

# European Commission Rule of Law Report 2022

Michelle Lynch, Senior Parliamentary Researcher (Law)

23 November 2022

---

This L&RS Note provides a select overview of the findings of the European Commission Rule of Law Report 2022 (the 2022 Report), which examines significant developments within the EU and individual Member States in relation to the rule of law. The 2022 Report is the third in the series and includes, for the first time, specific recommendations to Member states.

The 2022 Report examines developments across four key areas:

- Justice systems (independence, quality and efficiency)
- Anti-corruption frameworks (effectiveness of national anti-corruption policies)
- Media freedom and pluralism (independence, transparency and fairness)
- Institutional issues related to checks and balances (quality of national legislative process, role of civil society organisations)

The Note does not provide a full summary of the Report. Instead, it offers Members an overview of some of the important rule of law developments within the EU and also highlights Ireland's performance, including its progress since the 2021 Report.



#### Legal Disclaimer

No liability is accepted to any person arising out of any reliance on the contents of this paper. Nothing herein constitutes professional advice of any kind. This document contains a general summary of developments and is not complete or definitive. It has been prepared for distribution to Members to aid them in their parliamentary duties. Some papers, such as Bill Digests are prepared at very short notice. They are produced in the time available between the publication of a Bill and its scheduling for second stage debate. Authors are available to discuss the contents of these papers with Members and their staff but not with members of the general public.

# Contents

Contents .....	1
Executive Summary .....	2
What is the Rule of Law Report? .....	2
Overview .....	2
Recommendations for Ireland .....	2
General EU Findings .....	3
Introduction .....	6
Rule of Law report .....	6
Purpose of Note .....	6
Background.....	7
Key EU Developments .....	11
Justice Systems .....	11
Judicial Independence and Appointments .....	11
Disciplinary and Accountability Frameworks.....	12
Quality and Efficiency of Justice Systems .....	13
Anti-Corruption Frameworks.....	13
Corruption Perceptions Across the EU .....	14
Fostering Integrity in Public Life and Preventing Conflicts of Interest.....	14
Asset and Interest Disclosure .....	15
Media Freedom and Pluralism.....	16
The Media Pluralism Monitor .....	16
Threats Against the Safety of Journalists .....	17
Legal Threats and Abusive Court Proceedings against Public Participation .....	18
Institutional issues related to checks and balances .....	19
Quality and Inclusiveness of the Legislative Process.....	19
Lessons Learned from the Use of Emergency Measures and the COVID-19 Pandemic.....	19
National Human Rights Institutions, Ombudspersons, Equality Bodies and Implementation of European Court of Human Rights Rulings.....	20
Civil Society Organisations as Essential Actors for the Rule of Law .....	20
Conclusion.....	21

## Executive Summary

### What is the Rule of Law Report?

The Rule of Law Report is a report prepared by the European Commission that examines developments across the Member States, both challenges and positive developments, in four key areas for the rule of law: the justice system, the anti-corruption framework, media pluralism and other institutional issues related to checks and balances.

### Overview

Overall, the 2022 Report illustrates that generally, the rule of law is being adhered to by most EU Member States. It does however highlight some areas for improvement, including the quality and inclusiveness of the legislative process, as well as providing ideas for future innovations from fellow states including the digitalisation of justice systems. The Report also demonstrates that a small number of countries, including Poland and Hungary, continue to face significant challenges in ensuring that the rule of law is upheld and strengthened. The Report highlighted several positive developments in Ireland, including continuing reform of the justice system but also noted some continuing challenges which are outlined in the recommendations below.

For the first time, the 2022 Report includes specific recommendations for Member States, which will be reviewed and reported on in the 2023 Report.

### Recommendations for Ireland

- Ensure that the reform of the appointment and promotion of judges, as regards the composition of the Judicial Appointment Commission, is taking into account European standards on judicial appointments.
- Continue actions aimed at reducing litigation costs to ensure effective access to justice, taking into account European standards on disproportionate costs of litigation and their impact on access to courts.
- Strengthen the existing ethics framework, including on codes of conduct, asset declarations, revolving doors and lobbying, and in particular as regards the monitoring and enforcement capacity of the Standards in Public Office Commission.
- Continue the reform of the Defamation Act to improve the professional environment for journalists, taking into account European standards on the protection of journalists.
- Take measures to address legal obstacles related to access to funding for civil society organisations.

Source: [2022 Rule of Law Report Country Chapter on the rule of law situation in Ireland](#), p.2.

## General EU Findings

The following is a summary of select key observations taken from the 2022 Report in relation to the rule of law within the EU across the four key areas:

### Justice Systems

- The [2022 EU Justice Scoreboard](#) found an overall decrease in the perception of judicial independence in more than half of Member States since 2021.
- The 2022 Report highlighted the importance of the method of the appointment of judges to ensure independence and neutrality.
- Several Member States have initiated legislative efforts to strengthen the independence of judicial councils.
- Concerns continue to be raised with Ireland around the composition of the Judicial Appointments Commission (JAC).
- In certain countries such as Poland and Hungary, the 2022 Report found that systemic or structural issues continue to raise concerns.
- An on-going key issue across many Member States is appointment procedures to high-level judicial positions.
- The 2022 Report found that institutional safeguards are integral to ensure effective and impartial investigations free from political pressure.
- Concerns remain for Ireland around the potential or perceived politicisation of the disciplinary process of judges as provided for under Article 35.4 of the [Constitution of Ireland](#).
- Clear rules defining the judicial conduct warranting a disciplinary offence and applicable sanctions is an essential safeguard to ensure disciplinary frameworks are not misused to exert political control over judicial decisions.
- Concerns persist in several Member States that disciplinary proceedings could be utilised to curtail judicial independence, e.g. Poland.
- In Ireland, prohibitive litigation costs and shortcomings within the legal aid system continue to raise concerns.
- Ireland still scores below the EU average across several areas including digital court technology, electronic communication tools, and digital solutions to conduct court cases.

### Anti-Corruption

- The [Corruption Perceptions Index \(CPI\) 2021](#) (CPI 2021) found that ten Member States are in the top 20 of countries perceived as least corrupt in the world while the average score of the EU is globally good and has improved since last year. Bulgaria, Hungary, and Romania remain the worst performers in Western Europe and the EU.

- Ireland continues to rank well in terms of the perception of corruption being low within the public sector, placing 6<sup>th</sup> in Europe and 13<sup>th</sup> globally according to CPI 2021.
- Corruption requires a strong legal and institutional framework, adequate administrative and judicial capacity, as well as the political will to enforce the necessary measures.
- The 2022 Special Eurobarometer 523 on corruption<sup>1</sup> found 68% of Europeans believe that corruption generally, including public institutions, is widespread in their country and over 41% consider that the level of corruption has increased in their country. Only 31% of Europeans consider steps taken by their Government to address corruption are effective.
- Many countries have preventive measures in place for elected and appointed public officials in order to prevent and manage conflicts of interest, but some countries still face challenges in this area.
- Concern expressed over the delay in establishing a permanent Advisory Council in Ireland, which only occurred in May of 2022, following the recommendation of the '[Hamilton Review](#)' in December 2020 as it is tasked with the development of the multi-annual National Strategy and Action Plan to Combat Economic Crime and Corruption.
- There is variance across Member States in terms of the scope, transparency, and accessibility of the disclosure of assets and interests as well as the effectiveness of the verification and enforcement systems. In Ireland, concerns were expressed that obligations for public officials under asset and interest declarations remain incomplete and are still under review.
- A shared issue among countries appears to be verification and monitoring of assets declared by public officials including members of Parliament. Progress is being made but in some Member States challenges remain.

