Uchwała zarządu
stowarzyszenia Sieć Obywatelska Watchdog Polska
nr 3/OB/II/2023 z dnia 14 lutego 2023 r.
o poparciu dla stanowiska organizacji w sprawie raportu o praworządności

1. Na podstawie § 24 pkt 14 Statutu Stowarzyszenia, Zarząd podejmuje decyzję o podpisaniu stanowiska organizacji w sprawie raportu o praworządności.
2. Treść stanowiska stanowi załącznik nr 1 do niniejszej uchwały.
3. Uchwała wchodzi w życie z dniem podjęcia.

Uzasadnienie

Raport o praworządności to jeden z instrumentów za pośrednictwem, którego organizacje społeczne mogą zwrócić uwagę na problemy związane z przestrzeganiem praw człowieka. Jego potencjał mógłby zostać jednak lepiej wykorzystany. Organizacje w stanowisku rekomendują Komisji Europejskiej:

1. Przyjęcie bardziej kompleksowego podejścia do praworządności, demokracji i praw człowieka;
2. Poprawę widoczności i świadomości raportu na temat praworządności;
3. Zwiększenie szczegółowości i jakościowej oceny zaleceń;
4. Systematycznie przeciwdziałać niewykonywaniu orzeczeń sądowych;
5. Ochronę wolności słowa jako podstawy demokracji i praworządności;
6. Zwiększenie włączenia społeczeństwa obywatelskiego w sprawozdawczość dotyczącą praworządności;
7. Podjęcie działań wzmacniających organizacje społeczne
8. Uwzględnienie wpływu wojny na Ukrainie na praworządność w UE.

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Załącznik nr 1 do uchwały
Joint statement on the European Commission's 2023 Rule of Law Report

In July 2023, the European Commission will publish its annual rule of law report. The significant challenges to the rule of law within the Union in the past year are both old and new. While issues such as the non-implementation of court decisions, the shrinking of civic space in the EU and the restriction of freedom of expression across the EU have featured in previous joint civil society statements, the new coverage in country chapters and the rapidly changing geopolitical landscape have generated new horizontal concerns.

Compliance with and respect for the rule of law in the EU are crucial for the Union's credibility both domestically and internationally. While we welcome the new approach of the 2022 report, which includes 27 country chapters as well as new topics such as the role of public service media and the implementation of European Court of Human Rights rulings, we would like to point out the following concerns that need to be urgently addressed in the preparation of the 2023 rule of law report.

Our main recommendations to the Commission are:
1. Adopt a more comprehensive approach to the rule of law, democracy and human rights;
2. Improve the visibility and awareness of the rule of law report;
3. Increase the specificity and qualitative assessment of the recommendations;
4. Act systematically against the non-implementation of court decisions;
5. Protect freedom of expression as a backbone of democracy and the rule of law;
6. Enhance the inclusion of civil society in rule of law reporting;
7. Address continuing concerns regarding civic space;
8. Include the impacts of the war in Ukraine on the rule of law in the EU.

1. Adopt a more comprehensive approach to the rule of law, democracy and human rights
The rule of law is so deeply interconnected to other Article 2 TEU values, particularly democracy and fundamental rights, that it cannot be fully upheld unless these are also respected. This is not adequately reflected in previous reports, which often treat the rule of law as separate from other values protected by the Treaties, the protection of which falls outside the scope of the review.
The Commission should broaden the scope of the review to better capture the interrelationship between democracy, the rule of law and fundamental rights, to detect any systematic attempt to undermine them and to ensure a comprehensive approach to all values under Article 2 TEU.

2. Improve the visibility and awareness of the rule of law report
Once again, the rule of law report is published in the summer, when publications typically receive little attention due to closed offices. Moving the annual publication of the rule of law report to September will increase its visibility and attract more attention.
Although it was positively noted that the public stakeholder consultation was open longer than in previous years due to the earlier start date, the timeline to provide contributions remains short for civil society actors to meaningfully engage.
The Commission is recommended to proactively and clearly communicate the details of

all relevant consultations and country visits on its website in due time and to adapt the publication dates to ensure greater awareness. The reporting process can only be open, transparent, and participatory if European citizens are informed about the process and sufficient time and resources are allocated for civil society to be able to contribute.

