

Civil society recommendations for an ambitious rule of law report in 2022

March 2022

As civil society, media and journalist organisations, we're greatly committed to the EU's efforts to champion the rule of law in Europe. In September 2021, we collectively provided advice for strengthening the 2022 rule of law reporting cycle with a [joint civil society statement](#). This followed [other efforts](#) to strengthen the process. As the reporting cycle has entered its third edition, we welcome progressive improvements such as the inclusion of country-specific recommendations. These recommendations are key to ensuring follow-up actions to the reports, thereby strengthening their impact and accountability on national-level and EU-wide reforms on the rule of law. To this end, we have come together to issue a set of EU-wide and country-specific recommendations to strengthen the reporting process and make the reports directly enforceable. In addition to a non-public working document with country-specific recommendations shared with the Commission, we hereby jointly issue a set of horizontal recommendations for strengthening the impact and inclusiveness of the reports.

1. Strengthen the impact of the reports with concrete recommendations, national dialogues and conditionality

A number of small reforms would have a multiplier effect on the impact of the reports, making the most of our collective annual reporting efforts. To this end, the Commission should:

- **Adopt a clear timeline for implementation and reporting** on the country-specific recommendations. Recommendations should be framed to prevent future violations and provide a full remedy to individuals affected by the concerns in the report, and a duty of care to follow up. Recommendations should be disseminated widely and publicly, and written in targeted and precise language.
- **Clarify the nature of the recommendations**, particularly whether they are binding, as well as the sanctions for non-enforcement.
- Promote the organisation of an **open, transparent, participatory and timely dialogue** between governmental, civil society (including human rights defenders and higher education sector) and media actors at national levels, to inform and monitor the recommendations from the report. Proactively and clearly communicate the timing and details through an easily accessible Commission webpage. Issue guidelines for stakeholders to participate in the consultation process to allow Europeans to monitor and contribute to country dialogues.
- **Clarify and strengthen the link of the reports to other mechanisms, especially the Conditionality Regulation**, Article 7 TEU recommendations and rule of law infringement cases. The conditionality mechanism should be automatically triggered by systematic attacks on the independence of the judiciary as well as cases of deliberate weakening of the rule of law to cover up corruption, including by intimidating and obstructing the work of public watchdogs (such as media and civil society) and failing to implement relevant laws and rulings by national

and supranational courts. The Commission should use all its powers, including guidance and infringement proceedings, to promote and enforce international standards on the independence of the justice system. The regulations on the funding conditionality should also ensure that carrying out this procedure does not punish EU people for the actions of their governments by diverting rather than cutting funding as required.

- **Link the annual reporting to EU enforcement action** on the rule of law more explicitly. This could be done by covering enforcement steps on previous rule of law breaches in subsequent rule of law reports, for instance.

2. Formalise the consultation and dialogue process to ensure inclusive and meaningful participation of all actors

Many of our [previously issued concerns](#) regarding the inclusiveness of the consultation process remain unaddressed. This year's public consultation was announced just days before its launch and did not foresee more time to provide input. The calendar of country consultations has not yet been announced publicly and we have no indication our recommendations for the methodology have been addressed. Our previously-issued recommendations for strengthening the inclusiveness of this multi-stakeholder process thus remain valid.

3. Act on the priority recommendations of civil society

Finally, we put forward the following priority recommendations that apply across the Member States. These Europe-wide reforms are essential to the future of democracy, the rule of law and human rights in the EU. To this end, the Commission should:

- Acknowledge and act on the alarming trend of the contestation of the authority and non-implementation of the decisions of the EU's Court of Justice (CJEU) and the European Court of Human Rights (ECtHR) as a systemic rule of law issue.
- Adopt an ambitious directive against SLAPPs with procedural and other safeguards that apply to national as well as cross-border cases, and encourage Member States to repeal criminal defamation, libel and slander laws in line with international standards.
- Adopt strict country-specific recommendations on the independence of media regulatory bodies and the independence of public service media, support media councils and efficient self-regulatory measures, and ensure full transparency of media ownership.
- Structure and expand the assessment on civic space and an enabling framework for civil society organisations and human rights defenders in the reports.
- Adopt a comprehensive strategy on civic space as well as guidelines on the protection of human rights defenders in the EU.
- Comprehensively track and assess the impact of COVID-19 emergency measures on the rule of law and human rights throughout the reports and recommendations.

SIGNATORIES

ARTICLE 19

Atlas of Hate

Avaaz Foundation

Center for Reproductive Rights

Civil Liberties Union for Europe

Civil Society Europe

Committee to Protect Journalists (CPJ)

Demo Finland

Democracy Reporting International

European Centre for Press and Media Freedom (ECPMF)

European Federation of Journalists

European Partnership for Democracy (EPD)

Front Line Defenders

Global Forum for Media Development (GFMD)

Human Rights House Foundation (HRHF)

Human Rights House Zagreb

ILGA-Europe - European region of the International Lesbian, Gay, Bisexual, Trans and Intersex Association

International Federation for Human Rights (FIDH)

International Planned Parenthood Federation - European Network (IPPF EN)

Liga Portuguesa dos Direitos Humanos - Civitas

Ligue des Droits Humains (Belgium)

Netherlands Helsinki Committee

OBC Transeuropa (OBCT)

Scholars at Risk Europe (SAR Europe)

Society of Journalists, Warsaw

Transparency International EU