### Media Freedom and Pluralism

- An essential part of a robust and independent democracy is a free and diverse media, as it is central to the protection of freedom of speech and freedom of expression.
- The [Media Pluralism Monitor](#) is a tool developed by the Centre for Media Pluralism and Media Freedom to assess potential weaknesses that may hinder media pluralism across 32 countries including the EU. Across the relevant countries, political independence remains a medium risk with no progress. Ireland is one of nine countries that are found to be at a low risk in relation to political independence.
- For the first time, the Media Pluralism Monitor has introduced an overall ranking of Member States grouped into five levels of risk. Ireland is considered to be medium risk in the overall ranking.
- The Report found that journalists continue to face threats to their safety including verbal assaults, harassment, and physical attacks. In 2021, both the [Council of Europe Platform to Promote the Protection of Journalism and Safety of Journalists](#) and the [Mapping Media](#)

---

<sup>1</sup> European Commission, Directorate-General for Migration and Home Affairs, '[Citizens and businesses have spoken – corruption remains a serious problem in EU countries](#)', 13 July 2022.

[Freedom Platform](#) found that there was a significant increase in attacks, with a large number linked to online harassment and attacks during COVID-related demonstrations.

- Growing EU phenomenon of abusive court proceedings known as strategic lawsuits against public participation (SLAPPs) against journalists and rights defenders who are engaged in public participation on a matter of public interest. In Ireland, the [Report of the Review of the Defamation Act 2009](#) by the Department of Justice includes a recommendation to introduce a new 'anti-SLAPP' mechanism.

### **Institutional Issues related to checks and balances**

- Member States have continued to make progress in improving the quality of the legislative process.
- Stakeholder participation can help to increase the quality and transparency of the legislative process.
- Many countries do not yet have formal frameworks for public consultation and participation in the legislative process, e.g. Malta and Cyprus.
- Countries are learning from the Covid-19 pandemic and future proofing their legal frameworks in case of further crises. For example, Portugal, Sweden, and the Netherlands are all considering how to create permanent legal frameworks to govern future exceptional circumstances.
- Several Member States have so far not established a National Human Rights Institute (NHRI) in line with the [UN Paris Principles](#). Countries such as Italy, Malta and Romania have begun the process of creating a NHRI.
- Around 40% of the leading judgments of the European Court of Human Rights (ECtHR) relating to EU Member States from the last ten years have not been implemented, in Ireland the figure is 33%. It has two leading judgments of the European Court of Human Rights pending implementation for more than eight years.
- Progress is being made in several Member States, to improve the position of civil society organisations. However, there are other Member States where civil society organisations continue to face challenges, including burdensome registration procedures or difficulties accessing funding. Concerns persist amongst stakeholders in Ireland, around legal barriers regulating the funding of NGOs, which prohibits civil society organisations from receiving donations above a certain threshold for 'political purposes' or from foreign donors.

## Introduction

### Rule of Law report

The Rule of Law Report is a report prepared by the European Commission that examines developments across the Member States, both positive and negative, in four key areas for the rule of law: the justice system, the anti-corruption framework, media pluralism and other institutional issues related to checks and balances.

The report is prepared in collaboration with Member States, and the findings of the European Commission with regard to the rule of law in the Member States are informed through country visits, targeted stakeholder consultations and contributions from the Council of Europe. The Report also draws on data and information collected by various European and international organisations and institutions to inform its findings. Examples of these include the [EU Justice Scoreboard](#) and Transparency International's [Corruption Perceptions Index \(CPI\) 2021](#). These sources do not represent the Commission's position but rather inform its assessment.

The 2022 Rule of Law Report<sup>2</sup> was published on 13 July 2022 and is the third edition of the report series. It is the first Report to include specific recommendations to Member States<sup>3</sup>, as announced by President von der Leyden in the 2021 State of the Union address.<sup>4</sup> These are included to encourage positive developments and to highlight areas for improvement. Subsequent editions of the Report will include an update on the status of the recommendations included in the 2022 Report.

### Purpose of Note

The 2022 Report examines significant developments across four key areas:

- Justice systems
- Anti-corruption frameworks
- Media freedom and pluralism
- Institutional issues related to checks and balances.

The purpose of this Note is to brief Members on selected key developments across the EU in relation to the rule of law and to raise awareness around Ireland's position within this wider context. This Note does not provide a complete summary of the Report but offers Members a valuable insight into current rule of law developments in Ireland and comparatively across the EU.

---

<sup>2</sup> European Commission, Communication from the Commission to the European Parliament, the European Council, the European Economic and Social Committee and the Committee of the Regions, '[2022 Rule of Law Report - The rule of law situation in the European Union](#)', COM(2022) 500 final,

<sup>3</sup> European Commission, Annex to the Communication from the Commission to the European Parliament, The Council, The European Economic and Social Committee and the Committee of the Regions, '[2022 Rule of law report – Recommendations to the Member States](#)', COM(2022) 500 final.

<sup>4</sup> European Commission, 2021 State of the Union Address by President von der Leyden, '[Strengthening the Soul of our Union](#)', 15 September 2021, p.11.

## Background

*“No man is above the law and no man is below it; nor do we ask any man's permission when we require him to obey it. Obedience to the law is demanded as a right; not asked as a favor.”*

5

There has been a growing concern and consensus within the European Union about the importance of the rule of law and developments which might undermine it. Recent events across the world, including the Covid-19 pandemic and Russia's invasion of Ukraine has highlighted the fragility of the rule of law, whilst also reinforcing the vital importance of protecting and strengthening it.

The Irish Government's interest and commitment to the rule of law has been reaffirmed in several ways, most recently by the visit of Věra Jourová, Vice-President of the European Commission for Values and Transparency, on the European Commission's Rule of Law Report 2022. She visited Ireland in October 2022, meeting with the Taoiseach and various Ministers as well as with the Oireachtas Committee on Justice (the Committee) to discuss the 2022 Report and the rule of law situation in Ireland. In her meeting with the Committee on 11 October 2022, Ms Jourová highlighted that Ireland has many positive features and that her visit was not an inspection trip but an invitation for thorough debate.<sup>6</sup>

In the [Programme for Government: Our Shared Future](#), the Government declared its commitment to the rule of law, stating that it will “support the EU's values of cooperation, peace, democracy, human rights, and the rule of law”<sup>7</sup> and will “[s]trongly advocate for democracy and democratic values, the rule of law, multilateralism, climate action and free trade”<sup>8</sup>.

In 2021, the Minister of European Affairs, Thomas Byrne, while delivering the Opening Address at a Rule of Law webinar for the Institute of International and European Affairs, spoke of Ireland publicly supporting and agreeing with the definition of the rule of law that the Commission offers and supporting the rule of law as a core value of the EU, one essential to its functioning and credibility. Minister Byrne, explicitly noted that this support remained regardless of whether the Commission was challenging Ireland, stating that “[w]e support the Commission in this role even when it may not be in Ireland's direct interest, even in those cases when it is Ireland that is challenged by the Commission.”<sup>9</sup>

Article 2 of the Treaty on the European Union<sup>10</sup> (TEU) provides that the European Union is founded on shared values such as freedom, democracy, equality, and respect for human rights, as

---

<sup>5</sup> Office of the Historian, Theodore Roosevelt, [Third State of the Union Address](#), 7 December 1903.

