

**November 2019**

*The European Union is founded on such values as democracy, the rule of law and respect for fundamental rights, which are enshrined in Article 2 of the Treaty on European Union (TEU). Those values should be common to all Member States since they are a precondition for a well-functioning Union based on mutual trust. In recent years, events in some Member States have revealed what are perceived by some as systemic threats to the rule of law. This has led, among other things, to the activation – for the first time since its introduction in the Treaties – of the procedure set out in Article 7(1) TEU, against both Poland and Hungary, and to a legislative proposal to include ‘rule of law’ conditionality in EU funds. The European Parliament has also adopted a number of resolutions on the situation in specific Member States, such as Malta, Slovakia and Romania, expressing concerns on the rule of law.*

### **Protecting the rule of law in the EU: Existing mechanisms and possible improvements**

*Briefing by Rafał Mańko, November 2019*

This briefing explains the concept of the rule of law in the EU, focusing on the political and legal mechanisms for protecting the rule of law, as well as on possible options for improvement. Should an EU Member State be suspected of breaching the rule of law, a number of procedures are available to verify this and, if needed, remedy the situation. First of all, there are three ‘soft’ mechanisms, which have a certain political weight and can be seen as a preparatory step towards legal action. These include the Commission’s rule of law framework, and the Council’s annual dialogues on the rule of law. Three legal procedures are also available, which, if concluded, can produce legally binding results. These include infringement proceedings, if the alleged breach could also amount to the violation of a specific rule of EU law, preliminary questions to the Court of Justice concerning guidance on the interpretation of EU law, and the breach of values procedure set out in Article 7 TEU.

### **Protecting the EU budget against generalised rule of law deficiencies**

*EU Legislation in Progress Briefing (2021-2027 MFF) by Rafał Mańko, November 2018*

On 3 May 2018, the Commission put forward a proposal for a regulation on the protection of the Union’s budget in the event of generalised deficiencies as regards the rule of law in a Member State. The proposal addresses, from a budgetary perspective, generalised deficiencies in respect of the rule of law, including threats to the independence of the judiciary, arbitrary or unlawful decisions by public authorities, limited availability and effectiveness of legal remedies, failure to implement judgments, and limitations on the effective investigation or, prosecution of, and sanctions for, breaches of the law. The proposal would enable the Commission to make proposals to the Council on sanctions measures with regard to EU funding in specific cases.

### **Media pluralism and media freedom in the EU**

*‘At a glance’ note by Alina Dobрева, April 2018*

Media freedom and pluralism are among the rights and principles enshrined in the European Charter of Fundamental Rights and in the European Convention on Human Rights, as well as part of the Copenhagen criteria for membership of the EU, related to democracy and human rights. Despite that, there are currently a number of concerns regarding threats to media freedom and pluralism in the EU. The own-initiative report on Media Pluralism and Media Freedom in the EU, voted in plenary in May 2018, aimed at contributing towards ensuring free and pluralistic media systems across the EU that play a key role in any democratic society.

**FOLLOW EPRS**<http://epthinktank.eu>

@EP\_thinktank



european parliamentary research service



EPINFOGRAPHICS/EPRS



european parliamentary research service

## [The EU as a community of law. Overview of the role of law in the Union](#)

*Briefing by Rafał Mańko, March 2017*

The expression 'community of law' to describe the then European Economic Community was coined in the 1960s by Walter Hallstein, the first Commission President. The expression emphasises that the EU is based on the rule of law, meaning not only that the powers of EU institutions are based on law and limited by law, but also that individuals (citizens, companies) enjoy rights under EU law which can be enforced before national courts. The role of law in European integration has led political scientists to speak of 'integration through law'. This briefing provides a general overview of the role of law in European integration, including legislation, interpretation and adjudication, with a particular focus on the role of national courts and the protection of the rights of individuals.

## [An EU mechanism on democracy, the rule of law and fundamental rights: European Added Value Assessment](#)

*In-depth Analysis by Wouter van Ballegooij and Tatjana Evas, October 2016*

This European Added Value Assessment sought to evaluate the potential impacts, and identify the advantages, of proposals in the legislative initiative report prepared by Parliament's Committee on Civil Liberties, Justice and Home Affairs (LIBE) (rapporteur: Sophie in 't Veld, ALDE, the Netherlands). Voted in plenary in October 2016, Parliament's resolution presents recommendations to the Commission on an EU mechanism on democracy, the rule of law and fundamental rights, on the basis of Parliament's right to request legislative proposals under Article 225 of the Treaty on the Functioning of the European Union.

## [Understanding the EU Rule of Law mechanisms](#)

*Briefing by Eva-Maria Poptcheva, January 2016*

The EU is founded on values common to all Member States. These are supposed to ensure a level of homogeneity among Member States, while respecting their national identities, and so facilitate the development of a European identity and integration based on mutual trust. Article 7 TEU provides mechanisms to enforce EU values, based on a decision by the Council with the participation of the Commission and Parliament. The current mechanism is said to be unusable due to the high thresholds needed to adopt a decision in the Council, as well as Member States' political unwillingness to use it. Various new approaches have been proposed by academics and by political actors. In 2014, the Commission adopted a new 'Rule of Law Framework' featuring a structured dialogue between the Commission and the Member State concerned, and Commission recommendations and follow-up.

## [Rule of law: Selected publications](#) — [Rule of law: Selected case law](#)

*Comparative Law Library Unit, March 2017*

## [Press freedom in the EU: Legal framework and challenges](#)

*Briefing by Eva-Maria Poptcheva, April 2015*

Freedom of expression and information, as well as the freedom of the press, which provides the most powerful platform for the first two, contribute significantly to the formation of public opinion, thus allowing people to make informed choices in their political decisions. These freedoms are therefore essential for democracy, which is one of the fundamental values common to all Member States, on which the European Union is founded (Article 2 TEU). Within the EU legal framework, press freedom is a fundamental right established in the EU Charter of Fundamental Rights. The European Parliament has repeatedly advocated press freedom and media pluralism in the EU and abroad.

---

[eprs@europarl.europa.eu](mailto:eprs@europarl.europa.eu) | [www.europarl.europa.eu/thinktank](http://www.europarl.europa.eu/thinktank) (Internet) | [www.eprs.ep.parl.union.eu](http://www.eprs.ep.parl.union.eu) (Intranet)

You can access this Topical Digest online at the websites below, or by scanning the QR code:

[http://www.europarl.europa.eu/EPRS/TD\\_Rule\\_of\\_law\\_2019.pdf](http://www.europarl.europa.eu/EPRS/TD_Rule_of_law_2019.pdf)

<https://epthinktank.eu/topical-digests/>



**FOLLOW EPRS**



<http://epthinktank.eu>



@EP\_thinktank



european parliamentary research service



EPINFOGRAPHICS/EPRS



european parliamentary research service