



CRoLEV Scoping Paper

Work Package 4 – Deliverable 2

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1. INTRODUCTION

This Scoping Paper is a living document and is the outcome of a number of activities and feedback undertaken in the first year of the Jean Monnet Centre of Excellence on the Rule of Law and European Values at UCLan Cyprus, CRoLEV (2022-25). The prime objective of the Centre is to provide insights on the state of the Rule of Law and other European values and principles in troubled times. More specifically, CRoLEV explores the current state of the Rule of Law and related European values in Cyprus vis-à-vis other countries across the Union and beyond. The threat to the Rule of Law has been taken seriously by the EU, as evidenced by the development and the activation of the Rule of Law mechanism and the recently published Rule of Law Reports. Yet the current framework for monitoring and protecting the Rule of Law might appear inadequate given the limitations on areas covered and the methods employed to measure the Rule of Law. Ontological and epistemological choices must be made, which in turn influence outcomes. In fact, no methodology is perfect. To contribute to addressing this gap, CRoLEV aims to act as an enabler of knowledge and proposes different frameworks and ways in which one can measure the Rule of Law and European values and use empirical indicators to determine to what extent states, like Cyprus, act in ways that are compatible with these principles. CRoLEV's methods take into account the current practices adopted by the EU (Framework on the Rule of Law, Council's Recommendations etc.) and other international bodies (e.g., the Council of Europe's Venice Commission), investigate the features they exhibit, and demonstrate their shortcomings.¹ The ultimate aim would be to contribute to the development of a comprehensive Rule of Law and European values measurement system based on an agreed balance of objective and subjective criteria and unique methodology combining the quality and quantification of the Rule of Law and other European values in different countries both within and outside the EU. Using that framework will enable an analysis of Rule of Law and European Values parameters in Cyprus determined in the present Scoping Paper, thereby qualifying and quantifying the extent to which the Rule of Law and other values are secured, and how/whether actors/mechanisms relevant to the safeguarding of the Rule of Law,

¹ A. Marcou and K. Kalaitzaki, Rule of Law and European Values: Beyond the state-of-the-art analysis Work Package 3—Deliverable 1 (CRoLEV, 2022) <https://crolev.eu/wp-content/uploads/2022/10/CRoLEV-Deliverable-D.3.1-31-August-2022-FINAL.docx.pdf>

such as institutions, civil society and governance principles, are sufficiently empowered/protected. Ultimately, this framework would allow the relative comparison of the Rule of Law and value situation in different countries, generating insights that can inform EU policy-making.²

Achieving these objectives entails engaging with empirical analysis of Rule of Law and value aspects, such as the way they work in practice, and their effect on/perception by ordinary citizens, stakeholders, and the civil society in general. This analysis would result in qualitative and quantitative Rule of Law and European value reports for individual countries such as Cyprus, supplemented by an innovative, interactive, and online tool in the form of a Dashboard and an Index. The novelty of the methodology CRoLEV adopts is that it complements research into a common Rule of Law framework with the collection of data using various methods, combining qualitative and quantitative research including through focus groups, scoping paper, beyond-the-state-of-the-art analysis, surveys and data entry protocols, impact assessment and other metrics, monitoring and evaluation reports, recommendations and index. With respect to this Scoping Paper, an expert survey as well as a CSO focus group were held where data and feedback were collected and exchange of best practices on a selection of Rule of Law and European Values methodology and tools took place. This Scoping Paper therefore presents, based on the detailed mapping out of existing resources, thematic research, survey and focus group undertaken to date, qualitative and quantitative analysis via new data sets on the Rule of Law and European values in Cyprus, with a view to create a renewed methodology for ‘Rule of Law and European Values’ placed within the framework of existing EU, European, international and global initiatives and in the context of UN SDGs.

Conceptualisation of the Rule of Law and methodological limitations

The proposed model of the Rule of Law, and the one that will be employed for this project sees the Rule of Law as encompassing inherent connections with democratic rule. In summary, a system of the Rule of Law encompasses formal requirements (that laws are general, public, non-retroactive, etc.), procedural requirements (that laws emanate from democratic procedures) and substantive requirements (no law can violate key democratic principles, such as participation in law-making, or the ability to challenge, contest, and otherwise criticise decisions). On this robust model, the Rule of Law entails concern about the processes through which the laws are made, the stability, efficiency, and independence of the justice system, the fair and just enforcement of law, the existence of adequate checks on the use of political powers, and the safeguarding of necessary prerequisites of democratic activity (such as freedom of speech, media freedom, existence of open democratic spaces, room for civil society). Such a broad model of the Rule of Law serves two aims. First, it recognises that the Rule of Law comes with deep connections with the constitutional structure of a society making,

² Due to limitations inherent to the project, the CRoLEV methodology does not aim at comprehensiveness and/or absolute generalisability in the comparison but rather at benchmarking, including against best practice (i.e. highest scoring EU member state across all indicators), regional benchmarking (against other EU states in the region) and/or benchmarking determined by when the state joined the EU (for instance against some of the 9 states which joined alongside Cyprus in 2004), to the extent possible.

in particular, demands about the inclusion of the citizenry in democratic processes. As such, it explains how the Rule of Law is interconnected with various other European values such as democracy, equality, and non-discrimination. Second, it allows for an expansive investigation of various relevant areas that are connected with the safeguarding of the Rule of Law. This model recognises that a legal system that obstructs free speech or allows for sectional interests to control democratic-decision-making fails not only as a democratic system but also, and crucially, as a Rule of Law system.

Readers might object that the model of the Rule of Law adopted for this project is not robust enough. In particular, it builds no explicit connection between the Rule of Law and democracy, and respect on fundamental rights. There are two reasons for this choice, one principled and one pragmatic. First, as the ‘Beyond-the-state-of-the-art Report’ indicated,³ there are significant problems in reading respect for fundamental rights as a necessary component of the Rule of Law, chiefly associated with the fluid and contested nature of fundamental rights. The second, pragmatic concern, refers to the limitations of this current project—it cannot conduct a full assessment of all aspects of the Rule of Law. Even if one was convinced that the state of fundamental rights tells us something about the state of the Rule of Law, comprehensively determining the former is a demanding task. Instead, **CRoLEV only aims to conduct research in some areas associated with the Rule of Law, emphasising specific pillars that warrant close inspection.** It does not, therefore, entail a separate analysis of the state of protections of fundamental rights. This does not mean, however, that our research omits any discussion of fundamental rights. It simply means that when such rights are investigated, they are highlighted due to some deep connection with one of the other areas of interest and not as independent rights parts of established human rights lists. When, for example, emphasis is placed on citizens’ access to courts, this surely touches on the existence and protection of a right to a fair trial, enshrined in multiple human rights documents (e.g., Art.6 of the ECHR, Art.10 of the UDHR). But the right is examined because it is associated with the existence of a functional and effective judicial system, which is in turn a necessary component of a rule of law system.