<sup>6</sup> Joint Committee on Justice, [‘Engagement with Ms Věra Jourová, Vice-President of the European Commission for Values and Transparency, on the European Commission's Rule of Law Report 2022, and the Rule of law situation in Ireland’](#), 11 October 2022.

<sup>7</sup> Department of the Taoiseach, [‘Programme for Government: Our Shared Future’](#), 2020, at 110.

<sup>8</sup> Ibid at 112.

<sup>9</sup> [Opening Remarks by Minister of European Affairs Thomas Byrne](#), Rule of Law in the EU, IIEA, 2 February 2021.

<sup>10</sup> [Consolidated version of the Treaty on European Union](#) [2012] OJ C326/01



well as the protection of the rule of law. The European Commission defines the rule of law as follows:

The rule of law is enshrined in Article 2 of the Treaty on European Union as one of the founding values of the Union. Under the rule of law, **all public powers always act within the constraints set out by law, in accordance with the values of democracy and fundamental rights, and under the control of independent and impartial courts.** The rule of law includes, among others, principles such as **legality, implying a transparent, accountable, democratic and pluralistic process for enacting laws;** legal certainty; prohibiting the arbitrary exercise of executive power; effective judicial protection by independent and impartial courts, effective judicial review including respect for fundamental rights; **separation of powers;** and equality before the law. These principles have been recognised by the European Court of Justice and the European Court of Human Rights.<sup>11</sup>

The EU rule of law framework was initially developed in response to what the European Commission termed ‘crisis events in some EU countries, which revealed systemic threats to the rule of law.’<sup>12</sup> The objective of the framework is to prevent emerging threats to the rule of law from escalating to the point where the Commission has to trigger the mechanisms of Article 7 of the TEU. Article 7, which is used as a last resort, provides for special mechanisms with far-reaching sanctions where an EU country fails to respect the fundamental values referred to in Article 2 TEU, including the rule of law.<sup>13</sup>

The Commission, in April 2019, published a Communication on “[Further Strengthening the Rule of Law within the Union](#)”<sup>14</sup> (the Communication). In the press release<sup>15</sup> announcing the Communication, it set out three pillars for future action:

1. promoting a rule of law culture;
2. preventing rule of law problems; and
3. responding effectively to breaches of the rule of law.

In parallel, the Commission also commissioned a special Eurobarometer survey in all Member States on the importance of the rule of law and possible improvements. The survey found that more than 80% of citizens attach great importance to respect of the rule of law, and feel that it needs to be improved, while 89% of citizens support the need for the rule of law to be respected in all other EU Member States.<sup>16</sup>

Arising from the Communication, the Rule of Law Mechanism was developed, with the first Report published in July 2020. As noted above, the Rule of Law Report examines developments across

---

<sup>11</sup> European Commission, Communication from the Commission to the European Parliament, the European Council and the Council, ‘[Further strengthening the Rule of Law within the Union State of play and possible next steps](#)’, COM(2019) 163 final (emphasis added)

<sup>12</sup> European Commission, ‘[Rule of law framework](#)’ Information Page.

<sup>13</sup> European Commission, ‘[Rule of law framework](#)’, Information Page.

<sup>14</sup> European Commission, Communication from the Commission to the European Parliament, the European Council and the Council, ‘[Further strengthening the Rule of Law within the Union State of play and possible next steps](#)’, COM(2019) 163 final.

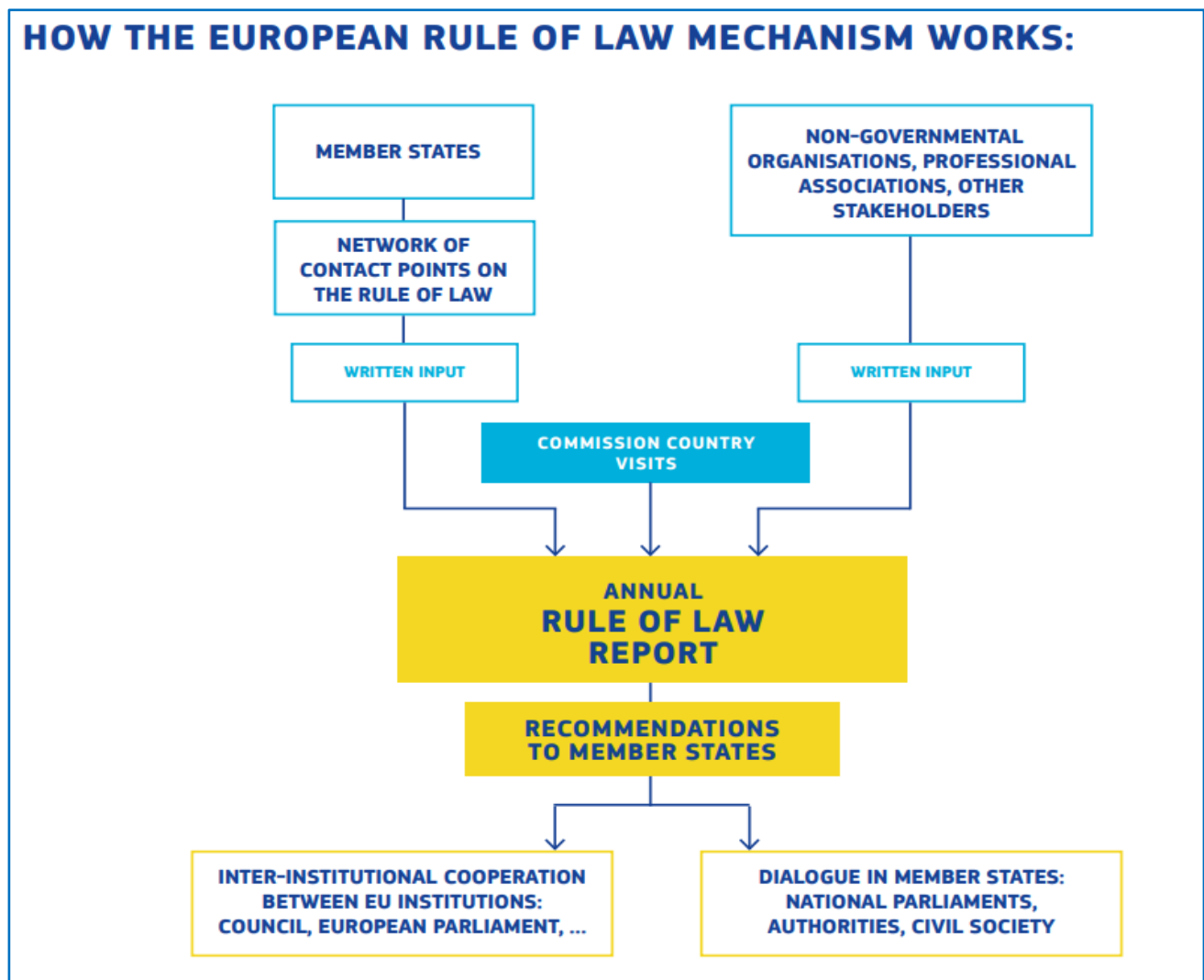
<sup>15</sup> European Commission, ‘[Strengthening the rule of law through increased awareness, an annual monitoring cycle and more effective enforcement](#)’, Press Release, 17 July 2019.

