JUSTICE DELAYED AND JUSTICE DENIED

Non-implementation of European Courts Judgments and the Rule of Law

2025 Edition

DEMOCRACY REPORTING INTERNATIONAL
re:constitution

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EXECUTIVE SUMMARY

INTRODUCTION

Respecting and implementing court judgments is a basic test of any state's commitment to the rule of law. In Europe, this applies with particular force to the judgments of the European Court of Human Rights (ECtHR) and the Court of Justice of the European Union (CJEU), which safeguard fundamental rights and the integrity of the European legal order.

This fourth edition of Justice Delayed and Justice Denied examines how EU member states implement the judgments of Europe's two apex courts. Building on previous reports, it updates the data to 1 January 2025, expands the country coverage, and refines both the quantitative and qualitative assessments.

The focus remains on judgments with the greatest impact. For the ECtHR, the analysis is based on "leading" ECtHR judgments, designated by the Council of Europe's Committee of Ministers to identify human rights issues for the first time in a country, often revealing structural or systemic problems and, therefore, requiring broader reforms. For the CJEU, the report concentrates on rulings related to the rule of law, including justice systems, anti-corruption, media freedom and pluralism, and institutional checks and balances.

OVERALL FINDINGS

Across much of the EU, the **gap between legal victories before European courts and real-world change is widening.** Non-implementation, partial implementation, and protracted delays are not isolated anomalies but, instead, entrenched patterns in several member states, and a frequent feature in others. This non-compliance is also increasingly accompanied by open or implicit contestation of European courts' authority by political actors and, at times, by top national courts. The practical consequence is that serious violations of human rights and the rule of law continue for years, sometimes decades, after they have been formally recognised in Strasbourg or Luxembourg.

A small group of countries – notably **Bulgaria, Hungary, Poland, and Romania – systematically struggle** with compliance across both courts. Despite growing attention to the importance of implementation in national and international

debates – including due to sustained efforts by civil society – the overall patterns in the worst-performing states have hardly changed. The fragmented implementation steps observed in these countries do not amount to coherent national strategies to address systemic problems. At best, they are isolated measures; at worst, they are merely incidental, and do not reflect a genuine commitment to uphold the international values, standards and obligations these states have undertaken.

At the same time, the findings also showcase **positive cross-cutting developments** in certain states. Countries like **Luxembourg** show strong performance across both courts. **Czechia, Ireland, and Finland** demonstrate some examples of good practice, and several countries would be deemed high performers across both jurisdictions, were it not for their statistically insignificant number of rulings received, which, in itself, is a credit to those member states (e.g., **Sweden**, which is already identified as an excellent complier in the ECtHR context). These examples demonstrate that compliance and improvement are possible where there are a clear political will and a genuine commitment to abide by the rulings of the international courts to uphold the rule of law.

> *Non-implementation, partial implementation are entrenched patterns in several member states, and a frequent feature in others*

Across both courts, the implementation gaps relate largely to the same **sensitive areas** – judicial independence and access to justice, asylum and migration, detention conditions, equality (including LGBTIQ+ rights), and data protection/surveillance. In these domains, rulings require politically costly structural reforms, so states often resort to partial or delayed compliance, rather than genuine change.

By systematically tracking compliance with ECtHR judgments and largely neglecting compliance with CJEU rulings, the European Commission's Rule of Law Report reveals a structural inconsistency that weakens its authority and credibility as a monitoring instrument. References to CJEU case-law remain *ad hoc*, fragmented across country chapters, and not embedded in any structured assessment of

compliance, nor followed by recommendations. This omission is difficult to reconcile with the Commission's role as guardian of the EU Treaties. Without systematic monitoring of compliance with CJEU judgments, the Rule of Law Report falls short as a tool for transparency, accountability, and as a foundation for evidence-based enforcement.

EUROPEAN COURT OF HUMAN RIGHTS

On the ECtHR side, the picture is one of growing backlog and slowing progress. As of 1 January 2025, there were **650** leading ECtHR judgments awaiting full implementation across EU member states, up from 624 in January 2024, and 616 in the year prior. Further, **45.7 per cent** of leading judgments delivered in respect of EU states over the past ten years were still pending implementation, compared to 44 per cent at the end of 2023, and 40 per cent at the end of 2022. By end 2024, the average implementation time for leading ECtHR judgments concerning EU states had reached **5 years and 4 months**, compared to 5 years and 2 months in 2023, and 5 years and 1 month in 2022.

Overall, since the first edition of the report in 2021, **the number of pending leading judgments has increased by 8 per cent** (from 602 to 650), the share of the **open cases from the past ten years by 24 per cent** (from 37 per cent to 45.7 per cent), and the **average implementation time by 23 per cent** (up by a full

> *Since 2021, the number of pending leading judgments has increased by 8 per cent; and the average implementation time by 23 per cent*

year, from 4 years and 4 months). This is despite intensified Council of Europe-state cooperation to strengthen domestic implementation mechanisms, and the improvements achieved in cases where resistance to implementation is not rooted in a lack of political will.

