platform. Between 2021-2022, the Mapping Media Freedom Platform registered a 10% decrease in alerts in EU Member States.

<sup>88</sup> 2021 Recommendation on the safety of journalists (C(2021) 6650, 16 September 2021)

<sup>89</sup> A structured dialogue on this topic is scheduled to take place at the November 2023 European Media News Forum.

<sup>90</sup> The 2022 Commission Recommendation on protecting journalists and human rights defenders who engage in public participation from manifestly unfounded or abusive court proceedings (C(2022) 2428, 27 April 2022) includes measures related to applicable frameworks including defamation, training, awareness raising, support mechanisms, data collection, reporting and monitoring. By the end of 2023, Member States are expected to transmit to the Commission a report on the implementation of this Recommendation.

including by modifying the criminal law provisions on defamation, is being discussed in Parliament. Announced reforms are pending in [Malta](#) and [Ireland](#)<sup>91</sup>.

#### ***2.4 Other institutional issues linked to checks and balances***

A well-functioning system of institutional checks and balances ensures that the power exercised by one state power is subject to the scrutiny of others. While national models may vary between Member States, in view of their different constitutional traditions, they all need to be subject to such a system to ensure the respect for the rule of law and democratic norms. An important part of the system of checks and balances is a strong role for institutions and organisations bringing an independent voice. A law empowering an administrative committee to assess and decide whether individuals should be deprived for up to 10 years of the right to hold public office involving the handling of public funds entered into force on 1 June 2023 in [Poland](#), giving rise to serious concerns that it could be used to affect the possibility of individuals to run for public office. Amendments are being considered<sup>92</sup>.

#### *The inclusiveness, quality and transparency of law-making and the legislative process*

Following the trend noted in the previous editions of the Rule of Law report, and the 2022 report recommendations, work to improve the quality of the legislative process and ensure appropriate involvement of stakeholders and civil society continues to be carried out and there is progress in several Member States. In [Estonia](#), a new digital platform to further improve the process of enacting laws is being launched, with additional features to better include stakeholders to follow. In [Luxembourg](#), a constitutional reform was adopted introducing a possibility for legislative initiatives from citizens. In [Portugal](#), impact assessment rules were amended to further improve the quality of legislation and increase the transparency of the legislative procedure. In [Latvia](#), measures were taken to increase the participation of civil society in decision-making at local level, through a new law on local government. In [Romania](#), new instruments aim to improve the transparency and quality of decision-making and legislation. In [Denmark](#), the Government has committed to follow-up on a political agreement to strengthen Parliament's scrutiny of the Government.

Some Member States have introduced measures in this area that remain at an early stage, or have not yet produced the expected results. In [Hungary](#), amendments to the rules on public consultations are expected to improve the legislative process, but their practical impact remains to be assessed. In [Cyprus](#), the creation of an electronic platform for public consultations aims to increase accessibility and transparency in the law-making process, while further steps are needed to ensure the effective and timely consultation of stakeholders. In [Bulgaria](#), concerns regarding the law-making process persist in relation to implementation in practice of the new procedural rules.

Inclusive stakeholder participation based on formal rules helps to improve the transparency of the legislative procedure and the quality of its outcomes. Challenges continue to be flagged in a number of Member States, in relation to a lack of formal frameworks for consulting stakeholders or the insufficient application of these in practice. [Malta](#) lacks a formalised process for public participation in the legislative process, while in [Greece](#), the time allocated to public consultations is not always sufficient. In other Member States, concerns have been

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<sup>91</sup> Recommendations concern HR, EL, IE, IT, MT, SI and SK.

<sup>92</sup> Statement by the European Commission of 30 May 2023 on the Polish law establishing a State Committee for the Examination of Russian Impacts on Internal Security. On 2 June 2023, the President of the Republic tabled amendments to the law, which are being considered by the Senate.

raised regarding legislative practices. In [Spain](#), while there are safeguards ensuring public consultation on legal proposals prepared by the Government, there are concerns regarding certain practices in Parliament that may have an impact on the quality of legislation. In [Slovakia](#), the level of involvement of stakeholders in the law-making process remains a concern, especially in connection with the use of fast-track procedures and parliamentary proposals. In [Poland](#) the practice persists of adopting laws through procedures that require only limited consultation. Under its Recovery and Resilience Plan, Poland has committed to amend the Rules of Procedure of the Sejm, the Senate and the Council of Ministers to enhance the use of public consultations and impact assessments in the law-making process. In [Romania](#), there remains room for progress in ensuring effective public consultation, and the Government has committed to improve the process. In [Luxembourg](#), the legislative process has not improved in terms of the openness of the public consultations<sup>93</sup>.