Indices and indicators on Cyprus

The use of indices for measuring and monitoring purposes, is quite problematic in the case of Cyprus. The Republic of Cyprus or Cyprus is either completely missing from the measurements of indices, or specific data/information are lacking for various components which makes the overall evaluation incomplete and unprecise. On the other hand, the indices that do include sufficient data and information on Cyprus, are likely to have only recently included Cyprus in their measurements. The lack of measurements for longer durations/periods of time, prevents these data from being used to conclude on improvements and/or assess the effectiveness of newly adopted policies in the country. Therefore, if the Rule of Law is to be assessed in Cyprus and more importantly, the effectiveness of the measures adopted to tackle its potential backsliding, it is indispensable to widen the pool of data on the country not only substantially but also chronologically. With such an increase of information and data on the country, it would

³ <https://crolev.eu/wp-content/uploads/2022/10/CRoLEV-Deliverable-D.3.1-31-August-2022-FINAL.docx.pdf>

then be possible to create indicators to measure specific aspect of the Rule of Law and make comparisons with other Member States of the EU and beyond.

One of the objectives of CRoLEV is to act as an enabler of knowledge and propose ways in which the limited areas currently covered in numerous indices, are expanded further to eventually assist the accuracy and effectiveness of Rule of Law indices on data for the Republic of Cyprus. In the context of the project and this Scoping Paper, **the research first attempts to identify *single indicators* important to measuring the Rule of Law, based on a pre-determined understanding of the Rule of Law (substantive in nature). After these single indicators are clearly identified, the *empirical part* of the research intends to measure them using both *objective and subjective data*.**

According to the theoretical framework of the project's research, the perception of the Rule of Law that this project adopts is a substantive one, linking the Rule of Law with European values and particularly democracy. Therefore, the single features (indicators) selected are either completely missing from current indices measuring the Rule of Law in Cyprus or use different data to measure them. As such, the indicators identified and measured within the sphere of the project will constitute an original contribution to the current knowledge, enabling further development and expansion of the indicators used for already developed indices or even encouraging for the building of new ones which will fill the current gaps identified and satisfy the needs of all the Member States of the EU. To that intent, **this Scoping Paper presents a needs and thematic analysis setting out pillars and sub-pillars of the Rule of Law and European Values customised to Cyprus, from which emanate objectives, indicators and ways to measure them.**

2. NEEDS ANALYSIS

In addition to the thorough mapping out of existing tools, resources and key references on the Rule of Law at the national, European and international level, including for Cyprus, two datasets were used, in part, to inform the selection of the four pillars and their respective sub-pillars: one was generated via a focus group conducted with attendees at the *Citizen Empowerment: Sustainable Rule of Law and European Values in Europe* event organised by CRoLEV (in partnership with the Interdisciplinary Centre for Law, Alternative and Innovative Methods) between December 2nd-3rd 2022,⁴ and the second was generated via a survey conducted with participants at the *Rule of Law and European Values in the Modern Ages: Measuring their Impact on the Administration of Justice* event organised by CRoLEV on January 27th.⁵ The participant pool⁶ was comprised of:

- i. in the case of the focus group, 76 applications were received, amongst whom the majority were from advocates under the Cyprus Bar Association, with the remainder

⁴ <https://crolev.eu/citizen-empowerment-sustainable-rule-of-law-and-european-values-in-europe-series/> and <https://crolev.eu/citizen-empowerment-sustainable-rule-of-law-and-european-values-in-europe-press-release/>

⁵ <https://crolev.eu/the-rule-of-law-and-european-values-in-the-modern-ages-measuring-their-impact-on-the-administration-of-justice/>

⁶ Both events were held in a hybrid format, thus allowing for the participation of individuals based overseas.

of the attendees being law enforcement officers, researchers, academics, and postgraduate and doctoral students;

- ii. in the case of the survey⁷, there were 94 applicants, the majority of which were lawyers and advocates (including trainees) under the Cyprus Bar Association and legal counsels and advisers, with the remainder of the attendees being researchers, academics, law enforcement officers, and postgraduate and doctoral students.

When asked to consider which aspects of the “Rule of Law” are pertinent for inclusion in its measurement, survey participants unanimously agreed (please see Table 1 below) that the consideration of the law in action is necessary in ascertaining the overall level of the Rule of Law in any given state.

Table 1

Opinions on the Significance of the “Rule of Law”

Item	No. of Respondents	Percentage of Respondents (%)
“Rule of law” principles should only be focused on the law in the books ⁸	0	0
“Rule of law” is not only about the law in the books, but also about law in action ⁹	22	100
Total no. of respondents	22	

When asked whether the measurement of the Rule of Law should be primarily undertaken via an analysis of available objective data, via a review of public perceptions, or through a combination of the aforementioned, 95% of survey participants concurred that an adequate measurement would necessarily entail a mixture of the former two approaches (please see Table 2 below).

Table 2

Opinions on the Measurement of the “Rule of Law”

⁷ Please see <https://crolev.eu/report-for-measuring-their-impact-on-the-administration-of-justice-training-and-survey/> for a full report of the event.

⁸ The expression “law in the books” refers to the institutional frameworks which are *de facto* implemented.

⁹ The expression “law in action” refers to the ways in which the implementation of the extant institutional frameworks are perceived, and the extent to which they are deemed to be (in)effective.

Item	No. of Respondents	Percentage of Respondents (%)
The current measurement instruments for the “rule of law” should be focused on collecting data concerning perceptions	0	0
The measurement of the “rule of law” should be primarily based on objective data (statistics)	1	5
The measurement of the “rule of law” should be a combination of subjective and objective data	19	95
Total no. of respondents	20	

With a consideration for the aforementioned interpretation of the “Rule of Law”, survey participants unanimously agreed that the level of the Rule of Law in the Republic of Cyprus must improve, and a vast majority indicated that the Republic of Cyprus does not appear to implement and enforce EU regulations, abide by standards developed by the Council of Europe, or be effective in protecting EU core values (please see Table 3 below).

Table 3

Perceptions of the Rule of Law in Cyprus

Statement	No. of respondents		Percentage of respondents (%)		Total no. of respondents
	Yes	No	Yes	No	
Cyprus always implements and enforces EU regulations	7	14	33.33	66.66	21
European standards developed by the Council of Europe ¹⁰ for the judiciary are fully executed	2	19	9.52	90.48	21
EU core values on fundamental rights, democracy, and the rule of law are well protected	5	16	23.80	76.19	21

3. THEMATIC ANALYSIS

The discussion in the CSO training held on 2nd and 3rd December on Day 1 examined how Social Mediation can facilitate dialogue and communication in society, allowing for constructive dialogue and reflection on the decision-making power of institutions responsible for the perseverance of the Rule of Law, with participants agreeing that knowledge of the Rule of Law principle is fundamental in assessing the quality of procedures and new legislation.

¹⁰ The aforementioned European standards refer to independence, impartiality, quality of court decisions, and the efficiency of justice.