<sup>16</sup> Ibid.

the Member States, both positive and negative, in four key areas for the rule of law: the justice system, the anti-corruption framework, media pluralism and other institutional issues related to checks and balances. The Commission considers the Report as central in its efforts to have a practical impact on promoting and protecting the rule of law. It notes that “[l]earning from each other’s experience better equips Member States to find the best way forward and to prevent that challenges to the rule of law emerge or deepen.”<sup>17</sup>

The Report is broken down into a general overview of the state of the Rule of Law within the EU, separate individual country reviews (27 country chapters), as well as the new specific country recommendations. The process of assessing the status of the rule of law in the EU involves a collaboration with Member States including country visits, targeted stakeholder consultations and contributions from the Council of Europe. The figure below provides a visual representation of how the rule of law mechanism works in practice.

**Figure 1:** [European Commission Rule of Law Report Toolbox 2022](#)



<sup>17</sup> European Commission, Communication from the Commission to the European Parliament, the European Council, the European Economic and Social Committee and the Committee of the Regions, '[2022 Rule of Law Report - The rule of law situation in the European Union](#)', COM(2022) 500 final, p. 1.

One of the EU based non-governmental organisations (NGOs), [Civil Liberties Union for Europe](#) has produced its third annual report on the state of rule of law in the European Union claiming that it is a 'shadow report' to the European Commission's Rule of Law Report, offering an independent analysis, as well as providing information and data to the Commission for its own audit.<sup>18</sup> While the Commission does acknowledge that it receives information from international organisations which inform the Commission's assessment, it states that they do not represent the Commission's position.<sup>19</sup>

---

<sup>18</sup> Civil Liberties Union for Europe, [Liberties Rule of Law Report 2022: Country & Trend Reports on Democratic Records by Civil Society Organisations Across the European Union](#) (2022). The Report only covers 17 of the 27 countries in the EU (Ireland is included) so its comparative value against the European Commission Rule of Law Report is limited in this respect. It includes a visual table to demonstrate the 'state of play' in each of the 17 countries that it reviews, using a legend to indicate if there has been progress or regression in any of the relevant areas. While the value of this is limited, it does provide a broad visual overview of the of rule of law situation in 17 of the EU 27 countries.

<sup>19</sup> European Commission, Communication from the Commission to the European Parliament, the European Council, the European Economic and Social Committee and the Committee of the Regions, '[2022 Rule of Law Report - The rule of law situation in the European Union](#)', COM(2022) 500 final at p.4, fn 14.

## Key EU Developments

The following sections outline some of the key issues raised across the four key areas, in order to inform Members about significant developments across the EU in relation to the rule of law and to raise awareness around Ireland's position within this wider context. For the sake of clarity, the terms 'Commission' and 'Report' will be used interchangeably throughout the text but both terms refer to the findings of the Rule of Law Report 2022.

### Justice Systems

Independent judges and courts are an essential part of a fair and effective justice system and ensure that the rights of individuals are protected and that the rule of law is safeguarded. One of the sources of information for the Report in this area is the EU Justice Scoreboard<sup>20</sup>. The Scoreboard provides an annual quantitative and visual overview of indicators on the efficiency, quality and independence of justice systems. The EU Justice Scoreboard is in its tenth year of publication and finds that the majority of member states continue to improve the effectiveness of their justice systems. The Rule of Law Report 2022 broadly divides justice systems into several sub-categories such as judicial systems, prosecution services, disciplinary and accountability regimes and investment in quality and efficiency of systems, not all of which are included below.

### Judicial Independence and Appointments

In terms of justice systems, the Report found an overall decrease in the perception of judicial independence in more than half the Member States since 2021, with little change in the relative perceptions between Member States. The 2022 Report found that a number of Member States had initiated legislative efforts to strengthen the independence of judicial councils. Some examples include Italy where legislation has been introduced to reform the justice system, including the establishment, and functioning of a High Council for the Judiciary and how they are elected. In Sweden, an all-party Committee of Inquiry has been examining how to strengthen the independence of the judiciary and their report is expected by February 2023.

In the 2021 Rule of Law Report, the Commission raised concerns with Ireland around the composition of the Judicial Appointments Commission (JAC), and those continue in the 2022 Report. Specifically, it refers to the fact that it still does not provide for a clear majority of judges chosen by their peers. Although, the report notes that Ireland has drafted the [Judicial Appointments Commission Bill](#) which proposes to limit government involvement in the judicial selection process, it also observed that stakeholders continue to express concern that the Attorney General sits on the Commission in an *ex-officio* non-voting capacity as they are the Government's chief legal advisor.<sup>21</sup>

---

<sup>20</sup> European Commission, Communication from the Commission to the European Parliament, the Council, the European Central Bank, the European Economic and Social Committee and the Committee of the Regions '[The 2022 EU Justice Scoreboard](#)', COM(2022) 234. It should be borne in mind that most Member States are a civil law jurisdiction, while Ireland is a common law jurisdiction.

<sup>21</sup> European Commission, Communication from the Commission to the European Parliament, the European Council, the European Economic and Social Committee and the Committee of the Regions, '[2022 Rule of Law Report Country Chapter on the rule of law situation in Ireland](#)' SWD(2022) 507 final, p.4.

The Report found that systemic or structural issues in certain countries, such as Hungary and Poland, continue to raise concerns. In Poland, despite several rulings from the European Court of Justice (CJEU) and the European Court of Human Rights where serious concerns around the independence of the national judicial council were highlighted, these remain unaddressed. Similarly, in Hungary, concerns remain around the failure to strengthen judicial independence and the power dynamic between the National Office for the Judiciary President and the National Judicial Council, particularly in relation to court management.<sup>22</sup>

The 2022 Report emphasises the importance of the method of the appointment of judges to ensure independence and neutrality, noting that some Member States have taken steps to improve this. In Czechia, laws have been amended to set up a transparent and consistent recruitment and appointment process for judges and court presidents.

There are several countries where steps have been taken to strengthen the independence of the appointment of senior judges and court presidents but challenges remain. These include Malta where there has been attempts to depoliticise the appointment of the Chief Justice, but there is still no involvement of the judiciary in the appointments process and Greece where a lack of judicial involvement in the selection process for the most senior judicial members remains. Hungary and Poland also remain a concern in relation to the independence of Supreme Court appointments, with Poland as referenced already, subject to key rulings of CJEU and of the European Court of Human Rights.<sup>23</sup>

### Disciplinary and Accountability Frameworks

The Report states that one of the essential safeguards to ensure that disciplinary frameworks are not misused to exert political control over judicial decisions, is to have clear rules that define conduct that qualifies as a disciplinary offence and what the relevant sanctions are. It also notes that there should be an independent body overseeing proceedings and appeals process against disciplinary findings. There are reforms taking place to increase safeguards for judicial independence in disciplinary proceedings in several Member States. These include, for example, the creation of a new disciplinary regime for prosecutors in Spain.