### *Significant developments on Supreme and Constitutional Courts in relation to checks and balances*

Constitutional justice is a key component of checks and balances in a constitutional democracy. Constitutional jurisdictions play a key role in the effective application of EU law and in ensuring the integrity of the EU legal order. Therefore, while their establishment, composition and functioning fall within the competence of Member States, when exercising that competence, Member States are required to comply with their obligations deriving from EU law and, in particular with the values on which the EU is founded<sup>94</sup>. In [Poland](#), serious concerns relating to the Constitutional Tribunal have led the Commission to refer Poland to the Court of Justice for violations of EU law by the Constitutional Tribunal and its case-law<sup>95</sup>.

Relevant developments can be identified in other Member States. As of July 2023, [Cyprus](#) has a new Supreme Constitutional Court, competent to assess the constitutionality of laws in the context of specific cases brought before it. In [Portugal](#) and in [Spain](#), new judges were appointed to the respective Constitutional Courts, following delays. In [Hungary](#), the Constitutional Court can no longer be seized by public authorities, but can still review final decisions of the ordinary courts .

In some Member States, Constitutional Courts have taken important decisions regarding the organisation of national justice systems. In [Lithuania](#), the Constitutional Court clarified the principles regarding the dismissal of the judges of higher courts, reaffirming the role of the Judicial Council. In [Portugal](#), the Constitutional Court was called to rule on the impact of the draft law on professional associations on the independence of lawyers, which it found compatible with the Constitution.

### *Rule of law issues related to the declaration of states of emergency*

As the emergency measures adopted in the context of the COVID-19 pandemic have been gradually lifted, in some Member States, such as [Belgium](#) and [Lithuania](#), Constitutional Courts continue to be called to ensure that the action taken respected constitutional norms. The process of learning lessons from the use of states of emergency during the COVID-19 pandemic to initiate reforms has continued in some Member States. In [Portugal](#), a new legal basis for emergency measures is under discussion, including in the context of the ongoing constitutional revision. In [Finland](#), an amendment to the Emergency Powers Act was adopted, which sets ground for a declaration of a state of emergency also in case of serious hybrid threats.

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<sup>93</sup> Recommendations concern EL, CY, LU, MT, PT, RO and SK.

<sup>94</sup> CJEU, judgment of 22 February 2022, *RS (Effect of the decisions of a constitutional court)*, C-430/21, EU:C:2022:99, para. 38.

<sup>95</sup> See [press release](#).



The use of emergency powers has also continued in relation to other crises, giving rise to concern in some cases. In [Latvia](#), the state of emergency restricting access to the Latvian-Belarusian border, including for the media and civil society organisations, was maintained. In [Hungary](#), the Government has continued to use its emergency powers extensively since 2020, undermining legal certainty and affecting the activities and the stability of businesses in the single market.

*The role of the Ombudspersons, national human rights institutions, equality bodies and other independent authorities as core elements of the system of checks and balances*

National human rights institutions (NHRIs)<sup>96</sup>, Ombudspersons<sup>97</sup>, equality bodies<sup>98</sup> and other independent authorities have an important role in national systems of checks and balances. In some Member States, the status of these bodies has been further strengthened and their importance in sensitive situations has been highlighted. In [Cyprus](#), following the strengthening of its regulatory framework, the Ombudsperson was upgraded to an A-status NHRI. In [Slovakia](#), a new Ombudsperson took office after a prolonged vacancy period, and a constitutional amendment was adopted to prevent such a situation in the future. In [Luxembourg](#), the Ombudsperson was inscribed in the Constitution, following the adoption of a constitutional reform. In [Portugal](#), the reorganisation of the Office of the Ombudsperson has allowed more effective management of workload and improved focus on priority areas, and has been assessed positively. In [Poland](#), some progress has been made to improve the framework in which the Ombudsperson operates in relation to funding. In [Slovenia](#), legislative safeguards for budgetary autonomy of the independent bodies have been introduced.

In other Member States, however, NHRIs continue to face challenges. In [Lithuania](#), concerns remain regarding the adequacy of human and financial resources allocated to the Office of the Parliamentary Ombudspersons. In [Hungary](#), concerns persist regarding the independence and effective functioning of the Commissioner for Fundamental Rights. In [Croatia](#), although the follow-up to the People's Ombudsperson's recommendations has improved, some challenges remain on guaranteeing access to information<sup>99</sup>.

In the four Member States that have so far not established an NHRI in line with the UN Paris Principles, varying degrees of progress have been made and the 2022 report recommendations have been only partly implemented. In [Italy](#), draft laws were tabled to create an NHRI by providing additional powers to the existing Data Protection Authority, as well as proposing to create a separate entity through a constitutional change. In [Czechia](#), an amendment to entrust the Ombudsperson with the authority of an NHRI is in preparation. However, there was no progress in [Malta](#) on establishing an NHRI, nor in [Romania](#) on obtaining accreditation for the existing NHRI<sup>100</sup>.