Social Mediation was seen as a method standing in between the Rule of Law and the formal procedures of the State, and developments in society as a whole. Further, formal procedures are appreciated for their certainty and coherence in terms of what the public expects out of them, recognising that the lack of formal procedures can essentially disturb cohesion within society. One participant raised the question of whether there should be formal frameworks within which informal procedures – like Social Mediation – should take place, since even in informal setting consistency and certainty are necessary. Knowing the limits to informal procedure and being able to assess their fairness are legitimate expectations of due process, in addition to transparency and accountability, which are all intrinsically connected to the Rule of Law principle, as well, regardless of the approach [thin or thick] one takes regarding the Rule of Law. These are points that most people can agree.

Despite the general agreement on the above issues, **it remains challenging to assess at which point ‘the informal gives way to [the] formal’**. One suggestion was that informal mechanisms can be used in the beginning of resolving an issue, but at the point which formal measures exist, then the latter may take precedence in resolving the issue at hand. In other cases, the utility of the informal process may be eclipsed, and that point too, it is fundamental as there are formal safeguards, procedures or mechanism towards which one can turn. Conversely, another suggestion was that Social Mediation could be used in cases where all formal remedies are exhausted, whereas one of the participants – with a background in psychology – alerted all present of the importance of how public perception of formal and informal procedures can impact their behaviour, affected also by question of trust in ‘the system’: public administration and formal procedures. In that regard, the timing of new initiatives can be fundamental for their success or failure.

One of the participants with a background in commercial law touched on issues of lack of trust in the legislative procedure as a whole, and how new inventions, like cryptocurrency, were used to essentially bypass dissatisfaction with formal procedures (here, in the banking sector) and were eventually formalised when their use spread among the public. Lobbying was mentioned as another example of such an informal-to-formalised process. This point raised questions on the role of civil society, considering the fact that lobbyists have managed to gain access to high-level institutions, that may not always be willing to engage in dialogue with grass-roots civil society organisations. At the same time, the lack of engagement with civil society organisations, was also recognised as a sign of weak democratic institutions.

In the last part of the discussion, issues of the length of formal procedures, the technical language, lack of knowledge and understanding by the general public, and high costs were also identified as issues indicating a need for parallel informal structures that can support dispute resolution, certainty and trust in society. Moreover, the increased use of alternative dispute resolution (ADR) in advance of formal civil proceedings in court, was identified as one way through which the relationship among formal, informal and formalised procedures could work over time. Even then, one is bound to ask whether one should seek for the ‘formalisation’ of informal procedures, or rather the formal recognition of the added value of such informal procedures in democratic society, as a means towards the strengthening of the Rule of Law. Comparative considerations between legal systems and legal cultures regarding one’s

disposition to court proceedings could be another indicator of the success or not of informal dispute resolution systems.

The training’s formal focus group discussion then took place on Day 2 and developed around the topic of Social Mediation and the Rule of Law. The objective was to establish the connection between the two concepts, both in theory and in practice, and then use this correlation to inform the sustainability of the Rule of Law through citizen empowerment. An outcome of the CSO training and focus group is presented in the below Thematic Table 4, which embeds Rule of Law characteristics from a soft conflict resolution perspective:

Table 4

A Representation of the Themes Identified via an Analysis of the Focus Group

Theme	Sub-Themes					
Benefits of Social Mediation	strengthening of social cohesion	further democratisation	social resilience	increased civic engagement	monitoring and reporting	bettering rule of law
Uses of Social Mediation	public consultations	organisational/ institutional consultations	dispute resolution	allowing individuals to become acquainted with processes (which will eventually be formalised)	demonstrating willingness to resolve conflict (irrespective of whether resolution was achieved)	reconciliation
Tools for Enabling Social Mediation	creation of cultures of social mediation	widespread institutional/ organisational support		availability of opportunity	availability of guiding frameworks	availability of formal safeguards
Pre-Requisites for Social Mediation	active, engaged citizenry	formal (state) approval	presence of (some degree of) trust between members of the citizenry/ organisation		existence of an enabling framework (or potential for creating one)	
Potential Impediments	lack of adequate access to information, education, or training	pre-existing, longstanding societal divisions	lack of consistency and uncertainty	public perception	absence of governmental support	absence of formal safeguards

The colour key to aid in the interpretation of the table can be found in Table 5 below.

Table 5

Colour Key

Pillar	Colour Code
Democratic Values	
Democratic Governance	
Civic Engagement	
Functionality of Justice	

The focus group discussion kicked off with the question: **“Where does informal intervention end and formal legislation begin?”** To clarify the connection between Social Mediation and the Rule of Law, the trainers proceeded to introduce a second question: **“How can Social Mediation strengthen the Rule of Law?”** The group engaged in a vibrant discussion and exchanged various perspectives and positions. Whilst participants agreed that Social Mediation cannot “substitute formal processes”, its positive effects as an “educational exercise” in democratic practice were praised on a number of bases.

Participants saw a number of concrete steps that could be taken to enable Social Mediation to strengthen the Rule of Law, with a recommendation shared by a few participants being the delivery of public consultations and institutional consultations on pressing social and political issues. Through this step, a country’s level of democratisation and the resilience of its Rule of Law would significantly strengthen, as it would have a strong citizen participatory element through the facilitative dialogue process these consultations would enable. Citizen participation also plays a key role in fostering relationships of trust in a civic community – on the one hand, between the parties who participate in the dialogue, and on the other, between participants and the organisers of the consultation. Firstly, a civic community which is characterised by trust is more likely to effectively assemble and act collaboratively towards a common good. Engagement in Social Mediation shows others that the participants are “open to discussions, and ... willing to find a compromise”. Secondly, a state which actively seeks to consult its citizens on matters of importance to them is often deemed to be responsive and legitimate. Its agents and institutions are thus regarded as more trustworthy, which in turn reinforces civic participation in political action, and compliance with the Rule of Law. In a participant’s words, “Social Mediation ... can create a [democratic] culture which can be built upon after, and maybe, in the long term, create more trust even in formal processes”.

Participants also identified a link between Social Mediation, sustainable Rule of Law, and citizen empowerment. Given that Social Mediation is a tool that encourages and enables citizen engagement and empowerment, when implemented in partnership with governmental and civil society institutions it provides a solid framework of informal intervention, and thus significantly strengthens a country’s democratization. Whilst formal legislation is “always [characterised] by a time lag between the action [or incident] and the formal process”, using Social Mediation “can serve two purposes; [firstly], it can act as a means of putting pressure on the legislature or the government to adopt a formal policy or legislation, [and secondly] ... it can help make this transition easier, and help people become more acquainted with what is proposed to eventually become formal process”. As a result, the resilience and sustainability of its Rule of Law directly increases.

