



NETWORK OF THE PRESIDENTS
OF THE SUPREME JUDICIAL COURTS
OF THE EUROPEAN UNION



RÉSEAU DES PRÉSIDENTS
DES COURS SUPRÊMES JUDICIAIRES
DE L'UNION EUROPÉENNE

Contribution of the Network of the Presidents of the Supreme Judicial Courts of the European Union to the 2026 Rule of Law Report (<https://network-presidents.eu/>)

Questions on horizontal developments

In this section, you are invited to provide information on general horizontal developments or trends, both positive and negative, covering all or several Member States. In particular, you could mention issues that are common to several Member States, as well as best practices identified in one Member State that could be replicated. Moreover, you could refer to your activities in the area of the four pillars and sub-topics (an overview of all sub-topics can be found below), and, if you represent a Network of national organisations, to the support you might have provided to one of your national members.

The Network of the Presidents of the Supreme Judicial Courts of the European Union, which brings together the Presidents of Supreme Courts of 35 countries (27 EU Member States as full members; Iceland, Liechtenstein, Norway and the United Kingdom as associate members and Albania, Montenegro, Serbia and Ukraine as observers) promotes the exchange of views and experiences on matters concerning the case law, organisation and functioning of the Supreme Courts in the performance of their judicial and/or advisory functions.

The Network welcomes the efforts of the European Commission in monitoring the rule of law situation across the Union and emphasizes that judiciary can only fulfil its role effectively when its independence is guaranteed.

The Network values the opportunity to contribute to the 2026 Rule of Law Report and hereinafter provides a general overview of activities of the Network that are relevant to this issue.

National Supreme courts and the Court of Justice of the European Union (CJEU) are both tasked to protect the rule of law. To discuss this shared competence and responsibility the Network and the CJEU held a joint working session entitled “The independence of the judiciary within the European Union: a shared responsibility” in March 2025. Mr Donal O’Donnell, Chief Justice of Ireland, intervened on behalf of the Network and his introductory report draws attention to the CJEU’s 2018 *Portuguese Judges* ruling (C-64/16) that catalyzed a far-reaching body of case law on Article 19(1) TEU and the right to an effective remedy, casting it as a concrete expression of the Article 2 TEU rule-of-law value. This jurisprudence emerged amid a broader EU rule of law crisis affecting national judiciaries and which has affected the decisions of national Supreme Courts within the EU and their relationship with the CJEU.

To prepare the introductory report, a questionnaire was circulated among members, associate members and observers of the Network to which 26 Supreme Courts responded. The answers mentioned the significance and tangible effects of the *Portuguese Judges* decision and subsequent jurisprudence of the CJEU. For example, institutional reforms inspired by Article

19(1) case law such as strengthening safeguards for judicial independence; procedural reform (e.g., EAWs issued by judges rather than prosecutors); litigation on judicial appointments, salaries, and discipline, with courts invoking the *Portuguese Judges* and subsequent cases.

Looked at through the lens of national courts, in particular national Supreme Courts, Chief Justice O'Donnell noted that there is much to applaud in the *Portuguese Judges* case and the subsequent jurisprudence of the CJEU. The introductory report noted that although a majority of the responses were positive, many courts qualified their responses. Some were of the view that the use of Article 267 to protect judicial independence was a product of the failure of other mechanisms to do so. Other members suggested that other mechanisms in the Rule of Law toolkit such as infringement proceedings and financial penalties are equally if not more, important to effectively and appropriately deal with systemic rule of law issues in a Member State. Limitations such as the reluctance of national courts to refer questions due to time constraints, and challenges in enforcing judgments in countries with deep-seated issues regarding judicial independence and issues regarding general sovereignty were also raised. Nevertheless, the balance sheet as far as national courts are concerned is extremely positive.

