



**2024/2078(INI)**

6.2.2025

# **DRAFT OPINION**

of the Committee on Legal Affairs

for the Committee on Civil Liberties, Justice and Home Affairs

on the Commission's 2024 Rule of Law report  
(2024/2078(INI))

Rapporteur for opinion: Ilhan Kyuchyuk

PA\_NonLeg

## AMENDMENTS

The Committee on Legal Affairs submits the following to the Committee on Civil Liberties, Justice and Home Affairs, as the committee responsible:

**Amendment 1**  
**Motion for a resolution**  
**Citation 47 a (new)**

*Motion for a resolution*

*Amendment*

– *having regard to the mission letter to Michael McGrath, Commissioner for Democracy, Justice, the Rule of Law and Consumer Protection,*

Or. en

**Amendment 2**  
**Motion for a resolution**  
**Paragraph 2 a (new)**

*Motion for a resolution*

*Amendment*

*2a. Reiterates that an independent national judiciary is a cornerstone of the rule of law and the EU principle of mutual trust, and that the lack thereof may be to the detriment of cross-border cooperation between judicial authorities<sup>1a</sup>;*

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*<sup>1a</sup> Judgment of the Court of Justice of 25 July 2018, Minister for Justice and Equality v LM, C-216/18 PPU, ECLI:EU:C:2018:586.*

Or. en

**Amendment 3**  
**Motion for a resolution**  
**Paragraph 2 b (new)**

*Motion for a resolution*

*Amendment*

*2b. States that national judicial councils are essential to guarantee the*

*independence of the judiciary, including of judicial appointments and promotions<sup>1a</sup>; calls, in this regard, for a specific and systemic focus by the Commission in its future Rule of Law reports on the roles and structures of Member States' national judicial councils; calls, in addition, for follow-up on their periodic renewal, the transparency of their functioning and the existence of adequate administrative and judicial remedies in relation to the management and administration of the justice system<sup>1b</sup>;*

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*<sup>1a</sup> Appendix to Recommendation CM/Rec(2010)12 of the Committee of Ministers of the Council of Europe of 17 November 2010 entitled 'Judges: independence, efficiency and responsibilities', Chapter IV.*

*<sup>1b</sup> Judgment of the Court of Justice of 2 March 2021, A.B. and Others v Krajowa Rada Sądownictwa and Others, C-824/18, ECLI:EU:C:2021:153.*

Or. en

**Amendment 4**  
**Motion for a resolution**  
**Paragraph 2 c (new)**

*Motion for a resolution*

*Amendment*

*2c. Reiterates that in accordance with Article 19 TEU and Article 267 TFEU, national courts cannot be hindered from using the possibility of a reference for preliminary ruling to the CJEU, for example by sanctioning national judges for using preliminary questions<sup>1a</sup>, or vetting questions before they are sent<sup>1b</sup>; calls on the Commission to carry out a systematic annual check in this regard as part of the annual Rule of Law reports of the national judicial systems, and to start infringement proceedings if necessary;*

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*<sup>1a</sup> Judgment of the Court of Justice of 15 July 2021, Commission v Poland, C-791/19, ECLI:EU:C:2021:596.*

*<sup>1b</sup> Judgment of the Court of Justice of 23 November 2021, IS, C-564/19, ECLI:EU:C:2021:949.*

Or. en

**Amendment 5**  
**Motion for a resolution**  
**Paragraph 2 d (new)**

*Motion for a resolution*

*Amendment*

*2d. Reiterates the concerns expressed by the Venice Commission regarding certain systems for vetting judges, prosecutors and judicial candidates in some candidate countries, especially when conducted by the executive branch or by secret services, where extraordinary vetting might be justified only in exceptional circumstances<sup>1a</sup>;*

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*<sup>1a</sup> European Commission for Democracy through Law (Venice Commission), ‘Compilation of Venice Commission opinions and reports concerning vetting of judges and prosecutors’, CDL-PI(2022)051, 19 December 2022.*

