



Council of the  
European Union

Brussels, 6 October 2023  
(OR. en)

13684/23

**LIMITE**

**JAI 1243  
FREMP 269  
AG 112  
POLGEN 137**

**NOTE**

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From: Presidency  
To: Delegations

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Subject: Efforts to improve the efficiency and the quality of justice systems

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Delegations will find in annex the Presidency note with a view to the working lunch of Justice Ministers at the Justice and Home Affairs Council on 19-20 October 2023.

**Working lunch: Efforts to improve the efficiency and the quality of justice systems.****I.**

The rule of law stands alongside democracy and respect for human rights as one of the founding values of the Union. It is common to all Member States and a bedrock of the Union's identity. It is a core factor in Europe's political stability and economic prosperity. As highlighted by President von der Leyen in 2023 State of the Union address, *the rule of law and fundamental rights will always be the foundation of our Union – in current and in future Member States.*

The rule of law enshrined in Article 2 TEU includes the principles of legality implying a transparent, accountable, democratic and pluralistic law-making process; legal certainty; prohibition of arbitrariness of the executive powers; effective judicial protection, including access to justice; independent and impartial courts, also as regards fundamental rights; separation of powers; and non-discrimination and equality before the law.

In view of its importance, there are several European tools to uphold this principle.

The Annual Rule of Law Cycle established by the European Commission is an instrument to deepen dialogue and joint awareness of rule of law issues as well as being a preventive tool and an instrument to foster the adoption of measures to strengthen our institutions and our citizens' trust in them. Rule of Law Reports adopted since 2020 draw on a variety of sources, including the EU Justice Scoreboard<sup>1</sup>. The annual Council's rule of law dialogue makes use of the Commission's report and, in addition to discussions at the General Affairs Council, the Justice and Home Affairs Council has been conducting further and more in-depth discussions on rule of law-related issues falling within its competence since 2020.

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<sup>1</sup> 10407/23 – 2023 EU Justice Scoreboard - Communication from the Commission to the European Parliament, the Council, the European Central Bank, the European Economic and Social Committee and the Committee of the Regions COM(2023) 309.

According to the 2023 EU Justice Scoreboard, effective justice systems are essential for the application and enforcement of EU law and upholding the rule of law and other fundamental values of the EU which are common to the Member States. National courts act as EU courts when applying EU law. The EU Justice Scoreboard gives an annual overview of indicators focusing on three essential parameters for effective justice systems: i) efficiency; ii) quality; iii) independence.

## II.

Well-functioning justice systems are crucial for the application and enforcement of EU law and upholding the rule of law. An efficient justice system delivers its decisions without undue delay. Excessively long proceedings and substantial backlogs undermine the trust citizens and businesses place in national justice systems.

Therefore, the economic perspective of the judicial systems becomes of the utmost importance. In particular, a judicial system that does not offer sufficient guarantees or that does not operate with adequate diligence when one of the parties feels aggrieved will be a disincentive to business investment and, by extension, to the growth of productivity and the output of the economy as a whole. Effective justice systems are essential for mutual trust and for improving the investment climate and the sustain-ability of long-term growth. The 2023 annual sustainable growth survey<sup>2</sup>, which sets out the economic and employment policy priorities for the EU, confirms the link between efficient justice systems and Member States' business environments and an economy that works for the people. Well-functioning and fully independent justice systems can have a positive impact on investment and are key for investment protection, and therefore contribute to productivity and competitiveness.

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<sup>2</sup> 15184/22.

As in previous exercises, the 2023 Rule of Law Report contains a further analysis of the independence, quality, and efficiency of justice systems in all Member States highlighting that well-functioning and fully independent justice systems are crucial for ensuring that justice works to the benefit of citizens and business. The efficiency and quality of justice systems depend on parameters such as the caseload<sup>3</sup>, the estimated length of proceedings<sup>4</sup>, the clearance rate<sup>5</sup>, the number of pending cases<sup>6</sup>, the length of proceedings, the accessibility of justice<sup>7</sup> and the use of digital tools<sup>8</sup> and assessment tools<sup>9</sup> as well as the financial and human resources at their disposal<sup>10</sup>, in particular whether they are adequately resourced and whether the staff is qualified, trained and appropriately paid. Balanced compliance with all these parameters can be a challenge for Member States but the 2023 EU Justice Scoreboard shows that the effectiveness of EU justice systems continues to improve in a large majority of Member States<sup>11</sup>.

Financial resources allocated to national judicial systems have a direct impact on the length of judicial proceedings and many Member States have allocated additional resources to their justice system within their Recovery and Resilience Plans. They have also implemented several initiatives to improve digitalisation, which has been a priority for several Member States. Innovative measures have also been put in place, requiring the provision of training for members of judicial professions.

In addition, adequate human resources are essential not only to guarantee that court decisions are delivered without delay but also to ensure the attractiveness of judicial professions and the availability of qualified, trained, and adequately remunerated professionals. Resources allocated to justice systems should be equivalent to the importance of the tasks and responsibilities entrusted to them and the administration of justice is among the most relevant ones.

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<sup>3</sup> 2023 EU Justice Scoreboard, Figures 2-4.

<sup>4</sup> 2023 EU Justice Scoreboard, Figures 5-9.

<sup>5</sup> 2023 EU Justice Scoreboard, Figures 10-12.

<sup>6</sup> 2023 EU Justice Scoreboard, Figures 13-15.

<sup>7</sup> 2023 EU Justice Scoreboard, Figures 24-31.

<sup>8</sup> 2023 EU Justice Scoreboard, Figures 40-48.

<sup>9</sup> 2023 EU Justice Scoreboard, Figure 39.

<sup>10</sup> 2023 EU Justice Scoreboard, Figures 32-38.

<sup>11</sup> 2023 EU Justice Scoreboard, p. iii.

Finally, many Member States have taken further steps to improve the application of information and communication technologies (ICT) to justice systems since, as well as strengthening the Member States' justice systems, digitalisation makes them more accessible, efficient, and resilient. Digitalisation is key to increasing the effectiveness of justice systems and facilitating access to justice. It will help Member States to overcome the current and future challenges that national justice systems are facing. The use of innovative technologies such as artificial intelligence and robotisation generates time savings and makes it possible to leave repetitive tasks to machines. In this regard, bridging the digital divide and using artificial intelligence are two of the challenges that Member States will likely have to address in the short term.

In order to encourage discussion, Ministers are invited to address the following issues:

- Could you identify good practices adopted in your Member State to improve the efficiency and quality of the justice system, bearing in mind new challenges faced by justice systems, such as the use of artificial intelligence and the use of videoconferencing?
- How do you think the EU could further support Member States in reinforcing the efficiency and quality of national justice systems?