Delays in appointments to various independent authorities have emerged as a challenge in several Member States, including [Bulgaria](#), [Spain](#), and [Austria](#). In [Poland](#), no steps were taken to ensure a more systematic follow-up to the findings of the Supreme Audit Office and the

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<sup>96</sup> The UN Paris Principles, endorsed by the UN General Assembly in 1993 (Resolution A/RES/48/134), set out the main criteria that NHRIs are required to meet. NHRIs are periodically accredited before the Subcommittee on Accreditation of the Global Alliance of National Human Rights Institutions.

<sup>97</sup> Venice Commission Principles for Ombudspersons.

<sup>98</sup> COM(2022) 688 final and COM(2022) 689 final.

<sup>99</sup> Recommendations concern HR, LT and PL.

<sup>100</sup> Recommendations concern CZ, IT, MT and RO.



swift appointment of its College members, putting the Supreme Audit Office's effective functioning at risk<sup>101</sup>.

### *Implementation of judgments of the European Court of Human Rights*

Included in the Rule of Law report for the first time last year, the track record of implementing leading judgments of the European Court of Human Rights (ECtHR) is an important indicator for the functioning of the rule of law in a country. The country chapters therefore again include systematic indicators on the implementation of ECtHR leading judgments by all Member States, showing also the change compared to last year<sup>102</sup>. Performance continues to vary between Member States. Overall, around 40% of the leading judgments of the ECtHR relating to EU Member States from the last 10 years have not been implemented<sup>103</sup>, similar to last year's figure.

### *Enabling framework for civil society*

Civil society organisations (CSOs) and human rights' defenders are essential to bring life to and protect the values and rights enshrined in the Treaty on European Union and the Charter of Fundamental Rights. Recognising the essential role that civil society organisations play in fostering the rule of law, democracy and fundamental rights on the ground, the Commission dedicated the 2022 Annual Report on the application of the Charter of Fundamental Rights to the topic of civic space<sup>104</sup>.

In the majority of Member States, there is an enabling and supportive environment for civil society, and the civil society space continues to be considered as 'open'<sup>105</sup>, with further efforts under way to improve their situation. In [Malta](#), the mapping of the voluntary sector, aimed to establish an enabling regulatory framework for the civil society space, continues. In [Ireland](#), work is ongoing to address legal obstacles to the funding of CSOs. In [Bulgaria](#), the Council for Civil Society Development has begun to function and is working on a national funding mechanism for the sector. In [Lithuania](#), non-governmental organisations are increasingly recognised as partners in decision-making processes. In [Germany](#), the Government intends to come with a proposal for legislation to clarify the tax-exempt status of non-profit organisations, although concrete steps have not yet been taken. In [Sweden](#), the impact on civil society engagement of reforms of the legal framework for the funding and operation of civil society organisations remains to be ascertained.

However, as was the case in previous reports, CSOs and human rights defenders have increasingly faced challenges linked to the narrowing of civic space, and some of the 2022 report recommendations have been only partly implemented. In [Cyprus](#), CSOs face difficulties due to financial and administrative burdens. In [Greece](#), the situation of the civil society raises concerns, in particular in relation to organisations working in specific areas. In [Spain](#), negotiations in Parliament did not succeed on changes to the Citizen Security Law, which could have addressed concerns regarding the law's impact on the civic space. In [Italy](#), improvements were made to the rules of tax and financial concessions for CSOs, however several new decrees were adopted that might negatively affect their work. In [France](#), while the financial environment for CSOs remains favourable, stakeholders are raising concerns on the

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<sup>101</sup> A recommendation concerns PL.

<sup>102</sup> The adoption of measures required to carry out a judgment by the ECtHR is supervised by the Committee of Ministers of the Council of Europe.

<sup>103</sup> [https://commission.europa.eu/publications/2023-rule-law-report-targeted-stakeholder-consultation\\_en](https://commission.europa.eu/publications/2023-rule-law-report-targeted-stakeholder-consultation_en).

<sup>104</sup> COM(2022) 716 final.

<sup>105</sup> According to the rating given by CIVICUS (non-governmental organisation). Ratings use a five-category scale: open, narrowed, obstructed, repressed and closed. Compared to 2022, one Member State has been downgraded from narrowed to 'obstructed'.

implementation of legislation subjecting access to public funding to compliance with the fundamental values of the French Republic.

In certain Member States, civil society continues to face serious challenges or systematic restrictions of their operating space. In [Hungary](#), obstacles continue to affect CSOs, which remain under pressure. Concerns continue regarding the State's role in financing civil society. In [Poland](#), no progress has been made to improve the civic space and stakeholders have raised concerns about continued attacks on NGOs by representatives of public authorities, notably on organisations involved in providing humanitarian aid at the Polish-Belarusian border, abortion activists, and representatives of the LGBTIQ community<sup>106</sup>.

#### *National checks and balances in relation to the use of spyware*

Even where the use of spyware is linked to national security, there is a need for national checks and balances to ensure that safeguards are in place. Fundamental rights such as the protection of personal data, the freedom to receive and impart information, the freedom of expression, and the right to an effective remedy and a fair trial, should be respected in line with EU law, including the Charter of Fundamental Rights.

