

The European Commission's Annual Rule of Law Report and Cyprus

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One of the greatest threats the EU faces today is the democratic and rule of law backsliding in various Member States. The roots of that backsliding are multiple and complex: the rise of populism as a response to a decaying political system that marginalises ordinary citizens and the concomitant emergency of populist political parties in positions of power in various European countries, the financial crisis and the subsequent socio-political crisis, the EU's shortcomings at an institutional level, and the inability of political structures at the national level to sufficiently and transparently confront cases of corruption. Responding to fierce criticism, primarily from academics, about its inadequate action to confront such backsliding, the EU and various of its bodies have instituted, since 2014, a series of non-binding soft law mechanisms designed to enhance the rule of law and other European values as those are identified in [Article 2 of the Treaty on the European Union](#). One such mechanisms that has yielded some positive results is the Annual Rule of Law Report on the European Union, drafted by the European Commission.

The Report aims to summarise the state of the rule of law in every Member State. Each report is divided into four pillars that relate to the rule of law, specifically the justice system, the anti-corruption framework, media pluralism and media freedom, and other institutional issues related to checks and balances. What sets the Annual Rule of Law Report apart from other non-binding mechanisms is without doubt its [methodology](#). To construct the Report, the European Commission relies on data available from various indices that evaluate the rule of law (such as the [EU Justice Scoreboard](#)), as well as information that the Commission collects from the government and civil society of each Member State, through on-site visits. The first Report was published in September 2020, and since 2022, the Report also contains specific recommendations addressed to each Member State. The Recommendations usually address those specific areas where the Report detects the most serious problems. Including Recommendations to the Report amounts to an important evolution to the rationale of the Report and the way in which the Report could potentially connect with the rest of the rule of law enforcement mechanisms. First, the incorporation of the recommendations in the Report gives a 'legal' character to a mechanism originally designed as an informal channel of communication between the Commission and each Member State. It is important to stress that so far there is no link between the failure of a Member State to implement any of the proposals and any other EU enforcement mechanism. At this stage, that is, the inclusion of the Recommendations aims to facilitate the authorities of each Member State to take the appropriate actions to correct the weaknesses concerning the protection of the rule of law. From 2023, the Reports include, in addition to the Recommendations, an Evaluation of the proposals published in previous Reports. This development provides a way for each country's authorities to be scrutinised—both by the various institutions of the European Union and by each country's civil society. When a government repeatedly ignores the Recommendations of the Report, and this becomes clear through the evaluation mechanism, there are serious indications that either the government willfully takes actions that threaten the rule of law, or fails to adequately protect it.

Even though the mechanism is so far non-binding, it is likely that future failures of national authorities to implement the Recommendations of the Report will lead to strict scrutiny and perhaps other legal procedures for Member States such as the initiation of infringement proceedings under [Article 258 of the Treaty on the Functioning of the EU](#) or the use of the [Rule of Law Conditionality Regulation](#).

The 2024 Report and Cyprus

In this brief post, I would like to indicate some areas of the rule of law that have been flagged up in [this year's Report](#) about Cyprus. Although the Report acknowledges progress in issues that have plagued the rule of law in Cyprus for years (such as judicial reforms), I will focus on areas where the Report finds insufficient progress in terms of the implementation of previous Recommendations (as recorded in the [2023 Report](#)). I have decided to address one point from each of the four pillars.

1. The Report acknowledges some progress as regards the possibility of checking the Attorney General's decisions to not prosecute or to discontinue prosecution proceedings. Although the Report recognises some steps that have been taken in the right direction, mainly the plans for the internal decision control process, it nevertheless highlights possible shortcomings of the measure in question. For example, the Report raises the issue of the effectiveness of the proposed mechanism, particularly in view of the 'strict hierarchical internal organisation of the Law Office'. Therefore, the Report proposes to adopt new measures for the effective control of the decisions of the Attorney General not to prosecute or to discontinue the proceedings in line with European standards of independence and autonomy of the judiciary.
2. Commenting on the high level of corruption in the public sector, the Report provides an extensive analysis of the Anti-Corruption Framework in Cyprus. One of the Recommendations for 2024 concerns the strengthening of the Independent Anti-Corruption Authority. In particular, the Report highlights the insufficient financial, human and technical resources available to the Authority. Taking into account the role of the Authority in investigating corruption allegations, as well as in monitoring the implementation of the national anti-corruption strategy, the Report stresses the need to support the Authority. Despite the increase in the financial resources received by the Authority, further strengthening is required.
3. As regards the media, the Report strongly criticises the lack of legislative regulation and transparency in the field of state advertising. Despite the previous call in the 2023 Report for the adoption of legislation to ensure a fair and transparent distribution of advertising expenditure by the state and state agencies, no progress has been made. The Report's assessment is in line with the findings of the Media Pluralism Monitor in Cyprus ([Media Pluralism Report 2024](#)), which also detects salient shortcomings in this area.
4. While the Report acknowledges progress in improving timely and effective consultation with stakeholders during the legislative process through the e-consultation platform, further measures are needed for meaningful public consultation. In particular, the Report stresses the need to build a culture of open government, with measures such as the publication of supporting documents that will enable a better understanding of the legislative field and the provision of effective feedback to participants.

In conclusion, the Report is an important tool for the EU to monitor the rule of law in the Member States. Despite its non-binding nature, the Report puts pressure on the governments of the Member States both to remedy any internal shortcomings and to continue efforts to safeguard the rule of law. Cyprus has shown some encouraging progress in recent years in some areas related to the rule of law, mainly in the reform of the justice system. Such steps are necessary given the overall challenges facing the justice system in Cyprus, such as the time taken to complete legal proceedings (see EU Justice Scoreboard 2024, pp. 9-14). However,

Cyprus continues to show serious shortcomings in the area of transparency and citizen participation in democratic processes. The Report and its availability in English and Greek can be a useful tool that will allow Cypriot society to exercise more effective control over political power.

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