3. Increase the specificity and qualitative assessment of the recommendations
The country recommendations are intended to prevent future violations of the rule of law. Unfortunately, the nature of country recommendations varies widely. The lack of specificity regarding the nature of the recommendations, particularly whether or not they are binding, hinders effective implementation.
If the Commission wants the recommendations to feed directly into enforcement procedures such as the Article 7 procedure, the conditionality mechanism, or infringement proceedings before the European Court of Justice, it needs to be more specific about the nature of the recommendations and ensure that these are sufficiently clear, concrete and measurable to address the specific issues identified in the report.
A clear link should be established between these mechanisms and the review cycle, whose recommendations should be made directly enforceable. In addition, a system for qualitatively assessing the implementation of the recommendations should be introduced.

4. Act systematically against the non-implementation of court decisions
In recent years, there has been an alarming trend of challenging the authority of and/or not implementing the decisions of the European Court of Justice and the European Court of Human Rights. This is a systemic rule of law problem that is not sufficiently addressed in the recommendations of the rule of law report 2022.
The European Commission should pay particular attention to this issue and be prepared to impose fines until Member States; national law is fully compliant with EU law. The Commission should ensure that the transposition of EU directives is carried out swiftly and in accordance with the spirit of the directive and does not lead to a deterioration of existing provisions on freedom of expression and the public's right to information, as seen in the transposition of the EU whistleblowing directive in Member States.
In addition, further synergies should be built between the EU and Council of Europe rule of law and human rights protection systems with a view to ensuring that EU Member States are compliant with the European Convention on Human Rights and Fundamental Freedoms.

5. Protect freedom of expression as a backbone of democracy and the rule of law
In recent years, the situation of media freedom and pluralism in Europe has deteriorated considerably: journalists across Europe are under severe pressure - albeit in different forms - and have to cope with increasing interference, attacks and lack of protection. 1 SLAPPs, vexatious lawsuits to silence information of public interest, are becoming more common; threats and attacks against journalists are on the rise; and online harassment and intimidation, as well as surveillance incidents, are also a growing phenomenon targeting those working on corruption, human rights and other issues relevant to the rule of law.
As free, independent and pluralistic information is a key element in strengthening good governance and the rule of law - building on the work for the Anti-SLAPP Directive and the European Media Freedom Act - more efforts should be made to raise awareness and

promote a European response to better address such challenges. Each country chapter of the rule of law report that identifies the prevalence of SLAPPS in a Member State should include a specific recommendation to combat this particularly harmful form of harassment and intimidation of persons working to protect the public interest.

6. Enhance the inclusion of civil society in rule of law reporting

The Commission prepared the 27 country chapters and associated recommendations based on dialogues with national authorities and stakeholders. It fails, however, to identify civil society as a core actor. We call on the Commission to strengthen its cooperation with civil society and media organisations in the Member States, as they play an important role in upholding the rule of law on the ground.

To facilitate this process, the Commission needs to put civil society and media organisations at the center of its country visits to make the reporting process more accessible, transparent and inclusive. Civil society's feedback on both process and substance should be sought in the cycle's evaluation.

7. Address continuing concerns regarding civic space

The shrinking space for civil society has been an issue affecting both the EU and numerous Member States for some years now. Key concerns regarding the introduction 1 In 2022, 415 cases of press and media freedom violation were registered by the Media Freedom Rapid Response Mechanism across the 27 EU Member States, including verbal attacks, legal incidents and physical assaults (https://www.mfrr.eu/monitor/) of restrictive regulations, the limited access to decision-making processes and smear campaigns against CSOs remain. In some countries, political forces are often responsible for an unjustified delegitimisation and criminalisation of CSOs work, especially of humanitarian NGOs working in the field of solidarity and migration.

The Commission should continue to enhance its support to the civil sector both at Member State and European level, and increase its effort to promote a valuable counter-narrative on the role of civil society, stressing the value-added of civic actors as essential watchdogs of democratic values.

8. Include the impacts of the war in Ukraine on the rule of law in the EU

The unprovoked and illegal Russian invasion of Ukraine forced millions of Ukrainians to leave their country and seek protection in the EU. While the EU and Member States quickly provided protection to those fleeing violence, the situation continues to pose new challenges in terms of refugees; equal access to public services and the justice system. The 2023 report should include in-depth assessments of the persistent violations of fundamental rights of asylum seekers and refugees.

Another area of rule of law related to the war in Ukraine that warrants the Commission's attention are various measures introduced by EU and its Member States against Russian or Russia-linked individuals and businesses, such as sanctions and seizures of property. While in principle such measures are warranted and necessary given the Russian aggression, proper due process and respect for rights of those impacted must be maintained in order to uphold the EU's commitment to respecting the rule of law towards everyone.

KARTA PODPISÓW

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