Building on last year's Report, new developments were identified in 2023 in relation to the alleged illegal use of spyware (such as 'Pegasus', and equivalent surveillance spyware) against journalists, lawyers, national politicians, MEPs and citizens in several Member States. Although Member States have competence over guaranteeing their national security, they must apply relevant EU law, including the case-law of the CJEU, when doing so. The rule of law requires that recourse to such tools by Member States' security services is subject to sufficient control and fully respects EU law, including fundamental rights such as the protection of personal data and freedom of expression, as well as the safety of journalists. In [Greece](#) the issue of surveillance by means of wiretapping and spyware is subject to investigation in the national Parliament as well as by judicial and independent authorities. In [Hungary](#), the deployment of spyware targeting certain investigative journalists and media professionals remained an issue of serious concern and further concerns have been raised due to the absence of effective oversight as regards the use of secret surveillance measures outside criminal proceedings. In [Poland](#), a new case of the use of Pegasus software was detected, and the Ombudsperson and the President of the Supreme Audit Office raised concerns in relation to this.

### **3. DEVELOPMENTS AND ACTIONS AT EU LEVEL ON THE RULE OF LAW**

#### ***3.1 Dialogue and follow-up to the Rule of Law report***

##### *Interinstitutional dialogue*

The Council continued its annual rule of law dialogue on the basis of the Rule of Law report. The horizontal discussion on general rule of law developments took place in September 2022 in the General Affairs Council, and was followed by country-specific discussions in December 2022<sup>107</sup> and March 2023<sup>108</sup>. The first full cycle of 27 Member States country-specific discussions was therefore concluded under the Swedish Presidency, with a second cycle launched at the same time. The process in Council will be the subject of an evaluation during the second semester of 2023, as set out in the 2019 Finnish Presidency conclusions<sup>109</sup>.

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<sup>106</sup> Recommendations concern DE, IE, EL, HU, PL and SE.

<sup>107</sup> The discussion focused on key developments in Poland, Portugal, Romania, Slovenia and Sweden.

<sup>108</sup> The discussion focused on key developments in Slovakia, Finland, Belgium, Bulgaria and Czechia.

<sup>109</sup> Presidency conclusions - Evaluation of the annual rule of law dialogue, 19 November 2019.

As in previous years, the Justice Council also held specific debates on topics related to the rule of law, with ministers exchanging views on judicial training and its impact on access to justice in October 2022, and on barriers to access to justice in March 2023. Member States stressed the usefulness of the dialogue for sharing experiences and best practices in an open and transparent manner.

The rule of law continued to be a priority for the European Parliament. In its Resolution on the 2022 Rule of Law report adopted on 30 March 2023<sup>110</sup>, the European Parliament welcomed the inclusion of recommendations, while stressing the need for effective follow-up. The Resolution also welcomed the addition of new topics and commended the Commission for its efforts to engage with national stakeholders. Parliament reiterated its calls for the Commission to involve civil society in a consistent and meaningful way.

The Democracy, Rule of Law and Fundamental Rights Monitoring Group of the European Parliament's Committee on Civil Liberties, Justice and Home Affairs (LIBE) continued to organise monitoring missions to Member States<sup>111</sup>. All in all, the Monitoring Group visited Spain, Slovenia, Bulgaria, France, Greece, Malta and Slovakia and held follow-up discussions on its findings. It has also organised a number of thematic debates, for example related to the rule of law milestones in Recovery and Resilience Plans and the application of the general regime of rule of law conditionality mechanism and other budget instruments to safeguard the respect for EU values.

The European Economic and Social Committee (EESC), through its Ad hoc Group on Fundamental Rights and the Rule of Law, and the Committee of Regions, through its Commission for Citizenship, Governance, Institutional and External Affairs, have also continued to debate the rule of law at EU level. In September 2022, the EESC organised a conference on the 2022 Rule of Law report.

#### *Dialogue with Member States*

The Commission has continued outreach at national level in Member States. It invited Member States, where interested, to hold technical follow-up meetings to discuss the recommendations included for the first time in the 2022 report. Several Member States have responded positively and engaged in a technical dialogue. In addition, regular bilateral meetings take place at political level and Commissioners continued to discuss the Rule of Law report with representatives in national Parliaments, whose role as lawmakers and in holding the executive accountable means that they have a particularly important role in upholding the rule of law.

The network of rule of law contact points established in 2020 ahead of the first report continues to provide an open channel for regular discussion between the Commission and the Member States, meeting on a regular basis<sup>112</sup>. The network plays an active role in the annual Rule of Law report cycle and exchanges of good practices, including with input from other international organisations.