Or. en

**Amendment 6**  
**Motion for a resolution**  
**Paragraph 2 e (new)**

*Motion for a resolution*

*Amendment*

*2e. Confirms that the annual Justice Scoreboard<sup>1a</sup> prepared by the Commission, measuring the efficiency, quality and independence of national judicial systems, is a valuable tool in the EU rule of law toolbox; calls for*

*coherence between the annual Rule of Law report and the Justice Scoreboard regarding possible systemic deficiencies in the Member States;*

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*<sup>1a</sup> See the Commission communication of 11 June 2024 entitled ‘2024 EU Justice Scoreboard’ (COM(2024)0950).*

Or. en

**Amendment 7**  
**Motion for a resolution**  
**Paragraph 2 f (new)**

*Motion for a resolution*

*Amendment*

*2f. States that an important element of the state of the rule of law and fair proceedings are judicial procedures conducted in reasonable time<sup>1a</sup>; notes in that context that the Justice Scoreboard indicates significant discrepancies across the EU legal area<sup>1b</sup> with regard to the average time in which civil, commercial and administrative cases are conducted, ; calls on the Commission to conduct a systematic annual check of the length of judicial proceedings as an element of the Rule of Law report, with a view to identifying persistent challenges in Member States and candidate countries in this regard<sup>1c</sup>;*

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*<sup>1a</sup> ‘Justice delayed is justice denied.’*

*<sup>1b</sup> 2024 Justice Scoreboard, supra, Figure 5. The length of first instance cases ranges from a couple of days to almost 800 days among the different Member States.*

*<sup>1c</sup> In this regard, see also the case-law of the European Court of Human Rights, as referenced in: European Court of Human Rights, ‘Guide on Article 6 of the Convention – Right to a fair trial (civil*

**Amendment 8**  
**Motion for a resolution**  
**Paragraph 2 g (new)**

*Motion for a resolution*

*Amendment*

**2g. Points out the immense impact of the Rule of Law Conditionality Regulation as an EU tool to guarantee adherence to the rule of law and to fight corruption in the EU, as confirmed by the CJEU<sup>1a</sup>; recalls, in this regard, that endangering judicial independence and limiting the availability and effectiveness of legal remedies are explicit examples of violations of the rule of law under the aforementioned regulation (Article 3); calls on the EU institutions to make maximum use of this tool to protect the independence of the judiciary in the Member States; calls, in addition, on the Commission to make full use of its powers and instruments to address any existing and potential breaches of Article 2 TEU;**

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**<sup>1a</sup> Judgment of the Court of Justice of 16 February 2022, Hungary v Parliament and Council, C-156/21, ECLI:EU:C:2022:97, and of 16 February 2022, Republic of Poland v Parliament and Council, C-157/21, ECLI:EU:C:2022:98.**

**Amendment 9**  
**Motion for a resolution**  
**Paragraph 7 a (new)**

*Motion for a resolution*

*Amendment*

**7a. Underlines the recommendation of**

*the Venice Commission<sup>1a</sup> that complaints and appeals in the case of electoral irregularities, in particular with regard to vote buying, ballot box stuffing and incorrect vote counting are to be followed up effectively; points out in this regard that ensuring effective procedural and administrative justice is paramount and that it represents a condition sine qua non for removing shortcomings and ensuring healthy democracies<sup>1b</sup>;*

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*<sup>1a</sup> Venice Commission, ‘Report on electoral law and electoral administration in Europe – Synthesis study on recurrent challenges and problematic issues’, CDL-AD(2020)023, 8 October 2020.*

*<sup>1b</sup> See also Venice Commission, ‘Report on Election Dispute Resolution’, CDL-AD(2020)025-e, 8 October 2020.*