A further issue of concern raised in the 2021 Report, which is also reiterated in the 2022 Report, is how in Ireland, the Oireachtas remains in charge of deciding on the removal of judges from office as set out under Article 35.4 of the [Constitution of Ireland](#). The Commission does acknowledge that to date this process has not been engaged, but observes that concerns remain around the potential or perceived politicisation of the disciplinary process.<sup>24</sup>

In several Member States concerns persist that disciplinary proceedings could be utilised to curtail judicial independence. These include Poland where determining disciplinary actions through the Disciplinary Chamber of the Supreme Court has persisted, even after committing to reforms,

---

<sup>22</sup>European Commission, Communication from the Commission to the European Parliament, the European Council, the European Economic and Social Committee and the Committee of the Regions, '[2022 Rule of Law Report - The rule of law situation in the European Union](#)', COM(2022) 500 final p 5-6.

<sup>23</sup> European Commission, Communication from the Commission to the European Parliament, the European Council, the European Economic and Social Committee and the Committee of the Regions, '[2022 Rule of Law Report - The rule of law situation in the European Union](#)', COM(2022) 500 final p.6-7.

<sup>24</sup> Ibid p.4-5.

including dismantling the Disciplinary Chamber. Another example is Slovakia where the regime of criminal liability of judges for ‘abuse of law’ continues.

### Quality and Efficiency of Justice Systems

Sufficient human and financial resources are essential conditions for the quality and efficiency of justice systems, irrespective of the different types of justice systems found among the Member States. Several countries, including Malta and Portugal, have introduced initiatives to tackle long-standing challenges in relation to efficiency issues, including delays in proceedings. Hungary has also introduced a new law providing for compensation for unreasonable delay in civil proceedings. Many Member States have introduced digitalisation of their justice systems, most in response to the Covid-19 pandemic. However, the 2022 Report emphasises how such changes while welcome, must be effective in practice.<sup>25</sup>

In terms of the quality of the Irish justice system, the Report notes that prohibitive litigation costs and shortcomings within the legal aid system continue to raise concerns, although it is acknowledged that work is ongoing to address those challenges. Such progress comes in the form of the economic evaluation of the costs of litigation, and several legislative proposals to reform both civil and criminal legal aid.<sup>26</sup> In May 2022, Minister McEntee published an Implementation Plan setting out how the most significant reform to civil law in the history of the State will be achieved, including the reduction of litigation costs.<sup>27</sup> Progress has also been made to address delays in proceedings in the form of the revised [General Scheme of the European Convention on Human Rights \(Compensation for Delays in Court Proceedings\) Bill](#).

While the Commission found that strides had been made, in particular, by the Courts Service to increase the digitalisation of the justice system, Ireland still scores below the EU average across several areas including digital court technology, electronic communication tools, and digital solutions to conduct court cases.<sup>28</sup>

### Anti-Corruption Frameworks

Corruption is harmful to the rule of law as it erodes the trust of citizens and society in public institutions. The Report notes that tackling corruption needs a comprehensive approach, including both preventive measures and penalties. To achieve this, it states that this requires a strong legal and institutional framework, adequate administrative and judicial capacity, as well as the political will to enforce these measures.

---

<sup>25</sup> European Commission, Communication from the Commission to the European Parliament, the European Council, the European Economic and Social Committee and the Committee of the Regions, [‘2022 Rule of Law Report - The rule of law situation in the European Union’](#), COM(2022) 500 final p.8-10.

<sup>26</sup> European Commission, Communication from the Commission to the European Parliament, the European Council, the European Economic and Social Committee and the Committee of the Regions, [‘2022 Rule of Law Report Country Chapter on the rule of law situation in Ireland’](#) SWD(2022) 507 final, p.6-7.

<sup>27</sup> Department of Justice, [‘Minister McEntee publishes Implementation Plan on Civil Justice Efficiencies and Reform Measures’](#), Press Release, 27 May 2022.

<sup>28</sup> European Commission, Communication from the Commission to the European Parliament, the European Council, the European Economic and Social Committee and the Committee of the Regions, [‘2022 Rule of Law Report Country Chapter on the rule of law situation in Ireland’](#) SWD(2022) 507 final, p.7.

## Corruption Perceptions Across the EU

The [Corruption Perceptions Index \(CPI\) 2021](#)<sup>29</sup> (CPI 2021) is an annual publication by Transparency International which ranks 180 countries and territories by their perceived levels of public sector corruption, according to experts and businesspeople. The Report relies on the findings of the CPI 2021, which shows that worldwide corruption had plateaued and that ten Member States are in the top 20 of countries perceived as the least corrupt in the world. While the average score in the CPI 2021 across all 180 countries was 43, Western Europe and EU region scored 66. However, some Member States continue to score poorly, with Bulgaria, Hungary, and Romania, the lowest scorers in the EU.<sup>30</sup>

Ireland continues to rank well in terms of the perception of corruption being low within the public sector, placing 6<sup>th</sup> in Europe and 13<sup>th</sup> globally according to Transparency International's [Corruption Perceptions Index \(CPI\) 2021](#). This ranking has remained stable over the last five years. The Commission does, however, observe that the Government's plan to review the anti-corruption structure and strategy is making slow progress, for example, noting the delay in establishing a permanent Advisory Council. The Advisory Council was established in May of 2022, following the recommendation of the '[Hamilton Review](#)' in December 2020. As a result of this delay, the Report notes that the development of the multi-annual National Strategy and Action Plan to Combat Economic Crime and Corruption has been adversely affected, as the Advisory Council is tasked with drafting this strategy.<sup>31</sup>

Corruption remains a significant concern for EU citizens and businesses as demonstrated by the 2022 Eurobarometers on corruption<sup>32</sup>. Findings include that 68% of Europeans believe that corruption generally, and in public institutions, is widespread in their country and over 41% consider that the level of corruption has increased in their country. Only 31% of Europeans consider that steps taken by their Government to address corruption are effective.<sup>33</sup>

## Fostering Integrity in Public Life and Preventing Conflicts of Interest

Conflicts of interest can occur where a public official has a private or professional interest that might interfere with the impartial and objective performance of their duties. While many countries have preventive measures in place for elected and appointed public officials, the 2022 Report notes that some countries still face challenges in this area. Steps have been taken to strengthen frameworks in several countries, including the Netherlands where work is on-going to update the integrity framework of the police force with new structures, and Romania where a focus on the integrity of law enforcement has led to positive improvements.

---

<sup>29</sup> Published annually by Transparency International.

<sup>30</sup> Transparency International, [CPI 2021 for Western Europe & European Union: Trouble ahead for stagnating region](#), 25 January 2022.

<sup>31</sup> Ibid p. 9-10.

<sup>32</sup> These include the *Special Eurobarometer 523 on Corruption (2022)* & *Flash Eurobarometer 507 on Businesses' attitudes towards corruption in the EU (2022)*. See European Commission, Directorate-General for Migration and Home Affairs, '[Citizens and businesses have spoken – corruption remains a serious problem in EU countries](#)', 13 July 2022.

<sup>33</sup> European Commission, Communication from the Commission to the European Parliament, the European Council, the European Economic and Social Committee and the Committee of the Regions, '[2022 Rule of Law Report - The rule of law situation in the European Union](#)', COM(2022) 500 final p.10 -11.