#### *Dialogue with and support for civil society organisations (CSOs)*

Civil society remains a key partner in the preparation of the annual Rule of Law report. The Commission continues to receive a large number of written contributions from CSOs and

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<sup>110</sup> European Parliament resolution of 30 March 2023 on the Commission's 2022 Rule of Law report (P9\_TA(2023)0094).

<sup>111</sup> <https://www.europarl.europa.eu/committees/en/libe-democracy-rule-of-law-and-fundament/product-details/20190103CDT02662>.

<sup>112</sup> More information on the network is available on the Commission's website: [Network of national contact points on the rule of law \(europa.eu\)](https://european-council.europa.eu/media/en/press-communications/infographic/infographic-network-national-contact-points-on-the-rule-of-law)

invites them to meetings as part of the country visits. The Commission has also organised cross-cutting meetings with a number of key civic networks. These networks have also made valuable recommendations on the process for the Rule of Law report<sup>113</sup>. The Commission has responded by further extending the duration of the stakeholder consultation period and increasing transparency, by publishing information in advance on the country visit process and dates on its website<sup>114</sup>.

After the adoption of the 2022 Rule of Law report, the Commission, together with the Fundamental Rights Agency and national stakeholders, has organised the first ‘national rule of law dialogues’<sup>115</sup>. The aim is to encourage debates at national level on the basis of the Rule of Law report. The Commission’s Representations in the relevant Member States brought together national stakeholders and authorities in a roundtable setting, adapting the focus to suit the national context. The Commission aims to involve further Member States in national rule of law dialogues following the adoption of this report.

The Commission will continue to explore how to further increase the involvement of CSOs, professional networks and other stakeholders in the Rule of Law cycle. Following up on the Conference of the Future of Europe and calls from the European Parliament, the assessment of developments related to the framework for civil society has deepened throughout successive editions of the report. This year’s report covers issues related to funding, the legal framework, civil society participation in policymaking and a free and safe operating environment for civil society.

Finally, through the Citizens, Equality, Rights and Values (CERV) programme, the Commission continues to support CSOs, in particular smaller, local organisations facing particular constraints. Almost a third of the available budget of the programme (EUR 1.55 billion) is reserved specifically for CSOs, with at least 40% of this allocated to local and regional level. As well as support for specific projects, there is also some provision for grants to support capacity-building by and the development of CSOs.

### ***3.2 EU action to uphold the rule of law***

#### *New initiatives to fight corruption, build a culture of integrity, support media freedom and defend democracy*

Challenges identified by the previous Rule of Law reports have led to several new EU initiatives. These initiatives are raising standards and helping promote and protect the rule of law in the EU.

In a package of measures adopted on 3 May 2023<sup>116</sup>, the Commission took decisive action to strengthen the legal and institutional framework in the fight against corruption. A new proposal aims to strengthen rules criminalising corruption offences and harmonising penalties across the EU. Another proposal from the High Representative, supported by the Commission, would create a dedicated Common Foreign and Security Policy (CFSP) sanctions regime to target serious acts of corruption worldwide. These new measures place a strong focus on prevention and creating a culture of integrity. These steps were complemented with respect to the EU’s institutions when in June 2023, the Commission proposed a joint agreement to establish an

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<sup>113</sup> See <https://epd.eu/wp-content/uploads/2023/02/rule-of-law-2023-report-statement.pdf>.

<sup>114</sup> [2023 Rule of law report \(europa.eu\)](#).

<sup>115</sup> In Belgium, Germany and Croatia.

<sup>116</sup> Joint Communication on the fight against corruption, JOIN(2023) 12 final, 3 May 2023; and a Proposal for a Directive on combating corruption, COM(2023)234 final, 3 May 2023.

interinstitutional ethics body, to ensure trust in the EU and its institutions with regard to ethics, transparency and integrity and adopted measures to further increase transparency. This body will set strong common standards for all EU institutions<sup>117</sup>.

Protecting media freedom and pluralism in the EU remains a key priority<sup>118</sup>. In September 2022, the Commission broke new ground, proposing legislation setting out common EU safeguards to guarantee media freedom and pluralism. The proposal for a European Media Freedom Act<sup>119</sup> includes a set of rules to protect media pluralism and independence in the EU, safeguards against political interference in editorial decisions and specific rules against the deployment of spyware against journalists. It puts a focus on the independence and stable funding of public service media, and on transparency regarding media ownership and the allocation of state advertising. It also calls for measures to protect the independence of editors and disclose conflicts of interest.

The European Parliament has set up an important strand of work on spyware with a Committee of Inquiry to investigate the use of Pegasus and equivalent surveillance spyware (PEGA Committee). Its final report was adopted in May 2023<sup>120</sup> and included strong condemnation of the illegal use of spyware. Recommendations called on Member States to address concerns relating to the alleged illegal use of spyware. It also included recommendations for action at EU level, with proposals for conditional sale and use of spyware in the EU, the repeal of export licences that do not comply with EU legislation, and common EU standards to regulate the use of spyware<sup>121</sup>. The Commission is now carefully assessing the final position and recommendations of the European Parliament.

