

First Annual Report on the Rule of Law in the EU, including media pluralism and freedom

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On 30 September 2020, the European Commission published its *2020 Rule of Law Report: The rule of law situation in the European Union*, which is the first annual report as part of the new European Rule of Law Mechanism announced in the Political Guidelines of the Commission's new President in late 2019. The new Rule of Law Report is intended to act as a preventive tool by identifying rule of law trends in EU member states, and by helping to prevent serious problems from arising or becoming more acute. The Report includes separate country chapters for all 27 EU member states, and, crucially, covers four main pillars with a strong bearing on the rule of law, namely (1) justice systems, (2) anti-corruption frameworks, (3) media freedom and pluralism, and (4) other institutional issues linked to checks and balances. Of particular interest is the Report's findings in relation to media freedom and pluralism.

In this regard, the Report's chapter on media freedom begins by noting that all member states have legal frameworks in place to protect media freedom and pluralism, and that EU citizens broadly enjoy high standards of media freedom and pluralism. However, the Report raises a number of issues. First, citing the Media Pluralism Monitor, the Report notes that journalists and other media actors continue to face threats and attacks (both physical and online) in several of the member states monitored. Secondly, in relation to the independence of media authorities, the Report states that "some concerns have been raised with regard to the risk of politicisation of the authority, for instance in Hungary, Malta and Poland." The Report notes that the new EU Audiovisual Media Services Directive (AVMSD) (see IRIS 2019-1/3), whose transposition should be completed this year, includes specific requirements which will contribute to strengthening the independence of national media authorities. Thirdly, in relation to transparency of media ownership, the Report notes that in a few member states, there are obstacles to an effective public disclosure of ownership, or there is no effective disclosure system in place. Fourthly, on the distribution of state advertising, the Report highlights that in many member states, there is no specific legislation to ensure fair and transparent rules on the distribution of state advertising to media outlets. Fifthly, the Report also addresses political pressure on the media. Vulnerabilities and risks to media pluralism increase when the political independence of the media is under threat; in the absence of regulation against political interference; or as a result of rules allowing political actors to own media.

Importantly, the Report states that the country chapters “have identified a number of cases where serious concerns have been raised by stakeholders”. Finally, the Report notes that in a number of member states, journalists and other media actors are increasingly facing threats and attacks (physical and online) in relation to their publications and their work. These can take various forms, including Strategic Litigation Against Public Participation (SLAPP lawsuits); threats to physical safety and physical attacks; online harassment, especially of female journalists; and smear campaigns, intimidation and politically oriented threats.

In terms of the next steps, the Commission has invited national parliaments and authorities to discuss the Report, and it will engage with the European Parliament and the Council on rule of law issues and further inter-institutional work. Finally, it should be noted that the Report does not replace the Treaty-based mechanisms for the European Union to respond to more serious issues related to the rule of law in member states. These tools include infringement proceedings and the procedure to protect the founding values of the Union under Article 7 of the Treaty on European Union.

European Commission, “Rule of law: First Annual Report on the Rule of Law situation across the European Union”

https://ec.europa.eu/commission/presscorner/detail/en/ip_20_1756