Most Member States have specific rules in place for Members of Parliament and Senior Government Officials in relation to conflicts of interest. The 2022 Report highlights how important it is that the practical implementation of these rules is subject to regular review and evaluation. There have been developments in this area in several Member States, including France where the Commission for Ethics of the National Assembly in France has been issuing opinions and verifying financial statements to find any conflicts of interest. Improvements have been undertaken in other countries too, including Finland where legislation is being prepared to strengthen the rules for public officials and ministers on conflicts of interest. In others such as Italy, proposed rules on conflicts of interest for political office holders, including parliamentarians, still remain to be adopted after several years.<sup>34</sup>

As noted in the 2020 Programme for Government, review and reform of the ethics legislative framework in Ireland is a priority<sup>35</sup>, particularly to address the lack of harmonisation between local and national ethics rules. The results of the public consultation on this review are currently being considered by the Minister for Public Expenditure and Reform and are yet to be published. Proposals for legislative reform are to be presented by the end of 2022. The Commission observed that the outcome of the consultation, via information received from the Department of Justice in the context of the country visit to Ireland, highlights the need for harmonisation of the ethics rules and also raises concerns around the limited investigative capacity and lack of enforcement powers of the Standards in Public Office Commission (SIPO). Due to the different ethic regimes operating at the same time, confusion can arise as to what requirements apply to public officials.<sup>36</sup> Separately, media reports have indicated that there also appears to be some uncertainty around the remit of SIPO, as it has been reported that SIPO itself is unsure whether or not elected representatives must declare the sale of property to the State unless SIPO has investigated that particular property.<sup>37</sup>

### Asset and Interest Disclosure

Part of efforts to prevent corruption and promote integrity among public officials includes asset and interest disclosure obligations, which promotes transparency and accountability. Many Member States have obligations in place, but the Report found there is great variance in terms of the scope, transparency and accessibility of the information disclosed, as well the effectiveness of the verification and enforcement of such obligations. The Report also highlights how, in Ireland, obligations for public officials under asset and interest declarations remain incomplete and are still under review. Only Members of Parliament are obliged to publicly declare their interests and provide annual statements to SIPO and the scope of such declarations is limited. This will be addressed as part of the [review of Ethics in Public Life](#), which follows on from the Government's commitment in the 2020 Programme for Government to review the ethics statutory framework. In

---

<sup>34</sup> European Commission, Communication from the Commission to the European Parliament, the European Council, the European Economic and Social Committee and the Committee of the Regions, '[2022 Rule of Law Report - The rule of law situation in the European Union](#)', COM(2022) 500 final p.14.

<sup>35</sup> Department of the Taoiseach, '[Programme for Government: Our Shared Future](#)', October 2020, p.120.

<sup>36</sup> European Commission, Communication from the Commission to the European Parliament, the European Council, the European Economic and Social Committee and the Committee of the Regions, '[2022 Rule of Law Report Country Chapter on the rule of law situation in Ireland](#)' SWD(2022) 507 final, p.12-13.

<sup>37</sup> '[Sipo can't say whether public reps should declare sale of property without investigating](#)', *The Irish Examiner*, 1 September 2022.



March 2022, the Outgoing Head of SIPO expressed concern that significant reform is needed, stating that “legislative, structural and resourcing improvements are urgently required.”<sup>38</sup>

A common issue among countries identified in the Report appears to be verification and monitoring of declared assets. Progress is being made, but in some Member States challenges remain. For example, in Greece, while most officials file asset declarations, only a limited amount have their accuracy verified. Concerns remain in Belgium, where the verification and transparency of the contents of such declarations can only be assessed in the course of a criminal investigation. In Austria, members of Parliament do not have an obligation to disclose assets, interests, debts or liabilities.<sup>39</sup>

## Media Freedom and Pluralism

The Report states that an essential part of a robust and independent democracy is a free and diverse media. It is instrumental in defending the rule of law by holding power and institutions accountable. The Commission notes that State influence over media can undermine freedom of speech and expression, as well as receiving or imparting information. Challenges can also arise in the form of conflicts of interest or a market dominated by only a few key players. Member States have a positive obligation<sup>40</sup> to protect the safety of journalists and promote their freedom to do their work.

Previous challenges in this area have led to a number of recent EU initiatives. These include a recommendation around the safety of journalists and a suite of measures to address strategic lawsuits against public participation (SLAPPs), which are primarily aimed at journalists and rights defenders.<sup>41</sup>

### The Media Pluralism Monitor

The [Media Pluralism Monitor](#) is a tool developed by the Centre for Media Pluralism and Media Freedom to assess the potential weaknesses in 32 countries that may hinder media pluralism. The Monitor is co-funded by the European Union and acts as an important source for the Commission’s Rule of Law Reports documenting the health of media frameworks, detailing threats to media pluralism and freedom in Member States and some candidate countries. The Media Pluralism Monitor is based on 20 indicators, summarizing 200 variables across four main areas - fundamental protection, market plurality, political independence, and social inclusiveness. For the first time, it has introduced an overall ranking of Member States clustered into five levels of risk. A number of countries including Bulgaria, Greece, Hungary, Malta, Poland, Romania, and Slovenia

---

<sup>38</sup> Editorial, [‘The Irish Times view on ethics in public life: The rules need tightening’](#), *The Irish Times*, 18 March 2022.

<sup>39</sup> Ibid p.15-16.

<sup>40</sup> A positive obligation requires national authorities to take actions. This means they must take necessary measures to safeguard a right or, more precisely, to adopt reasonable and suitable measures to protect that right.

<sup>41</sup> European Commission, Democracy and Electoral Rights, [Protecting journalists and human rights defenders from strategic lawsuits against public participation \(SLAPPs\)](#). The planned measures are a mix of legislation and recommendations designed to equip journalists and human rights defenders who are targets of SLAPP with the tools to fight back against abusive court proceedings.

are considered to be high risk countries. Ireland is considered medium risk alongside countries such as Finland and Luxembourg.<sup>42</sup>

While there has been little change across the four main indicator areas, there has been some variation in specific indicators within some of the areas. For example, there has been an improvement in the indicator relating to transparency of media ownership since several Member States have implemented EU legislation regulating the matter. However, political independence remains a medium risk with no progress made. Eight countries score high risk, some of whom include newer Member States, such as Malta and Bulgaria. Ireland is one of nine countries that are found to be at a low risk in relation to political independence.<sup>43</sup>

During the Covid-19 pandemic, the Report notes that State advertising in Ireland increased significantly. While the Commission acknowledges that it appears that there was an even spend across national and regional media, it notes that only standard procurement guidance exists and no specific rules on the placement of state media in advertising have been developed. This concern was highlighted in the [Irish country chapter of the 2020 Rule of Law Report](#) as it impacts the transparency of how and why exactly decisions are taken to distribute state advertising to media outlets.<sup>44</sup>

### Threats Against the Safety of Journalists

Across Member States, journalists continue to face threats to their safety, including verbal assaults, harassment and physical attacks. Two organisations, the [Council of Europe Platform to Promote the Protection of Journalism and Safety of Journalists](#) and the [Mapping Media Freedom Platform](#) (MMF), that track the threats faced by journalists across the European Union, found that in 2021 there was a significant increase in alerts. These alerts signal violations (online and in person) which include verbal assaults, legal threats, incitement, smear campaigns and physical assaults. The Council of Europe Platform found a 42% increase in alerts while the MMF Platform noted a 72% increase in alerts between 2020 and 2021, with a large number of these alerts linked to online harassment and physical and verbal attacks during COVID-related demonstrations.