To address the issues and challenges faced by many equality bodies and strengthen their role and independence in all Member States, the European Commission adopted two legislative proposals on setting standards for the effective functioning of the equality bodies in December 2022<sup>122</sup>.

### *Upholding the rule of law by using all tools available*

The annual Rule of Law report complements a number of other mechanisms and instruments at EU level, each with their own purpose.

The case-law of the Court of Justice of the European Union (CJEU) on the rule of law continued to consolidate and the CJEU has examined infringement procedures brought before it by Commission and requests for preliminary rulings made by national courts. In a recent case, the CJEU affirmed that the body in charge of disciplinary proceedings against judges must be independent and impartial, and that the rules governing the review of the actions of its director

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<sup>117</sup> Proposal for an interinstitutional ethics body, COM(2023) 311 final, 8 June 2023.

<sup>118</sup> Work continues on the 2021 Recommendation on the safety of journalists (C(2021) 6650, 16 September 2021) and the proposals protecting journalists and human rights defenders who engage in public participation from manifestly unfounded or abusive court proceedings ('Strategic lawsuits against public participation', C(2022)2428 and COM(2022)177, 27 April 2022).

<sup>119</sup> Proposal for a regulation establishing a common framework for media services in the internal market (European Media Freedom Act), COM(2022)457, 16 September 2022.

<sup>120</sup> Report of the of the investigation of alleged contraventions and maladministration in the application of Union law in relation to the use of Pegasus and equivalent surveillance spyware ([2022/2077\(INI\)](#)).

<sup>121</sup> Proposal for a recommendation of the European Parliament of the Investigation of alleged contraventions and maladministration in the application of Union law in relation to the use of Pegasus and equivalent surveillance spyware PEGA/9/11041/2023/2500(RSP)

<sup>122</sup> COM/2022/688 final and COM/2022/689 final.

must be designed in such a way as to dispel any reasonable doubt<sup>123</sup>. Most recently, on 5 June 2023, the CJEU further clarified EU requirements on judicial independence and held that all contested provisions of the law adopted by the Polish Parliament in December 2019 infringe EU law, in particular the principles of judicial independence and effective judicial protection<sup>124</sup>.

The Commission has continued to exercise its role as guardian of the EU treaties by proceeding with infringement procedures to address specific breaches of the rule of law<sup>125</sup>. In its 2022 Communication ‘Enforcing EU law for a Europe that delivers’, the Commission underlined that the EU is a community of law, based on common values shared by Member States, and so applying and enforcing EU law and respect for the rule of law are at its core<sup>126</sup>.

The procedure for upholding the common values of the EU set out in Article 7 TEU, which allows the Council to determine the existence of a clear risk of a serious breach of the EU’s values and follow up on such risks, continues in relation to Poland<sup>127</sup> and Hungary<sup>128</sup>. The Council held hearings for Poland in May 2023, and for Hungary in November 2022 and May 2023.

Respect for the rule of law remains a fundamental precondition for the proper management of EU funds. Since 1 January 2021, the general regime of conditionality for the protection of the Union budget (Conditionality Regulation) protects the sound financial management of the Union budget and the EU’s financial interests from breaches of the principles of the rule of law. As an outcome of the procedure launched by the Commission<sup>129</sup>, on 15 December 2022, the Council adopted an implementing decision<sup>130</sup> on measures for the protection of the EU budget from breaches of the principles of the rule of law in Hungary<sup>131</sup>.

A number of rule-of-law-related issues – notably in relation to the effectiveness of justice systems, the fight against corruption, access to information and the quality and inclusiveness of the law-making process – are also part of the European Semester where they have macroeconomic relevance and an impact on the business environment, investment, growth and jobs. To address a number of rule of law relevant country-specific recommendations under the European Semester by concrete reforms and investment measures, the Commission agreed with several Member States to include concrete milestones and targets in their Recovery and Resilience Plans. These were subsequently formally approved by the Council and are now being gradually implemented.

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<sup>123</sup> CJEU, Judgment of 11 May 2023, *Inspekția Judiciară*, C-817/21, ECLI:EU:C:2023:391.

<sup>124</sup> CJEU, Judgment of 5 June 2023, *Commission v. Poland*, C-204/21, ECLI:EU:C:2023:442.

<sup>125</sup> Notably, on 15 February 2023, the Commission decided to refer Poland to the Court of Justice for violations of EU law because of serious concerns with respect to the Polish Constitutional Tribunal and its recent case-law challenging the supremacy of EU law.

<sup>126</sup> COM(2022) 518 final.

<sup>127</sup> The procedure was initiated by the Commission in 2017.

<sup>128</sup> The procedure was initiated by the European Parliament in 2018.

<sup>129</sup> On 27 April 2022, the Commission launched for the first time the step of the procedure established under Article 6(1) of the General Conditionality Regulation.