To achieve sustainable Rule of Law is of utmost significance for societies undergoing domestic or international crises, transition, and uncertainty, since a sustainable and resilient Rule of Law implies that citizens are able to adapt to external changes and overcome a crisis as a collective unit and without deviating to means outside of the Rule of Law framework. Participants trust that Social Mediation can achieve this through public and institutional consultations, awareness initiatives and trainings, channels for monitoring and reporting, dialogue forums, as well as rehabilitative processes complementing criminal and

other legal procedures.¹¹ They suggest that citizens should be introduced to Social Mediation initiatives from a young age, so as to aid build a “Social Mediation culture”. These initiatives should commence “in the family unit”, continue “in the classroom” and “at the workplace”, and be otherwise promoted by relevant stakeholders in other areas of public life in a variety of ways, including via “the use of technology and pop-culture”.

Undoubtedly, the role of Social Mediation in strengthening the Rule of Law and in upholding broader democratic values of “fairness, transparency, accountability, equal treatment, efficiency, and effectiveness” is a prominent and promising one, with potential to establish and expand it through stakeholder collaboration across sectors.

4. SCOPE FOR MEASURING ELEMENTS OF THE RULE OF LAW AND OTHER VALUES IN CYPRUS AND BEYOND

Based on deep literature review, robust mapping of resources, tools and approaches available, thematic research discussions, survey and focus group to date, the following pillars, sub-pillars with their own objectives and indicators have been agreed.

Pillar 1 —Civic Engagement

It is proposed to start first with Civic Engagement under Pillar 1, as being the most grass-root, urgent and legitimated broad theme on the basis of the above thematic analysis. Sustainable democracy requires civic communities, where citizens trust one another and interact as political equals.¹² A functional civil society, which is largely committed to the democratic project, is necessary in ensuring that governments do not rule *by* law, rather than upholding the *rule of law*. A civil society plays a crucial role in both the legitimisation and delegitimisation of a state by overseeing the actions of its political representatives, demanding accountability and redress when these fail to meet expectations, and can bear additional pressures on the state to uphold the Rule of Law by lobbying and mobilising citizens¹³. As such, a democratic state has a dual duty to ensure not only that there is space for a civil society to assemble effectively, but also to empower citizens to participate actively in the civic space.

In addition to the detailed thematic analysis provided above, civic participation in Cyprus can be said to suffer most from the division of the island of Cyprus, repercussed in society. Divided societies are known to be ill-equipped to face crisis situations, because institutional responses in divided societies are largely inadequate, if present at all (**Pillar 2**). In the absence of proper checks and balances in divided societies, institutions react most of the time mechanically, with a tendency to use similar or outdated mechanisms to tackle multiple crises.¹⁴ This derives from

¹¹ For the full report of the CSO training and Focus Group, please visit <https://crolev.eu/citizen-empowerment-sustainable-rule-of-law-and-european-values-in-europe-series-training-and-focus-group/>

¹² Diamond, 2008.

¹³ Baker & Chandler, 2005; Falk, 2005; Foley & Edwards, 1996.

¹⁴ S. Lauthé Shaelou and Andrea Manoli, ‘A Tale of Two: the COVID-19 pandemic and the Rule of Law in Cyprus’ (May 2020) <https://verfassungsblog.de/a-tale-of-two-the-covid-19-pandemic-and-the-rule-of-law-in-cyprus/>

a focus not to upset existing already fragile balances.¹⁵ As such, there is a risk that each crisis is a blow to the Rule of Law and democratic process and disengages people further. **Empowering civil society is a key to upholding the Rule of Law, particularly in divided societies like Cyprus.**

Participants in the focus group held on 3rd December 2022 also clearly indicated that a strong civil society is a requirement for upholding both democracy and the Rule of Law. In particular, attendees stressed that the upholding of extant, or creation of new participatory elements which enable citizens to communicate their needs and feedback are necessary in reinforcing trust – both between civil society actors, and between citizens and state institutions. Importantly, participants have noted that the potential for the successful implementation of such participatory elements relies upon their capacity to “enable democratic dialogue” and facilitate an “understanding of each other and the issues at stake”, be they natural or man-made. When successful, attempts to facilitate civic engagement are deemed by participants to contribute to a lessening of societal prejudices and divisions, emboldening “people to understand what democracy really means in practice, in the sense that you are open to discussion, and that you are willing to find a compromise”, and enabling “more trust in formal processes....in the long term”. **By building social resilience and strengthening social cohesion, civic engagement furthers both democratisation and support for democratic institutions – including the Rule of Law.**

Objectives:

- To explore ways to enhance democratic mechanisms of citizen participation and empowerment
- To foster civic space and enhance its protection and promotion
- To benchmark against good standards and best practice in Europe
- To build civic space capacity in Cyprus and cross-border
- To strengthen civic space culture
- To foster stronger institutions
- To set out and monitor the regulatory framework via specific tools and indicators on citizen empowerment and civic space protection and promotion

Indicators (indicative):

General ones on Civic engagement in Cyprus and beyond:

- The referencing in public policies/strategies of hard/soft instruments/mechanisms at international and regional level on citizen empowerment and/or protection and promotion of civic space

¹⁵ S. Laulhé Shaelou and Andrea Manoli, ‘The Islands of Cyprus and Great Britain in times of COVID-19 pandemic: variations on the Rule of Law ‘in and out’ of the EU’ (May 2020) <https://ruleoflawmonitoringmechanism.eu/posts/the-islands-of-cyprus-and-great-britain-in-times-of-covid-19-pandemic-variations>

How to measure: Content analysis of a range of public policies/strategies of hard/soft instruments/mechanisms at international and regional level.

- The existence of domestic laws and policies on citizen empowerment and/or protection and promotion of civic space

How to measure: Reviewing of existing domestic laws and policies and measuring of compliance with the relevant provisions of applicable instruments at supranational level.

- The past and current conditions for civil society organisations working on human rights issues on the island of Cyprus (support, challenges, solidarity, attacks, networking, capacity building)

How to measure: Deep review literature addressing past conditions and collecting empirical data on current conditions with a mapping out of progress and needs.

Sub-Pillar A – Citizen Empowerment in Cyprus and beyond

- The development and access to tools of participatory democracy

How to measure: Mapping out of availability of participatory democracy tools and of efforts to inform the public about the existence, use of, and access to, the aforementioned mechanisms (awareness, access and/or effectiveness)

- The culture and access to alternative dispute resolution ('ADR') mechanisms and/or social justice tools

How to measure: Mapping out of availability of dispute resolution mechanisms and of efforts to inform the public about the existence, use of, and access to, the aforementioned mechanisms (awareness, access and/or effectiveness)

- The culture and access to legal aid by citizens and vulnerable groups

How to measure: Mapping out of available legal aid provisions and of availability of public information pertaining to accessing legal aid (awareness, access and/or effectiveness).

Sub-Pillar B – Protection and Promotion of Civic Space in Cyprus and beyond

- The implementation of international and European standards and best practices in the field of protection and promotion of civic space

How to measure: Reviewing of existing monitoring of international and European standards and best practices.