The 2021 Rule of Law Report made a recommendation regarding measures to be implemented to improve the safety of journalists and the 2022 Report notes that some Member States have responded to this, either through enhancing measures already in place or introducing new ones. For example, in the Netherlands, the Government has continued to enhance, support and advance the 'PersVeilig' (Press Safe) mechanism. This is a platform used to promote close cooperation between state authorities and media stakeholders.

---

<sup>42</sup> Centre for Media Pluralism and Media Freedom, [Monitoring media pluralism in the digital era : application of the Media Pluralism Monitor in the European Union, Albania, Montenegro, the Republic of North Macedonia, Serbia and Turkey in the year 2021](#) (2022), p121. The [Media Pluralism Monitor 2022 Interactive](#) offers a useful interactive tool to see how the risk levels vary across the countries by the four areas and 20 indicators of interest.

<sup>43</sup> Centre for Media Pluralism and Media Freedom, [Monitoring media pluralism in the digital era : application of the Media Pluralism Monitor in the European Union, Albania, Montenegro, the Republic of North Macedonia, Serbia and Turkey in the year 2021](#) (2022), p. 5.

<sup>44</sup> European Commission, Communication from the Commission to the European Parliament, the European Council, the European Economic and Social Committee and the Committee of the Regions, '[2022 Rule of Law Report Country Chapter on the rule of law situation in Ireland](#)' SWD(2022) 507 final, p. 17.

In recent years, a number of journalists have been murdered within the EU and several trials and investigations are taking place, including the trial into the murder of Peter R. de Vries who was shot in the Netherlands. In Malta, criminal proceedings are ongoing into the assassination of journalist Daphne Caruana Galizia, as well as a separate public inquiry which issued a set of recommendations relating to the rule of law.<sup>45</sup>

Overall, Ireland is considered a safe environment for journalists. However, in January 2022, the National Union of Journalists wrote a joint letter to the Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media Catherine Martin, the Minister for Justice, Helen McEntee and Garda Commissioner Drew Harris, highlighting their concern at increased online abuse, particularly towards women journalists.<sup>46</sup> The Report noted that, in May 2022, for the second time ever, an alert was registered for Ireland on the Council of Europe's platform to promote the protection of journalists and safety of journalists. This related to two defamation proceedings initiated by two Members of the European Parliament against RTÉ.<sup>47</sup>

### Legal Threats and Abusive Court Proceedings against Public Participation

Recently, there has been a growing EU phenomenon which the European Commission has called strategic lawsuits against public participation (SLAPPs). These lawsuits are a specific form of harassment and intimidation against journalists and rights defenders who are engaged in public participation on a matter of public interest, which can have a chilling effect on freedom of expression and media freedom. One of the most common grounds on which SLAPPs are brought is on the basis of defamation proceedings.

Several Member States have responded to this new phenomenon by considering the introduction of procedural safeguards or by revising their defamation law. In Ireland, the [Report of the Review of the Defamation Act 2009](#), by the Department of Justice, includes a recommendation to introduce a new 'anti-SLAPP' mechanism. This would allow a person to apply to court for summary dismissal of defamation proceedings brought against them that they believe to be a SLAPP.<sup>48</sup> The Report observes that the media in Poland continue to be vulnerable to threats arising from SLAPPs that seem to largely target journalists scrutinising Government actions. In Italy, following a landmark Constitutional Court ruling in 2021, prison sentences for defamation have largely been abolished, although the increasing incidence of SLAPP cases and the combination of criminal and civil defamation raises concerns for Italian journalists and press organisations. In Croatia, there continues to be a number of examples of abusive lawsuits against journalists by politicians or public officials, including judges.<sup>49</sup>

---

<sup>45</sup> European Commission, Communication from the Commission to the European Parliament, the European Council, the European Economic and Social Committee and the Committee of the Regions, '[2022 Rule of Law Report - The rule of law situation in the European Union](#)', COM(2022) 500 final at p.20-21.

<sup>46</sup> National Union of Journalists, '[Irish government urged to act on online abuse of journalists](#)', *Press Release*, 14 January 2022.

<sup>47</sup> European Commission, Communication from the Commission to the European Parliament, the European Council, the European Economic and Social Committee and the Committee of the Regions, '[2022 Rule of Law Report Country Chapter on the rule of law situation in Ireland](#)' SWD(2022) 507 final, p.18.

<sup>48</sup> Department of Justice, [Summary Report of the Review of the Defamation Act](#), March 2022, p.21.

<sup>49</sup> European Commission, Communication from the Commission to the European Parliament, the European Council, the European Economic and Social Committee and the Committee of the Regions, '[2022 Rule of Law Report - The rule of law situation in the European Union](#)', COM(2022) 500 final, p.20-21.

## Institutional issues related to checks and balances

A fundamental part of the rule of law is a system of checks and balances, which ensure that an appropriate level of scrutiny and accountability is undertaken in a democracy. This may look different in the various Member States but all need such a system to ensure respect for the rule of law. Civil society organisations and independent authorities, such as equality bodies, are a crucial part of the system of checks and balances.

### Quality and Inclusiveness of the Legislative Process

Overall, the 2022 Report concludes that Member States have continued to make progress in improving the quality of the legislative process. Improving stakeholder participation can assist in enhancing the quality, as well as the transparency, of the process. While several countries have taken steps to increase public participation, such as Estonia through the creation of digital platforms that allow citizens to address the Parliament of Estonia with collective proposals, the Report notes that there are many others where the lack of a formal consultation framework continues to draw concern. Both Malta and Cyprus, for example, have no formal consultation framework, while in Greece, consultations happen too late for input from the public or civil society organisations to have any impact. The Report further notes that concerns around inclusiveness persist in Luxembourg and Slovakia, while Hungary continues to be of concern with a lack of consultation and an accelerated legislative process.<sup>50</sup>

The Commission notes that it has been advised that changes have been made to enhance the functioning of the Houses of the Oireachtas. It states that this has been done in several ways, including an agreed informal approach to publish some of the more complex legislation during recess periods and that since July 2021, the Business Committee has paid particular attention to proposals relating to the passing of legislation. The purpose of this is to ensure that draft legislation is available to members of Parliament a number of weeks in advance of being considered formally, allowing for more detailed consideration of the content of Bills.<sup>51</sup> In July 2022, the Irish Council for Civil Liberties (ICCL) and 22 other national organisations issued an open letter to the Government and party leaders in the Oireachtas expressing their concern and dissatisfaction that extensive and complex amendments were being introduced at such a late stage that there was no time for proper scrutiny. They contend that this was particularly evident before the summer and Christmas Dáil recesses.<sup>52</sup>

### Lessons Learned from the Use of Emergency Measures and the COVID-19 Pandemic

Most Member States progressively phased out emergency measures as the Covid-19 pandemic lessened and many countries are learning from the experience and future proofing their legal frameworks in case of further crises. For example, Portugal, Sweden and the Netherlands are all considering how to create permanent legal frameworks to govern exceptional circumstances.

