



## Using 'scoreboards' to assess justice systems

The European Commission published the first edition of the [EU Justice Scoreboard](#) in March 2013, a document assessing the quality of the justice systems in the Member States. The Commission's initiative falls within a broader set of reports and indicators aimed at evaluating justice systems and the [rule of law](#).

### Background

Numerical indicators increasingly have a role in social and economic life. In particular, indicators are becoming a [key feature of global governance](#), allowing comparison of states' performance against international standards for good governance and the rule of law. Indicators which are claimed to be able to measure complex social phenomena, such as the rule of law, rely in particular on:

- **simplification** – qualitative input is translated into numerical data,
- **transparency** – thanks to simplification, countries may be compared easily,
- **claims to scientific authority** – indicators are presented as based on scientific data, making them authoritative.

At the same time, indicators **tacitly embody views** about

- what the appropriate standards are, and
- how to measure compliance with them.

Owing to their simplicity and scientific prestige, indicators are increasingly used by decision-makers in the global political and economic sphere.

A number of reports on justice systems and the rule of law make use of indicators. Some reports, such as the [Global Competitiveness Report](#), synthesise complex data into uniform scores. Others, such as the [Evaluation Report on European Judicial Systems](#) provide detailed indicators, but leave the decision on the 'overall score' to the reader.

### Global Competitiveness Report

The [Global Competitiveness Report](#) (GCR) published since 1979 by the [World Economic Forum](#) evaluates business conditions in 144

countries. Conformity with the rule of law is evaluated as part of the 'Institutions' pillar, with a focus on:

- absence of 'excessive' bureaucracy,
- absence of 'over-regulation',
- absence of corruption, and
- independence of the judiciary from politics.

The GCR is, however, [criticised](#) for its business-oriented perspective on issues of governance. Indeed, overall, Saudi Arabia comes ahead of France and Denmark, whilst China comes before 12 EU Member States (MS).

### Rule of Law Index

The [Rule of Law Index](#) (RLI), published since 2006 by the [World Justice Project](#) (WJP), aims to evaluate the rule of law in 98 countries worldwide. Each country is scored from 0 to 1, on each of eight factors:

- limited government powers,
- absence of corruption,
- order and security,
- fundamental rights,
- open government,
- regulatory enforcement,
- civil justice, and
- criminal justice.

For instance, in the field of civil justice, the highest score was attributed to Norway (0.82) and the lowest to Bangladesh (0.32). As regards criminal justice, Denmark's score was the highest (0.87) and Venezuela's the lowest (0.24). In general, MS score high in the Index.

### Worldwide Governance Indicators

[Worldwide Governance Indicators](#) (WGI) have been published since 1996 by the [World Bank](#), and cover 215 countries. Six aspects of governance are analysed, one of which is the rule of law. The notion is understood to comprise contract enforcement, police, judiciary and the absence of crime and violence. Scores are based on surveys among businesses, citizens and experts. The data is gathered from survey institutes, NGOs and private companies. WGI has been [criticised](#) for conflating many different notions, some of

which are beyond the control of government, under one umbrella concept of 'rule of law'.

Whereas some EU countries scored very highly (e.g. Finland, Sweden and Denmark obtained the three highest scores), certain other MS scored poorly (e.g. Romania and Bulgaria).

## Evaluation Report on European Judicial Systems

The [Report](#) is published yearly by the [European Commission for the Efficiency of Justice \(CEPEJ\)](#), a body of the [Council of Europe \(CoE\)](#). The task of the CEPEJ is to promote the effective implementation of CoE instruments with regard to the organisation of justice, thereby helping to prevent violations of [Article 6](#) of the European Convention on Human Rights, which guarantees the right to a fair trial. The Report analyses data for 46 (of 47) CoE members, combining numerical data with commentary.

The Report covers all areas of the practical functioning of the judiciary, including its **financial** aspects (funding of courts, legal aid) and the rights of **court users** (e.g. access to information, protection of vulnerable persons, and compensation for malfunctions of the system). It also addresses more general issues, including the **organisation** of the judiciary, prosecution and legal professions, as well as judicial **output** (length and effectiveness of proceedings, enforcement of decisions, and availability of [alternative dispute resolution \(ADR\)](#)).

## EU Justice Scoreboard

In March 2013, the Commission published its first annual [EU Justice Scoreboard](#). It is a short document, containing 24 sets of statistical data, selected mainly from the CEPEJ report, as well as from reports published by the World Justice Project and World Bank. Most of the data come from 2010. Not all MS are equally covered (with some data missing, e.g. for Belgium, UK and Ireland).

### Scope

The Scoreboard covers civil and administrative justice, but not criminal justice. The main aspects analysed are:

- length of proceedings,
- rate of resolving cases,

- number of pending cases,
- monitoring and evaluation of judiciary,
- use of IT by the judiciary,
- availability of ADR,
- compulsory training of judges,
- budget for courts,
- number of judges and lawyers, and
- perceived judicial independence.

### Scoreboard and European Semester

The Commission sees a close link between the EU Justice Scoreboard and its [Country Specific Recommendations \(CSR\)](#) issued within the framework of the '[European Semester](#)'. The 'Semester' is a new form of governance in the EU, introduced in 2010, which allows for coordinated surveillance of national economic policies. The CSR issued in this process sometimes include aspects relating to the functioning of justice systems. In June 2013, this was the case with 10 CSR (directed to [Bulgaria](#), [Hungary](#), [Italy](#), [Latvia](#), [Malta](#), [Poland](#), [Romania](#), [Slovakia](#), [Slovenia](#), [Spain](#), ).

### Comments and reactions

Some commentators have suggested **enlarging the scope** of the Scoreboard, e.g. the Open Society Foundations [proposed](#) also to include criminal justice. An EU law commentator [suggested](#) that it be extended to EU optional regimes (e.g. in contract law), as well as to measure the level of actual harmonisation in the MS. The Institute of International and European Affairs [drew attention](#) to the business-oriented character of the Scoreboard, considering that it measures the business-friendliness of MS justice systems.

However, some views have been less positive. Malta's former justice minister [criticised](#) both the data and their interpretation with regard to his country. One [commentator](#) criticised the Scoreboard for taking data 'wholesale' from other studies, and failing to address concerns over the rule of law in certain MS.

### Future of the Scoreboard

Commission Vice-President Viviane Reding [indicated](#) that future editions of the EU Justice Scoreboard will be expanded to cover other areas of the justice system. She described the Scoreboard as an 'early-warning mechanism', and invited MS to enter into dialogue about improving their justice systems.