- The fulfilment of recommendations given by regional and international monitoring bodies on the protection and promotion of civic space

How to measure: Mapping out and measuring of compliance with recommendations by regional and international monitoring bodies

- The number of legal actions/SLAPP (Strategic Lawsuit against Public Participation) at domestic and/or regional level

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Pillar 2—Democratic Governance in Cyprus and beyond

Any state – democratic or otherwise – requires the accumulation of immense power in the hands of a few political leaders (be they elected or appointed) as a means of ensuring effective governance over the geographical territory within which the state is sovereign. The authority of the state to exercise such power over its residents and citizens should, therefore, rest on the presence of sufficient safeguards to protect against unwarranted intrusions on individual liberty and wellbeing.¹⁶ Since the powerful may pose a serious threat to the citizens whom they govern, then at a minimum, democracies should differentiate themselves from authoritarian systems of governance by constraining the actions of powerful elected representatives through the Rule of Law, and through a written or unwritten constitution which articulates the rights of citizens and residents prior to, and beyond, the power of the state.¹⁷ It is this concept of *intra vires* that signals the existence of democratic governance.

To measure democratic governance and institutional capacity to deliver it, the following areas must be explored. Based on the survey data set, they constitute a general approach that identifies both the ‘law in the books’, i.e., the institutional framework that is already in place to fight corruption and enhance transparency in government and ‘law in action’, i.e., how those rules are perceived by the society, whether they are regarded as effective.

CRoLEV comes at a time of change since the new President of the Republic of Cyprus will assume office as of 1st March 2023. Concerns about the Rule of Law featured prominently in the run-up to the elections and all candidates accepted that respect for the Rule of Law has suffered in light of the continuous scandals.¹⁸ Much is expected from the new executive power in place on that front.

Sub-pillar A—Anti-corruption in Cyprus and beyond

On the institutional capacity of fighting corruption

Whilst the mythos of democracy inculcates a generous degree of public trust in government representatives, with the general public being socialised to think that popular control of government and the Rule of Law are effectively secured by periodic competitive elections,¹⁹ it is undeniable that the accumulation of political power in the hands of a few elected and appointed leaders may create opportunities for corruption. Yet elected representation does little to restrain the corrupting influence of governmental power by pitting the powerful against one another and periodically subjecting them to electoral evaluation. Given that neither transparency nor accountability can be ensured at the stage of political campaigning, it is, thus, necessary that democracies implement additional mechanisms and institutional checks and

¹⁶ See Zedner, 2017.

¹⁷ Dixon *et al.*, 2013.

¹⁸ See Expert interview with inter alia Prof. Stéphanie Laulhé Shaelou, CRoLEV Director available at <https://democracy-reporting.org/en/office/EU/publications/presidential-elections-in-cyprus-and-the-rule-of-law>

¹⁹ de Haven-Smith, 2011; Turk, 1982; Warren, 1999.

balances as a means of ensuring that the Rule of Law is evenly applied, regardless of one’s function within the state apparatus. Indeed, when asked to rank areas for improvement from most to least important, survey respondents appraised anti-corruption as the area of greatest concern in the Republic of Cyprus in ensuring that the Rule of Law is upheld (please see Table 6).

Table 6

Areas of the Rule of Law in Cyprus which Require Most Improvements (Ranked from Highest Number of Improvements to Lowest Number of Improvements)

Item	Aggregate Score	Median Score	Final Ranking (from Most to Least Important)
Civil Justice	49	2.22	4
Anti-Corruption	85	3.86	1
Criminal Justice	69	3.13	3
Order and Security	47	2.13	5
Fundamental Rights	71	3.22	2

The above data set combined with extensive mapping out and deep literature review also point out to the need to monitor/enhance existing legislation on asset disclosure rules, bribery, whistleblowing and protections for reporting corruption, and/or possibly the number of prosecutions/penalisation of corruption cases. To the extent possible, the purpose would be to compile a summary of existing legislations that purport to stave off corruption and subsequently measure how those laws and other relevant institutional mechanisms aiming to prevent corruption are perceived by stakeholders.

Sub-pillar B—Transparency in Cyprus and beyond

On the institutional capacity of transparency

Transparency is both a necessary precondition for, and a key feature of a functional democracy. In the absence of transparency – understood as the “release of information about institutions that is relevant for evaluating those institutions”²⁰ – citizens cannot engage in meaningful decision-making. Without a commonly agreed-upon information base, people are unlikely to be able to participate in deliberation.²¹ Yet the effects of a lack of transparency extend beyond the aforementioned, to a declining trust in public institutions. Civic distrust is often associated with increased apathy, disillusionment with democracy, and disengagement from political processes.²² A lack of civic engagement leads to the misplacement of public trust in private

²⁰ See Lindstedt & Naurin, 2010, p. 301.

²¹ See Coleman, 1990; Reporters without Borders, 2022.

²² See Berman, 1997; Bernhard & Karakoç, 2007; Bratton & van de Walle, 1992; della Porta, 2016; Fish, 1996; Howard, 2003; Inglehart, 1977; Inglehart & Welzel, 2005; Linz & Stepan, 1996; Norris, 2011; O’Donnell & Schmitter, 1986; Pop-Eleches & Tucker, 2013; Przeworski *et al.*, 1999; Riley, 2010; Schock, 2005; Vachudová, 2005; Welzel, 2013.

networks, further diminishing satisfaction with democratic institutions.²³ At its worst, it may bolster anti-establishment sentiments, which can effectively result in violations of the Rule of Law.

Given that public support for democracy is crucial to both the establishment and consolidation of democratic regimes, that public perceptions of transparency are intrinsically linked with the existence (or, conversely, absence) of such support, and the results of the data collection undertaken thus far, the monitoring and assessment of existing rules on the transparency of decision making (access to information), on lobbying and transparency, rules on regulating conflicts of interest in the public sector, public advertising of positions in the public sector, and/or auditing of state spending is required. With respect to the Judiciary, when asked whether they consider courts to be fully transparent in publishing information pertaining to their performance, survey participants had indicated, in proportion of 86%, that they do not trust that this is the case. Again, there is a need to compile a summary of existing legislations that purport to foster transparency and subsequently measuring how those laws and other relevant institutional mechanisms aiming to promote transparency are perceived by stakeholders.

Objectives:

- To examine democratic governance at different levels (local/national, European, international) with particular reference to Transparency
- To benchmark against good standards and best practice in Europe
- To build good governance capacity in Cyprus and cross-border
- To strengthen democratic culture in the public space
- To enhance functioning democratic institutions
- To set out and monitor the regulatory framework via specific tools and indicators on the right to information in Cyprus
- To set out and monitor the regulatory framework via specific tools and indicators on anti-corruption in Cyprus

Indicators (indicative):

- Existence of domestic laws and policies on (i) transparency and (ii) fight against corruption; existence of domestic mechanisms to tackle corruption and enhance transparency

How to measure: Collecting domestic laws and policies aiming to ensure transparency (e.g., the right to access information) and the fight against corruption.

