Rule of Law Report 2023, including on media freedom and pluralism

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On 5 July 2023, the European Commission published its 2023 Rule of Law Report, which is the fourth annual report as part of the European Rule of Law Mechanism announced in the Political Guidelines of the Commission's President in 2019 (see, for example, IRIS 2020-10/9). The purpose of the Rule of Law report is to "take 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 2023 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 are the 2023 Report's findings in relation to media freedom and pluralism.

In this regard, the Report's chapter on media freedom and pluralism begins by referencing the 2023 Media Pluralism Monitor, which notes that news media concentration remains at a "high risk" level across the EU; the overall ranking classifies media pluralism to be at "high risk" in five member states (Croatia, Cyprus, Greece, Slovenia and Malta) and at "very high risk" in four member states (Bulgaria, Poland, Romania, and Hungary). Secondly, the Report then moves on to the issue of the independent functioning of media regulators, and states that 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. Thirdly, in relation to the transparency of media ownership, the Report notes that new legislation increasing the transparency of media ownership or improving the public availability of media ownership information has been adopted in Greece, Luxembourg and Sweden, and strengthened in Cyprus. Meanwhile, discussions on revising the rules on the transparency of media ownership have started in France, where transparency concerns had been raised with regard to complex shareholding structures. Fourthly, in relation to safeguarding the media from political pressure and influence, reforms aimed at strengthening the independence of national public service broadcasters are under way in several member states, including Luxembourg, Slovenia, Germany, Estonia, Slovakia and Czechia. However, the Report notes that no measures have been taken to improve the independent

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governance and editorial independence of public service media in Romania, Malta, Poland or Hungary. Finally, in relation to improving the safety and protection of journalists and addressing legal threats and abusive court proceedings against public participation (Strategic Lawsuits Against Public Participation – SLAPPs), the Report states that defamation is “one of the most common grounds on which SLAPPs are brought against journalists”. And to address the threat of SLAPPs and respond to the recommendations of the 2022 report, several member states envisage introducing specific procedural safeguards and/or revising their defamation laws.

In terms of next steps, the Commission has invited the European Parliament and the Council to continue general and country-specific debates on the basis of the 2023 report. It also called on national parliaments, civil society, and other key stakeholders, to continue national dialogue on the rule of law, as well as at European level. Finally, the Commission invited member states to "effectively take up the challenges" identified in the Report.

European Commission, Communication on the 2023 Rule of Law Report: The rule of law situation in the European Union, COM/2023/800 final, 5 July 2023

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