Or. en

**Amendment 10**  
**Motion for a resolution**  
**Paragraph 24 a (new)**

*Motion for a resolution*

*Amendment*

*24a. Notes that the mission letter to the Commissioner for Democracy, Justice, the Rule of Law and Consumer Protection specifies the need to ‘oversee the work to preserve the fairness and integrity of elections’; underlines the EU’s leading role as a globally credible actor in international election observation, given that support for democracy worldwide is consistent with its fundamental principles; affirms the EU’s clear interest in ensuring functioning democracies as the only way to address its citizens’ needs, meet their demands and fulfil their aspirations; regrets however, that, especially in the face of increasing disinformation, propaganda and information manipulation targeting*



*European democracy, consideration has not yet been given to a peer review practice among the Member States, in support of the efforts of the OSCE Office for Democratic Institutions and Human Rights, as a way to support each other's administrative processes and procedural practices and build mutual trust;*

Or. en

**Amendment 11**  
**Motion for a resolution**  
**Paragraph 24 b (new)**

*Motion for a resolution*

*Amendment*

**24b. Points, in this regard, to the increasing importance of algorithmic transparency and the responsibility of platforms when dealing with elections, as shown by past events<sup>1a</sup> and recent elections, given the potentially significant human rights impact<sup>1b</sup>; recalls, in this regard, the importance of robust procedures to safeguard the fairness and integrity of elections, taking into account new possibilities for the use of AI<sup>1c</sup>; recalls the importance of the EU legislation adopted in this regard, namely the Digital Services Act, the Digital Markets Act, the AI Act<sup>1d</sup>, and the EMFA; calls on the Commission to include an assessment of Member States' national implementing rules in this field in the Rule of law analysis, as fair elections are essential for the proper functioning of rule of law principles and an obligation under Article 3 of Protocol I to the European Convention on Human Rights;**

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<sup>1a</sup> *European Parliament resolution of 25 October 2018 on the use of Facebook users' data by Cambridge Analytica and the impact on data protection (OJ C 345, 16.10.2020, p.58).*

<sup>1b</sup> *Recommendation CM/Rec(2020)1 of*

*the Committee of Ministers of the Council of Europe of 8 April 2020 to member States on the human rights impacts of algorithmic systems, with specific guidelines.*

*<sup>1c</sup> Declaration by the Committee of Ministers of the Council of Europe of 13 February 2019 on the manipulative capabilities of algorithmic processes (Decl(13/02/2019)1).*

*<sup>1d</sup> Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 laying down harmonised rules on artificial intelligence and amending Regulations (EC) No 300/2008, (EU) No 167/2013, (EU) No 168/2013, (EU) 2018/858, (EU) 2018/1139 and (EU) 2019/2144 and Directives 2014/90/EU, (EU) 2016/797 and (EU) 2020/1828 (Artificial Intelligence Act) (OJ L, 2024/1689, 12.7.2024, ELI: <http://data.europa.eu/eli/reg/2024/1689/oj>).*

Or. en

**Amendment 12**  
**Motion for a resolution**  
**Paragraph 27 a (new)**

*Motion for a resolution*

*Amendment*

**27a. Calls on the Commission to pay special attention to analysing procedural justice with a view to identifying strengths, gaps, discrepancies and best practices in ensuring transparency, efficiency and fair treatment in support of strengthening administrative justice across the EU, as a means to ensure the accountability of public authorities;**

Or. en

**Amendment 13**  
**Motion for a resolution**  
**Paragraph 29 a (new)**

*Motion for a resolution*

*Amendment*

***29a. Invites the Commission and the Member States to consider engaging in a peer review process focused on improving administrative procedures and practices that have an impact on the functioning of key democratic processes and the exercise of checks and balances in line with the EU's established, shared principles;***

Or. en

**ANNEX: ENTITIES OR PERSONS  
FROM WHOM THE RAPPORTEUR FOR THE OPINION HAS RECEIVED INPUT**

The Chair in his capacity as rapporteur for opinion declares under his exclusive responsibility that he did not receive input from any entity or person to be mentioned in this Annex pursuant to Article 8 of Annex I to the Rules of Procedure.