- Fulfilment of recommendations given by regional and international monitoring bodies on transparency in the branches of government/breaches of power

²³ See Letki, 2004; Letki & Evans, 2005.

How to measure: What are the steps taken by the government to fulfil the recommendations given by regional and international monitoring bodies on transparency in the branches of power. Primarily collection of hard data. Soft data (from focus groups) might reveal additional answer.

- Reception of international, regional, and European standards of good governance by the government

How to measure: Identify the implementation of international and European standards and best practice in the field of good democratic governance with particular reference to transparency and related principles. This can also be done by collecting the references to those standards in domestic legislations.

- Effectiveness of existing mechanisms protecting transparency and fighting corruption

How to measure: Combination of hard and soft data. Testing the effectiveness of existing mechanisms would entail looking at how they have been used. This, for example, could extend to looking at the number of cases brought to courts with reference to the breach of the regulatory framework in the field of (i) the right to information; (ii) the fight against corruption (various forms). Collection of soft data to measure perceptions as to the efficacy of those mechanisms and the extent of guarantees to transparency and anti-corruption can be done from (a) existing frameworks, such as the Eurobarometer or the EU Justice Scoreboard and (b) surveys/focus groups. Relevant soft data might be collected by asking the following indicative questions:

- To what extent is the Anticorruption Agency (Αρχή κατά της Διαφθοράς) an effective mechanism to fight corruption
- To what extent do officeholders use their office to enhance their private interests
- To what extent do institutional rules prevent officeholders from using their office to enhance their private interests
- To what extent is an officeholder who use their office to enhance their private interests subject to legal consequences (prosecution, penalisation)
- To what extent do existing institutional mechanisms (e.g., asset declaration) successfully stave off corruption
- How sufficient has action against agents responsible for the Citizen-by-Investment scheme been
- To what extent are decision-making procedures transparent
- To what extent is the hiring of public servants justified with reference to publicly available criteria
- To what extent are you familiar with the July 2022 law on ‘Transparency of Public Decision-Making and Relevant Procedures
- To what extent do you think this law can be effective in securing transparent public decision-making

The indicators identified here pinpoint the various areas of interest that require specific examination. Many of those points, require a collection and review of existing mechanisms/laws/regulations in existence within the Cypriot legal system. In addition, it is

important to collect the ways in which those mechanisms are actually perceived. When it comes to perceptions, many frameworks and indices focus on the public (e.g., Eurobarometer). In addition to that, however, we are also interested in examining the perceptions of legal insiders (e.g., legal professionals and/or specialized NGOs). This would allow a comparison between possible differences between the general public and legal insiders. Focus groups and surveys should be the tools that can be used to collect data.

Although there might be some overlap between popular perceptions of transparency and anti-corruption (examined in this pillar) and the themes explored in **Pillar 1, Sub-Pillar A Citizen Empowerment**, we have decided to maintain a distinction between the two. There are two reasons associated with that choice.

First, existing frameworks/indices very often include indicators such as those included here (with the exception of Cyprus-specific indicators), but rarely include indicators specifically exploring the question of the Rule of Law from the perspective of citizen empowerment. This would suggest that the novelty of the research is enhanced by illuminating an aspect of the Rule of Law often neglected in existing measuring frameworks. Second, insisting on the separation of the two pillars would allow us to explore the difference between how the public and legal insiders perceive/understand/evaluate specific mechanisms and pieces of legislation that aim to fight corruption and ensure greater transparency.

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Pillar 3—Functionality of Justice in Cyprus and beyond

The principal idea of the thin approach to the Rule of Law, is that the Rule of Law is a specific quality associated with specific elements of the law, stressing judicial independence, access to justice, access to legal counsel and the quality of the judicial system more generally. The EU Justice Scoreboard, is one of the indices that adopts a more procedural (thin) approach to the Rule of Law, since the understanding given to the Rule of Law is focusing merely on the justice system of the Member States, including efficiency, independency, and quality of the justice system. On the contrary, the majority of the indices available measuring the Rule of Law, strike a balance between its ‘thin’ or minimalist conception that focuses on formal, procedural rules, and the ‘thick’ conception that includes substantive characteristics, such as self-governance and various fundamental rights and freedoms. For instance, the World Justice Project and the Annual Rule of Law Reports of the EU Commission.

For Pillar 3, a combination of hard and soft data will be used. Although the use of hard data is more objective in nature, for the research that the project intends to pursue, hard data only is not enough. Hard data will be collected from well-established indices such as the EU Justice Scoreboard (‘EJJS’) to collect information towards the thin approach of the Rule of Law, including the independence of the judiciary. However, the EJJS lacks information on various components on Cyprus such as the number of incoming civil and commercial litigious cases, the estimated time to resolve litigious civil and commercial cases, the rate of resolving litigious civil and commercial cases and the number of pending litigious and commercial cases. Therefore, more in-depth research will need to be conducted on the national level, including the collection of soft data and perception of the justice system in the Republic of Cyprus.

The administration of justice is the process by which the legal system of a government is executed. In other words, the theory and practice of law enforcement, police work, the court and corrections systems. This process includes not only the Courts, but also the police force, the Law Office as well as the Ministry of Justice and Public Order. In particular, the judges have a duty to respect the office of judge and to use their best endeavours to maintain and strengthen public trust in the judicial administration of justice. The data set presented in this Scoping Paper, combined with extensive mapping out and deep literature review, point out to the need to monitor existing rules and institutions on the functionality of the administration of justice. The police also constitute a significant component in the administration of justice in a broad sense and bears particular responsibility, in particular with regard to compliance with procedural rights to which defendants are entitled. In terms of administration of justice, the Law Office of the Republic is expected to abide by the principles of professional standards and the duties of lawyers. Consequently, the Ministry of Justice and Public Order can also be studied within this considering that it is responsible for the close review and consideration of possible reforms to existing legislation in fields such as criminal law, the administration of justice, family law, equality, human rights, and the treatment of offenders. Agencies such as the Cyprus Police also fall under the Ministry's administration.

Access to Justice ('Can People Access and Afford Civil Justice?') is undoubtedly one of the most important considerations when discussing the functioning of justice in a country as it also touches upon the right of effective judicial protection. Studies on Cyprus have identified a number of factors/restrictions which may have the effect of undermining the right of access. These restrictions/factors may be attributed to the historical evolution of the country ('country-specific structural problems'), to malfunctions of the system or gaps of the system as it currently stands. The focus on the access to justice will be limited to civil justice (rather than criminal justice). Article 30(2) of the Cyprus Constitution provides for the right to "a fair and public hearing within a reasonable time by an independent, impartial and competent court established by law".