<sup>130</sup> Council Implementing Decision (EU) 2022/2506 of 15 December 2022 on measures for the protection of the Union budget against breaches of the principles of the rule of law in Hungary, OJ L 325, 20.12.2022, p. 94–109.

<sup>131</sup> Under the Conditionality Regulation, Hungary may submit further remedial proposals by means of a written notification. On this basis, if the Commission considers that the issues have been remedied partly or in full, it submits to the Council a proposal for an implementing decision to adapt or lift the adopted measures.



In the 2023 European Semester Spring Package, the Commission has proposed to the Council further recommendations for two Member States related to the rule of law<sup>132</sup>. The Commission also provides technical support to Member States, notably through the Technical Support Instrument, to improve the efficiency and quality of public administration and justice and to address issues, including corruption. The Commission continues to promote judicial reform through the annual EU Justice Scoreboard. The 2023 EU Justice Scoreboard<sup>133</sup> includes several new indicators, for example on bodies involved in the fight against corruption or appointments of Prosecutors General and Presidents of Supreme Courts. It also includes survey data on how companies perceive the effectiveness of investment protection in the different Member States<sup>134</sup>. The European Semester and the Justice Scoreboard complement the Rule of Law report, and both feed into the report where relevant.

In 2007, the Cooperation and Verification Mechanism (CVM) was set up to cover progress in Bulgaria and Romania with regard to judicial reform, the fight against corruption and (for Bulgaria) the fight against organised crime. The cooperation and reporting from the Commission under the CVM has been instrumental in fostering reform in these areas in Bulgaria and Romania since their accession to the EU.

Commission reporting concluded that both Member States have satisfactorily met the obligations set out under the CVM at the time of accession<sup>135</sup>. Residual final steps have now been taken, and the Commission is launching the final steps towards the definitive closure of the CVM for the two Member States.

The cooperation with Bulgaria and Romania will now take place under the annual Rule of Law Report cycle, and in the context of other parts of the rule of law toolbox, as for all Member States.

### ***3.3 Rule of law in EU external action and enlargement***

The rule of law is a key guiding principle for EU action at home, as well as beyond its borders. It is central to EU action at global level, where working with partners to uphold human rights and strengthen democracies is a priority. The EU is committed to upholding the rule of law in its bilateral relations and at multilateral level. This includes supporting the UN human rights system<sup>136</sup>. The rule of law is also priority for cooperation between the EU and the Council of Europe. International organisations, notably key bodies of the Council of Europe<sup>137</sup> and the OECD, are important partners in the preparation of this report.

EU work on the rule of law has been put into even greater focus by the Russian war of aggression against Ukraine. The EU and its Member States are the biggest global donor of democracy support, and this is a key theme for work with our international partners, as for

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<sup>132</sup> [2023 European Semester: Spring package.](#)

<sup>133</sup> [2023 EU Justice Scoreboard | European Commission \(europa.eu\)](#)

<sup>134</sup> Figures 53 and 54, 2023 EU Justice Scoreboard.

<sup>135</sup> COM (2019) 498 for Bulgaria, COM (2022) 664 for Romania.

<sup>136</sup> The EU supports implementation of SDG 16 of the 2030 Agenda, notably target 16.3 ‘to promote the rule of law at the national and international levels, and ensure equal access to justice for all’. In the current process of preparing the Summit for the Future, the EU backs the rule of law concept of the UN Secretary-General as laid down in Our Common Agenda which “recognises that the rule of law and human rights are central to our greatest challenges, and essential to resolving them”. Moreover, the EU is committed to strengthening accountability for serious violations and abuses of international human rights law and violations of international humanitarian law, ending impunity.

<sup>137</sup> The Venice Commission, the Group of States against Corruption (GRECO), the Parliamentary Assembly of the Council of Europe (PACE), the European Court of Human Rights (ECtHR).

example in UN and Council of Europe forums. The rule of law was the focus of the second Summit for Democracy held in March 2023, in which the Commission and a large number of Member States were active participants<sup>138</sup>. The Reykjavík Summit of the Council of Europe, prompted by Russia's war of aggression against Ukraine and its subsequent expulsion from the Council of Europe, provided an opportunity to strengthen a European commitment to the rule of law. Among the commitments made in the Summit Declaration was to explore how to strengthen implementation of the recommendations by the Venice Commission<sup>139</sup>.

Under the enlargement process, the key requirements for EU membership set out in the 'Copenhagen criteria' include the stability of institutions guaranteeing democracy and the rule of law. The October 2022 Enlargement package<sup>140</sup> assesses progress towards accession with engagement on rule of law reforms continuing to be one of the fundamental aspects of this process, together with the functioning of democratic institutions, and economic and public administration reforms<sup>141</sup>.

