



Rule of Law within the Union

Invitation to send your comments and answers

European Political
Strategy Centre

The European Commission published a **Communication**¹ on 3 April 2019, taking stock of the available tools to monitor, assess, and protect the Rule of Law within the Union, and looking back at experiences and challenges of the past years.

It outlines **three pillars** that could contribute to making the enforcement of the Rule of Law in the Union more effective – namely: better **promotion**, early **prevention** and tailored **responses**. The Commission invites the European Parliament, the European Council, the Council and Member States, as well as relevant stakeholders, including judicial networks and civil society, and the public at large, to reflect on a series of questions around each of these areas.

The EPSC has been tasked with reaching out to experts, academics, think tanks, and decision-makers to feed into this reflection, which will be crucial for the next policy cycle. In this context, we believe that you/your institution can make a highly valuable contribution to the debate and **we would like to invite you to send your comments and answers** to the questions raised in the Communication, in any of the EU languages, to the following two email addresses:

EU-RULE-OF-LAW-DEBATE@ec.europa.eu

benjamin.hartmann@ec.europa.eu

by Tuesday, 4 June 2019 (closure of business) at the latest.

This will enable us to incorporate feedback received in a **second Communication**, due in June 2019, containing conclusions and concrete proposals for strengthening of the Rule of Law in the Union, within the framework of the current Treaties.

Please, provide your comments and answers in the relevant boxes below (limit of 4000 characters per text box). **We would very much appreciate your contributions.**

Should you have any **questions or remarks**, please do not hesitate to contact the Head of the EPSC's Institutional Team:

Benjamin Hartmann, ph. +32 2 298 69 84, m. +32 460 79 81 55,
benjamin.hartmann@ec.europa.eu

¹ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52019DC0163&from=EN>.

1. Promotion: Building knowledge and a common Rule of Law culture

Possible questions for further reflection

- How can the EU better promote the existing EU legal requirements and European standards relating to the rule of law, in particular at national level?
- How can the EU best encourage key networks and civil society, as well as the private sector, to develop grassroots discussions on rule of law issues, including its economic dimension, and promote the standards underpinning the rule of law?
- Can Member States do more to promote the discussions on the rule of law at national level, including for example through debates in national parliaments, professional fora and awareness raising activities addressed to the general public?
- How should the EU and its Member States step up cooperation with the work of the Council of Europe and other international organisations that uphold the rule of law, including by supporting the work of the Council of Europe and with regard to evaluations and recommendations of the Council of Europe?
- How can the EU build on the work of the Council of Europe and promote common EU approaches? Can peer review between Member States help in this process?
- How can the existing steps taken by the European Parliament and the Council be improved and further developed? Can political groups and national parliaments be more engaged?

Promotion: Building knowledge and a common Rule of Law culture
(limit of 4000 characters)

2. Prevention: Cooperation and support to strengthen the Rule of Law at national level

Possible questions for further reflection

- How can the EU enhance its capacity to build a deeper and comparative knowledge base on the rule of law situation in Member States, to make dialogue more productive, and to allow potential problems be acknowledged at an early stage?
- How can existing tools be further developed to **assess** the rule of law situation?
- How could exchanges between the Commission and Member States on rule of law issues be most productively organised?
- How can EU expertise and support be most effectively channelled to Member States?
- Can preventive steps be given weight through a more inter-institutional approach?

Prevention: Cooperation and support to strengthen the Rule of Law at national level
(limit of 4000 characters)

Calls to improve governance and the quality of institutions across the world are now growing in number. Monitoring these institutions is crucial for sustainable economic improvements. Compared to the current framework, progress can be made on all aspects of governance. The rule of law is one of those aspects.

The current rule of law toolbox is comprised of different mechanisms, national and supranational. These include the Article 7 TEU; infringement proceedings through national courts; the European Semester; the annual EU Justice Scoreboard; the Cooperation and Verification Mechanism; the Commission's Structural Reform Support Service; the European Structural and Investment Funds. Other tools, such as the Commission's proposal to protect the Union budget when generalised deficiencies regarding the rule of law in Member States affect or risk affecting the budget (COM 2018 324), are still under development.

While these tools are valuable, their efficiency is limited due to the lack of objective and comparable data. This, on the other hand, goes back to lack of cooperation between national authorities.

Last May, we [proposed](#) a tool to provide effective measuring, monitoring and enforcing of the rule of law. We argued that monitoring the quality of institutions is crucial for economic welfare and that pairing this exercise with the MIP would be good to push for institutional convergence. While institutional aspects cannot be expected to change at the same frequency as macro variables, this framework would put governance indicators subject to monitoring at a periodic frequency: we believe that clear annual **targets for improving the quality of institutional governance need to be set**. This, on the other hand, is only possible if we rely not only on perceptions of institutional quality but on objective and comparable measurements of the changing levels in the quality of institutions.

Through a Governance Performance Monitor (GovPM), the European Commission could benchmark, monitor and promote institutional quality convergence. This surveillance tool would be put in place on a par with the MIP. It would rely not only on perceptions, but also on accurate measurements of the changing levels in the quality of institutions. It would set clear benchmarks on an annual basis will raise awareness and foster institutional reforms.

Organising a firm and non-discriminatory way of monitoring the rule of law needs to be the priority in a time of economic cyclical recovery, in order to maintain EU cohesiveness.

Possible questions for further reflection