Objectives:

- To explore ways to enhance civic trust in the administration of justice
- To foster good practices in recruitment and selection of judges
- To strengthen the impartiality and independence of the judiciary
- To set out special tools to be used by the police force to decrease cases of bias
- To benchmark against good standards and best practice in Europe in the access of justice
- To build trust of legal professionals in the administration of justice

Indicators (indicative):

Sub-Pillar A – Administration of Justice in Cyprus and beyond

- Civic trust in the administration of justice

How to measure: This indicator can be measured via collection of soft data (focus groups and surveys). There are also specific indices that are also working with soft data that have

previously collected public perceptions on justice in the Member States that can be used. One of them is the Eurobarometer.

In the data set presented in this Scoping Paper, almost three quarters of survey participants either assessed their trust in Cyprus’ judiciary as “neutral” (57%) or declared that they had “no trust” (17%) in the institution (please see Table 7).

Table 7

Trust in Cyprus’ Judiciary

Degree of Trust	No. of Respondents	Percentage of Respondents (%)
Very much	1	4.34
Much	5	21.74
Neutral	13	56.52
No trust	4	17.40
Absolutely no trust	0	0
Total number of respondents	23	

- Due processes in procedures of appointment, remuneration, promotion and/or dismissal of judges

How to measure: Information can be collected from hard data and supplemented by soft data as to the perception of whether there is due process in the appointment, remuneration, promotion and/or dismissal of judges. The procedures can be identified through the corresponding legal framework in Cyprus.

- Constitutional guarantees for the operation of the judiciary

How to measure: Information can be collected from the legislation and the case law of the Republic of Cyprus. This will focus on ‘country-specific structural problems or peculiarities’ that can prevent the effective functioning and operation of the judiciary. The *de facto* partition of the island can also be discussed within this indicator.

- Judicial independence

How to measure: Information can be collected from the case law of the Courts in Cyprus and the European Courts concerning the independence and impartiality of the judges in Cyprus. It would also be important to collect soft data from legal professionals on this issue to assess the perception of the individuals ‘closer’ to the justice system.

- Fairness and proportionality in the exercise of authority by the Police

How to measure: Information can be collected from reports and/or case law of the Courts in Cyprus and the European Courts. This can include cases of corruption in the police while on duty or cases on violence, discrimination and bias. Statutory rights of the police and their

practical implementation will also be examined, with reference to relevant Codes of Conduct for Law Enforcement Officials and the application of mandatory requirements (public order, national security, special powers).

Sub-Pillar B – Access to justice

- Length of judicial proceedings (Are cases concluded within reasonable time?)

How to measure: Specific indices working with hard data have previously collected actual numbers on the average length for judicial proceedings and can therefore be used. However, if a lack of data is noticed particularly for Cyprus, these can be supplemented with the collection of customised hard data directly through desktop research using relevant databases such as ‘cylaw’. The methodology will also discuss what constitutes reasonable time with reference to standard practice in the field at the European level.

In the data set presented in this Scoping Paper, survey participants agreed, in unanimity, that the quality of justice in Cyprus’ courts must improve. In driving such improvements, over 95% of participants agreed that users of the courts²⁴ should be offered the opportunity to express their level of satisfaction with, and concerns about, the work of the courts. In particular, the areas necessitating improvement, from most to least important, were identified as: i. the long duration of the proceedings, and the high volume of backlog cases; ii. the high number of postponements of hearings; iii. the lack of fairness in judicial proceedings; and iv. the low productivity of judges. These are presented in Table 8 below.

Table 8

Most Problematic Areas in Cyprus’ Courts

Item	Aggregate Score	Median Score	Final Ranking (from Most to Least Problematic)
Long duration of proceedings	17	1.35	1
Lack of fairness in judicial proceedings	5	0.22	3
High volume of backlog cases	17	1.35	1
Low productivity of judges	4	0.17	4
High number of postponements of hearings	15	0.65	2

²⁴ For the purposes of this scoping paper, the syntax “users of the courts” refers to lawyers, prosecutors, governmental agencies, and citizens/litigants.

- Cost of judicial proceedings (and of Justice)

How to measure: Specific indices working with hard data have previously collected actual numbers on the cost of judicial proceedings and can therefore be used. However, if a lack of data is noticed particularly for Cyprus, these can be supplemented with the collection of customised hard data directly through desktop research. This indicator also intends to measure the cost of justice generally (in the sense of a cost-benefit analysis).

- The use of accelerated procedures for the speedy resolution of particular cases

How to measure: Information can be collected from the legislation and the case law of the Republic of Cyprus.

- Accessibility and affordability of civil courts, including whether people are aware of available remedies, fees, unreasonable procedural hurdles, physical or linguistic barriers?

How to measure: This point concerns the perception of people and the extent to which they are aware of how the system works, the difficulties and barriers that they may face. This means that soft data must be collected via focus groups or/and surveys.

- Respect for the right to effective judicial protection (The right of each person to have their case considered justly and transparently, without undue delay, by appropriate, impartial and independent judges)

How to measure: Perception of people on effective judicial protection they are afforded as well as cases from the courts including the ECtHR and the ECJ on the principle of fair trial and particularly the delayed judgements.

- Responsiveness to unreasonable delays

How to measure: Combination of soft data for perception of responsiveness as well as legal provisions if existent, on the procedure to be followed when unreasonable delays are observed.

- Access to ADR methods (Are there laws providing for the access to non-judicial procedures? To what extent are such methods promoted/used?)

How to measure: Information can be collected from the legislation and the case law of the Republic of Cyprus. This complements Pillar 1, Sub-Pillar A on the culture and access to ADR mechanisms and/or social justice tools.

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Pillar 4—Democratic Values in Cyprus and beyond

The conceptualization of the Rule of Law listed above makes evident the connection between the Rule of Law and democracy. This pillar aims to explore the extent to which democratic values are safeguarded in Cyprus. A failure to respect democratic values such as free speech, or democratic control over decision making through powers to contest government decisions is an affront to the Rule of Law. They severely undermine the core principle that the law stands as a bulwark against abuses of power. Absent protections for such democratic values, the rule of law diminishes.

Why these two specific democratic values? Many different values can be associated with democracy: non-discrimination, equality, individual freedom, absence of abusive government interference etc. Space limitation compels us to limit this analysis. As a result, we have opted to examine two specific democratic values, namely **free speech and democratic control**. Since both of these remain too broad to study, we have settled on particular ‘case studies’ that we believe are pertinent to the Cypriot context, timely and relevant to jurisdictions beyond Cyprus, and also capture the essence of the democratic value studied. Media Freedom, and the level of protection attributed to the Media is a typical benchmark to measure free speech. The media, or to be more precise, the ability of the media to freely convey information, hold political power to account, and even evaluate political activity, is an irreplaceable component of a democracy. The second value to be explored remains more elusive. Democratic control can be measured in a number of ways: how widespread is the practice of challenging in courts government decisions and legislation, how responsive law-makers are to public inputs, how often do elections take place, percentages of abstention to elections and so forth. We have opted to discuss public responses to crisis because it is a salient issue that has occupied public discussions since 2020. It raises a number of questions of primary importance to the rule of law, such as the extent to which public decisions are taken in accordance with established procedures enshrined in law, or the extent to which democratic principles are compatible or clash with enhanced executive power.