The second session of the joint meeting with the CJEU was dedicated to the "GDPR supervision of judicial processing of personal data". The introductory report on behalf of the Network was delivered by Ms Dineke de Groot, President of the Supreme Court of the Netherlands. The report draws mainly on the 25 responses of Supreme Courts to the preparatory questionnaire circulated among members, associate members and observers of the Network. It gives an outline of the way in which Member States have organised GDPR supervision of judicial processing of personal data, provides examples of GDPR supervision of judicial processing of personal data and illustrates the courts' relationship with the national GDPR supervisory authority for data processing in non-judicial matters.

An upward trend of domestic courts engaging with international law can be observed across European jurisdictions in recent times. National courts have been called upon to resolve numerous legal disputes involving States and other international actors on a wide array of issues, climate change being perhaps the most noted example. Therefore, a joint meeting between the Network and The Hague Judicial Club, which brings together international courts and tribunals based in The Hague, was organised on the occasion of the 2025 Colloquium of the Network. The meeting focused on "The Contribution of International and National Courts and Tribunals to the Rule of Law" and the keynote speakers – Mr Yuji Iwasawa, President of the International Court of Justice, Ms Tomoko Akane, President of the International Criminal Court, Mr Mattias Guyomar, President of the European Court of Human Rights and Lord Robert Reed, President of the Supreme Court of the United Kingdom – reflected *inter alia* on the principles and practice of domestic application of international law as well as their Court's contribution to the rule of law.

The Network also held a working session on "National courts and international crime" in relation to the role of national jurisdictions in the fight against impunity for persons suspected of having committed international crimes. The topic stemmed from the fact that several European Supreme Courts and/or Constitutional Courts have in recent years had to clarify the conditions under which foreign nationals may be tried for acts committed on foreign soil against foreign persons, however, legal arguments to this effect vary from one Court to another. These disputes and, more generally, the internationalization of both business and law have led to the development of effective tools for international cooperation in criminal matters to combat impunity effectively by avoiding trials being obstructed through the non-transfer of accused persons. In addition, national legal systems have been able to set up prosecution authorities dedicated to the fight against crimes against humanity and war crimes, with specific investigation services and particularly qualified professionals. The discussions, prepared and

moderated by Mr Christophe Soulard, First President of the French *Cour de cassation*, elaborated on national case law and experience. The members were also invited to exchange views on whether existing cooperation mechanisms are indeed effective tools for combating impunity and to reflect on the conditions under which international criminal judges currently exercise their mandate.

The Network has also considered the influence of social media on the courts and its possible effect on the independence of judges. Courts and judges are increasingly appearing on social media which creates opportunities as well as risks. The topic of the influence of social media was therefore revisited at The Hague Colloquium (having previously been on the agenda of the members of the Network in autumn 2022). During the working session “Social Media: its Impact on Court Communication and Influence on Judicial Independence” prepared and moderated by Ms Bettina Limperg, President of the Federal Court of Justice of Germany, the participants discussed, *inter alia*, whether it is the task of the courts to promote issues relating to the rule of law and/or to engage in public relations work beyond their actual professional activities and whether courts are obliged to be more active on social media than they traditionally have been in order to build the foundations for public trust in the institutions of the third branch of government. The debate also touched upon how to deal with deliberate misinformation on the internet and with digital litigation PR that deliberately stirs up sentiment for or against parties to proceedings or a particular outcome of proceedings.

Furthermore, the Network operates an exchange programme of Supreme Court judges, the aim of which is to strengthen cooperation and formation of personal ties as well as exchange of information and best practices between colleagues with similar tasks and responsibilities within their respective national systems. The programme continued in 2025 with 19 individual exchanges completed. In total, 18 Supreme Courts were involved in the programme, either seconding or receiving colleagues for a period of one or two weeks. The exchange programme is open to all members, including associate members and observers of the Network. The Network notes with great satisfaction that four judges of the Supreme Court of Ukraine were able to participate in the exchanges organised by the Supreme Court of Justice of Austria, the Supreme Court of the Netherlands, the Supreme Court of Spain and the Supreme Court of Sweden.