Beyond the accession negotiations, the priority given to rule of law issues is a central feature of overall engagement with all candidate countries and potential candidates, whether or not negotiations have been launched. The historic decision of June 2022 to grant Ukraine and Moldova the perspective of EU membership and the status of candidate country gave a further boost to crucial reforms in these countries, with clear recommendation for further reform priorities. Despite the catastrophic impact of Russia's ongoing military aggression, both Ukraine and Moldova have continued to push ahead with reforms. Rule of law reforms are also a central theme of the work following the EU recognition of the European perspective of Georgia, also expressing its readiness to grant the status of candidate country to Georgia once the priorities specified in the June 2022 Commission's opinion have been addressed.

At the informal General Affairs Council of June 2023, the Commission presented an oral update on progress towards fulfilling the reform recommendations made in June 2022. It will report comprehensively on these reforms in the Enlargement Package of autumn 2023.

The EU is a staunch defender of human rights, democracy and the rule of law throughout the world, as demonstrated by the 2020-2024 EU action plan on human rights and democracy<sup>142</sup>, in line with the Sustainable Development Goals<sup>143</sup>. On that basis, the EU is taking a strong and consistent approach in all its external action – at bilateral, regional and international level – in order to promote the rule of law around the world. Upholding the rule of law is at the core of EU's engagement with third countries and international and regional organisations, and is one of the foundations of all EU agreements with international partners. An independent evaluation of EU support to rule of law and anti-corruption in partner countries (2010-2021)<sup>144</sup> has concluded that the EU has managed to advance the rule of law agenda, including in restrictive contexts and in fragile and conflict-affected states. Rule of law-related issues, including the right to a fair trial and to due process, the prevention and fight against corruption, and the independence of the judiciary are regularly raised in human rights dialogues with partner countries. The EU supports partner countries in strengthening judicial systems, tackling

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<sup>138</sup> [Declaration of the Summit for Democracy - 29 March 2023](#).

<sup>139</sup> See [here](#).

<sup>140</sup> 2022 Communication on EU Enlargement Policy COM(2022) 528, 12 October 2022.

<sup>141</sup> Enhancing the accession process - A credible EU perspective for the Western Balkans, COM(2020) 57 final.

<sup>142</sup> [EU Action Plan for Human Rights and Democracy 2020-2024](#).

<sup>143</sup> [Sustainable Development Goals](#).

<sup>144</sup> The [evaluation](#) was published in December 2022. This strategic evaluation provides an independent and evidence-based assessment of the performance of the European Union's support to rule of law in Partner Countries.

corruption and supporting civil society, human rights defenders and free media as crucial actors in advancing the rule of law.

#### 4. CONCLUSIONS AND NEXT STEPS

A founding value of the Union, the rule of law is fundamental to a stable, resilient, fair and democratic political, economic and social environment across the EU. It is an integral part of the very identity of the European Union<sup>145</sup>. The rule of law is essential to guarantee that EU citizens and businesses can fully enjoy their rights. With the Russian war of aggression against Ukraine continuing to rage on, the need to pro-actively defend and uphold democracy, human rights and the rule of law in the EU and beyond is of vital priority.

This report brings an important contribution to promoting and safeguarding the rule of law in the EU, in each Member State and the EU as a whole. This is also illustrated by the engagement and cooperation that Member States have once again demonstrated in the preparation of this year's report. The report has become a true driver of positive reform – this year's edition shows that important efforts are ongoing in Member States to follow-up on the previous year's recommendations and address challenges identified. This is happening at various speeds and levels of completeness, with some important concerns remaining in some Member States, but overall, within this one year framework, almost two-thirds of the recommendations issued in 2022 related to important reforms in national justice systems, anti-corruption frameworks, media pluralism and other institutional checks-and-balances, have been followed-up, at least to some extent. The 2023 recommendations aim to further assist and support Member States in their efforts to take forward on-going reforms and to identify where other improvements may be needed to address particular concerns.

At its fourth edition, the Rule of Law report and the ensuing cycle of discussions with the Member States, including national parliaments, the European Parliament, and the Council is a well-established exercise. The Commission will also be looking forward to the evaluation of the Council rule of law dialogue under Spanish Presidency. As in the past, the Commission has prepared this report based on continued dialogue with the Member States, while fully preserving political responsibility for its assessment and the recommendations issued. The next edition will follow-up on the developments and assess the implementation of the 2023 recommendations.

At the start of a new annual cycle of dialogue on the rule of law, the Commission invites the Council and the European Parliament to continue holding general and country-specific debates on the basis of this report, also using the opportunity of the recommendations to look further at concrete implementation. The Commission also welcomes further debate at national level, involving national parliaments, civil society and other key actors, but also at European level, with increased citizen's engagement. The Commission invites Member States to effectively take up the challenges identified in the report and stands ready to assist Member States in the efforts to implement the report's recommendations.

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<sup>145</sup> As recently highlighted by the CJEU, Judgment of 5 June 2023, *Commission v. Poland*, C-204/21, ECLI:EU:C:2023:442.