Thus, this last Pillar aims to measure the robustness of democratic values that are particularly significant to the Rule of Law. The first, media freedom, is a key component of democratic societies. A free media constitutes the mark of an open democracy where media can express a plurality of opinions, even those (or perhaps especially those) that are critical to the government. Meaningful democracy requires that citizens have opportunities to inform and formulate their preferences as a precondition to political action.²⁵ Without free access to independent information, citizens cannot make educated decisions about how they are ruled, or hold educated opinions about abuses of power which undermine the Rule of Law.²⁶ Given that the media’s role is precisely that of bettering both transparency and accountability by scrutinising government performance, informing the public about matters in their interest, and serving as a conduit between people and their representatives, free media constitute a constraint on the abuse of political power—a key component of the Rule of Law. If media freedom is adequately upheld, a variety of media sources will coexist independently, encompassing a

²⁵ See Bokova, 2014; Dahl, 1971.

²⁶ See Freedom House, 2019a; 2019b; Nur & Andersson, 2016.

range of perspectives and content that meets the interests of a diverse audience. Absent free media, dissent and government criticism are silenced, and government abuses become more likely. Checking political power, a key component of the Rule of Law, necessitates, then, a free media.

The COVID-19 public health crisis, which rendered public responses necessary, also brought to the forefront a similar question about the way in which power is organised and used within a democratic system. Globally, the pandemic exacerbated a weakening of democracy and the Rule of Law already underway since 2006,²⁷ by enabling political leaders to invoke the protection of human life and public safety as a rationale for the centralisation of their powers.²⁸ Numerous executives empowered themselves, via emergency legislation, to rule by decree on issues far exceeding the scope of the health crisis,²⁹ diminished the reach of democratic institutions, sabotaged basic accountability mechanisms by limiting the powers of the judiciary and the legislature,³⁰ and severely restricted the civic space.³¹ Since 2020, the pandemic has also become a global pretext to place limitations on the public's right to know.³² In investigating how power operates within times of crisis, we can measure the robustness of a democratic system and the resilience of the Rule of Law.

Objectives:

- To examine the level of protection of democratic values in Cyprus with emphasis on media freedom (as a benchmark of free speech) and the responses to crises (as a benchmark of democratic control over decision-making)
- To strengthen democratic values by flagging concerns related to media freedom and democratic control.
- To increase democratic values in Cyprus
- To set out and monitor the regulatory framework via specific tools and indicators on media freedom in Cyprus
- To set out and monitor the regulatory framework via specific tools and indicators on public responses to crises in Cyprus

Indicators (indicative):

Sub-pillar A—Media Freedom

- The institutional framework on Media Freedom in Cyprus

²⁷ See Freedom House, 2006.

²⁸ See Bodea & Houle, 2022; Bosancianu *et al.*, 2020; Cepaluni *et al.*, 2020; Cheibub *et al.*, 2020; Maerz *et al.*, 2020

²⁹ See Petrov, 2020.

³⁰ See Bar-Siman-Tov, 2020.

³¹ See Amnesty International, 2022; Brown *et al.*, 2020; Burows & Stephan, 2014; Dahir, 2020; Dodd, 2021; Lührmann & Lindberg, 2019; Maerz *et al.*, 2020.

³² See Kolvani *et al.*, 2021; United Nations Office on Drugs and Crime [UNODC], 2022.

There have been a number of reports published by Freedom House, as well as the Centre for Media Pluralism and Media Freedom (<https://cmpf.eui.eu/media-pluralism-monitor/mpm-2016-results/cyprus/>) and Reporters Without Borders (<https://rsf.org/en/country/cyprus>) who note that whilst media in Cyprus may be “free” on paper, they often lack de facto editorial independence due to their funders. Hence, we propose a combination of the following benchmarks.

How to measure: List of existing constitutional provisions, existing laws enacted to give effect to European Directives, any relevant Regulations, any other domestic legislation on Media Freedom. Protections in the Cypriot constitution, legislation on protection of journalistic sources, media plurality and ownership, rules on the independence of the Cyprus Radio and Television Authority, protections of free speech in general, government attempts to censor (e.g., relevant case law), rules on allocation of state advertisement (e.g., how transparent is it), rules and practices protecting journalistic and other media activity from state interference. Soft data on perceptions as to Media freedom can be collected from (a) existing frameworks, such as the Eurobarometer or the EU Justice Scoreboard and (b) surveys/focus groups. Implementation of international and European standards when it comes to protecting the Media.

- Implementation of reports issued by European and international bodies on best practices to protect Media Freedom.

How to measure: Identify government responses to those proposals, any legislative changes promoted in response to them.

- Freedom of Media as a tool for accountability within the community

How to measure: Cases of attempts to silence/censor media, surveys/focus groups on perceived level of protection of media within the community. Soft data collected from surveys/focus groups on ways in which free media are perceived as a tool for realising accountability. This is linked to perceptions about the level of democracy within the country. Indicative questions might involve exploring the extent to which the media can criticise the government and the censorship/threat of censorship that the government might impose on media. Questions on diversity of media (e.g., to what extent do the media in Cyprus represent a broad range of opinions and perspectives) are also significant in that respect. Finally, this is also an opportunity to also measure the level of disinformation present in the media.

Sub-pillar B—Public responses to crises

- The institutional responses to COVID-19 (and crises in general) and level of compliance with principles of democracy and the Rule of Law

How to measure: List of government plan to tackling the crisis, relevant legislations conferring powers to executive agents, evaluating constitutionality of measures. Government responses to COVID-19, time-limited powers to executive. Measuring the level of compliance can be done by the collection on hard data (e.g., number/frequency of anti-government protests, cases challenging the government in court) and soft data (how legal professionals have perceived the level of compliance)

- The effect of pandemic responses on democracy

How to measure: Number of cases reaching the courts challenging measures (indication of extent of accountability and contestation of public measures); see the decision-making process to examine level of consultation with public stakeholders. Soft data on this can be collected from surveys and focus groups to explore how pandemic responses are perceived as compatible/incompatible with democracy and/or the Rule of Law. The *de facto* partition of the island can be factored in as an aggravating circumstance as erecting physical barriers to free movement and the exercise of community democracy.

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HOW TO CONTRIBUTE AND PARTICIPATE

The CRoLEV Team would like to call on anyone who would like to give comments or feedback on the present Scoping Paper to come forward by contacting crolev@uclancyprus.ac.cy.

The CRoLEV Team would also like to invite participation to the data collection due to take place under this Scoping Paper. For this, please visit the CRoLEV website and subscribe to the CRoLEV newsletter. <https://crolev.eu/> (subscribe)

You may visit the CRoLEV privacy policy here: <https://crolev.eu/privacy-policy/>

The CRoLEV Team

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