---

<sup>50</sup> European Commission, Communication from the Commission to the European Parliament, the European Council, the European Economic and Social Committee and the Committee of the Regions, '[2022 Rule of Law Report - The rule of law situation in the European Union](#)', COM(2022) 500 final at p. 22.

<sup>51</sup> European Commission, Communication from the Commission to the European Parliament, the European Council, the European Economic and Social Committee and the Committee of the Regions, '[2022 Rule of Law Report Country Chapter on the rule of law situation in Ireland](#)' SWD(2022) 507 final, p.19.

<sup>52</sup> Irish Council for Civil Liberties, '[European Commission Criticises Government for Rushing Legislation Through before Dáil Recess in new Report](#)', Press Release, 15 July 2022.

However, a few countries, such as Hungary, have continued to utilise emergency measures, outside the context of Covid-19. In Hungary's case, it cites the invasion of Ukraine as the reason.<sup>53</sup>

### National Human Rights Institutions, Ombudspersons, Equality Bodies and Implementation of European Court of Human Rights Rulings

National Human Rights Institutions (NHRIs), Ombudspersons and equality bodies, have a vital role in the system of checks and balances to ensure that the rule of law is upheld in a democracy. Several Member States have taken steps to strengthen them, including Sweden where a new National Human Rights Institute started work in January 2022. Several Member States have so far not established a NHRI in line with the UN Paris Principles<sup>54</sup>. Countries such as Italy, Malta and Romania have begun the process of creating national human rights institutes.

Independence and adequate resources are vital if National Human Rights Institutions (NHRIs) and equality bodies are to perform their role effectively. However, as noted in the Report, some countries continue to face challenges around this. Concerns persist in Croatia around follow up and monitoring of the Ombudswoman of Croatia's recommendations arising from public complaints and also around access to information. In Hungary, the UN Sub-Committee on Accreditation of the Global Alliance of NHRIs has maintained its recommendation that the Hungarian national human rights institution be downgraded to B-status.

For the first time in the 2022 Report, country chapters include systematic indicators on the implementation of ECtHR leading judgments by all Member States. Although implementation varies across the Member States, around 40% of the leading judgments of the ECtHR relating to EU Member States from the last ten years have not been implemented.<sup>55</sup> The Report found that Ireland had two leading judgments of the European Court of Human Rights pending implementation and its rate of non-implementation at 33%, sits slightly below the EU average of 40%. Both judgments have failed to be implemented for more than eight years.<sup>56</sup>

### Civil Society Organisations as Essential Actors for the Rule of Law

Civil society organisations are another vital component in safeguarding respect for the rule of law. These types of organisations can monitor for breaches against the rule of law and work to encourage and support respect for the rule of law. In several Member States, progress is being made to improve the position of civil society organisations, such as in Sweden, where there is a review of the framework rules on the operation and funding of civil society organisations. There are

---

<sup>53</sup> European Commission, Communication from the Commission to the European Parliament, the European Council, the European Economic and Social Committee and the Committee of the Regions, '[2022 Rule of Law Report - The rule of law situation in the European Union](#)', COM(2022) 500 final at p. 23. See Oireachtas Library & Research Service, 2018, [L&RS Note: An Overview of the Impact of Emergency Powers on Rights and Freedoms](#).

<sup>54</sup> The [UN Paris Principles](#) set out the minimum standards that NHRIs must meet in order to be considered credible and to operate effectively. They were endorsed by the Vienna World Conference on Human Rights and the UN General Assembly in 1993.

<sup>55</sup> European Commission, Communication from the Commission to the European Parliament, the European Council, the European Economic and Social Committee and the Committee of the Regions, '[2022 Rule of Law Report - The rule of law situation in the European Union](#)', COM(2022) 500 final at p. 23 p.24.

<sup>56</sup> European Commission, Communication from the Commission to the European Parliament, the European Council, the European Economic and Social Committee and the Committee of the Regions, '[2022 Rule of Law Report Country Chapter on the rule of law situation in Ireland](#)' SWD(2022) 507 final, p.20.

however Member States where civil society organisations continue to face challenges, including burdensome registration procedures or difficulties accessing funding. For example, in Italy registration procedures remain complex and burdensome. In Slovakia, organisations working on issues related to gender equality and LGBTIQ rights are excluded from public subsidy schemes. Also, in Hungary, the Report notes that independent civil society remains under strain and organisations representing the LGBTIQ community report being targeted by Government sponsored smear campaigns.<sup>57</sup>

Although Ireland has a diverse civil society, concerns persist regarding legal barriers regulating the funding of NGOs, which prohibits civil society organisations from receiving donations above a certain threshold for 'political purposes' or from foreign donors. The Commission notes that the Electoral Bill in its draft form did not directly address these concerns.<sup>58</sup> The Coalition for Civil Society Freedom (CCSF) is a coalition of civil society organisations, who claim that the practical implications of the wording is so broad that it means that civil society organisations are restricted from seeking funding for their domestic advocacy work at all times and not just in election and referendum periods. CCSF contend this "significantly restricts freedom of expression and freedom of association by civil society organisations."<sup>59</sup>

The Electoral Reform Bill was signed into law in July 2022. However, at the same time, concerns were raised by the European Commission about the compatibility of certain sections of the Act, related to online political advertising, with the e-Commerce Directive.<sup>60</sup> In August 2022, ICCL also made a submission to the European Commission on the Electoral Reform Bill expressing strong reservations with respect to the passage of the Bill in its current form and the potential impact it may have on the free expression of political opinions.<sup>61</sup>

## Conclusion

Overall, the 2022 Report illustrates that for the most part, the rule of law is being adhered to by most EU Member States. It does however highlight some areas for improvement such as the quality and inclusiveness of the legislative process as well as presenting ideas for future innovations from fellow states including digitalisation of justice systems.

The Report highlighted several positive developments in Ireland, including continuing reform of the justice system but also noted some continuing challenges, including shortcomings within the legal aid system. The Report also demonstrates that a small number of countries, such as Poland and Hungary, continue to face significant challenges in ensuring that the rule of law is upheld and strengthened within their countries.

---

<sup>57</sup>European Commission, Communication from the Commission to the European Parliament, the European Council, the European Economic and Social Committee and the Committee of the Regions, '[2022 Rule of Law Report - The rule of law situation in the European Union](#)', COM(2022) 500 final at p.25-26.

<sup>58</sup> Ibid.

<sup>59</sup> The Coalition for Civil Society Freedom, '[Submission on the Definition of 'Political Purposes' as contained in the Electoral Reform Bill](#)', 18 May 2022', p.3.

<sup>60</sup> Elaine Loughlin, '[President signs electoral reform bill despite warnings it is 'not compliant' with EU rules](#)', *The Irish Examiner*, 2 July 2022.

<sup>61</sup> Irish Council for Civil Liberties, '[ICCL submission on the Electoral Reform Bill to the European Commission](#)', 29 August 2022.

## Contact:

Houses of the Oireachtas

Leinster House

Kildare Street

Dublin 2

D02 XR20

[www.oireachtas.ie](http://www.oireachtas.ie)

Tel: +353 (0)1 6183000 or 076 1001700

Twitter: @OireachtasNews

Library & Research Service

Tel: +353 (0)1 6184701

Email: [library.and.research@oireachtas.ie](mailto:library.and.research@oireachtas.ie)