The increase across all three indicators is not a simple linear trend, but reflects **several underlying dynamics.** Each year, the Committee of Ministers has closed fewer leading cases than it has received for supervision in respect of EU member states, and it has generally been easier to close newly delivered cases than older leading judgments that identify complex or structural problems. In many of the pending cases, reforms were under way or partially completed by 2024; however, the persistent failure to fully resolve long-standing structural issues – often clustered around the same sensitive themes – continues to jeopardise the rule of law in the states concerned and to generate new repetitive applications, undermining the rule of law and the effectiveness of the ECHR system as a whole.

On the grimmer side, **Bulgaria, Hungary, Italy, Poland, and Romania continued to be the most struggling implementers in 2024. Romania** continued to have the highest number of leading judgments pending implementation **(111)**, whereas **Hungary** remained the state recording the highest rate of leading ECtHR rulings rendered in the last ten years still awaiting implementation – **74 per cent**. For **eight countries** (Bulgaria, Hungary, Italy, Malta, Poland, Portugal, Romania, and Slovakia), **over 50 per cent** of the leading judgments rendered against them in the last ten years were yet to be fully implemented at the end of 2024. **Ten EU member states** (Belgium, Bulgaria, Czechia, Greece, Hungary, Italy, Lithuania, Malta, Poland, and Romania) had, in 2024, cases that had been pending implementation **for more than 15 and up to 24 years**. In **two member states – Portugal and Slovakia**, the overall implementation record **worsened**, shifting from moderate to moderately poor, and from poor to problematic, respectively.

There were, however, notable positive developments. **Sweden, Austria, Denmark, Estonia, Finland, Luxembourg and Slovenia** all presented an **excellent or very good** overall implementation record at the end of 2024. **Austria, Cyprus, Finland, and Germany** improved their overall implementation scores, with Finland coming close to eliminating its long-standing backlog of leading judgments within two years (from nine cases to one). **Czechia** stands out as a particularly important example: the creation of a robust execution coordination authority and, most importantly, its consistent capacity to move beyond a defensive or "litigious" approach once new violation judgments become final have enabled the country to maintain rapid implementation and a solid overall record, despite an important surge of new violation judgments last year. Finally, in 2024, **Lithuania** offered a near-ideal example of fully and effectively implementing a demanding ECtHR judgment. In the *Macatė*[1] case (concerning censorship of a children's book depicting same-sex relationships), all necessary measures — including legislative changes prompted by the Constitutional Court's intervention — were adopted in under two

years, showing what timely and comprehensive execution can look like.

Thematically, the implementation problems before the ECtHR are concentrated in a few sensitive areas. The weightiest gaps concern **judicial independence and fair trial rights**, where politicised councils, flawed appointments, and abusive disciplinary proceedings against judges remain unresolved. Long-standing structural violations also persist in **detention and prison conditions**, with overcrowding, poor hygiene, and weak remedies affecting large groups, rather than isolated individuals. Judgments **protecting vulnerable groups** – including asylum seekers, LGBTIQ+ persons, Roma children, and psychiatric patients – and cases linking environmental harm to the European Convention on Human Rights often encounter strong political or social resistance, leading to fragmented, delayed or purely cosmetic reforms.

COURT OF JUSTICE OF THE EU

The CJEU picture is mixed but reveals similar underlying dynamics. The 2025 review assessed **382** rule of law related rulings issued between 2019 and 2025 across 25 EU member states. Of these, **223** (58.4 per cent) were **fully complied** with, **98** (25.6 per cent) only **partially complied** with, and 35 (9.2 per cent) not complied with at all, while 26 (6.8 per cent) could not be conclusively assessed.

Over one third of CJEU rulings have not been fully implemented, and nearly two thirds of these have been pending for more than 2 years

In total, over one third of CJEU rulings have not been fully complied with. Of the 133 rulings in this category, 84 (63.15 per cent) have been

pending for more than two years, amounting to over a fifth of all rulings covered (21.98 per cent).

Hungary and Bulgaria continue to have the greatest problems, with very low full-compliance rates (**25 and 17.5 percent**, respectively), high levels of partial compliance (around **50 per cent**), and significant delays – **84.6 per cent** of Hungary's and **52.94 per cent** of Bulgaria's not-yet-complied-with rulings have been pending for over two years. **Poland and Romania** also remain in the "problematic complier" category, due to delayed justice-sector reforms.

Belgium and Slovakia qualify as **poor compliers**, displaying high levels of partial or non-compliance and/or prolonged delays. A middle group of **moderate compliers** includes **Austria, Estonia, and Portugal**, with roughly **60–70 per cent** of rulings fully implemented, and the remainder only partially complied with, many of them pending for more than two years. **Germany, Italy, and Spain** meet several benchmarks for good compliance, but are downgraded by **recurring delays**.

At the top of the spectrum, **Ireland** stands out as an **excellent complier**, having fully implemented all assessed rulings. **France, Lithuania, and Luxembourg** maintain high full-compliance rates (above **80 per cent**), with only minimal partial or delayed implementation. Smaller states with very few rulings – **Cyprus, Denmark, Malta, Slovenia, and Sweden** – cannot be categorised, as their small caseloads are statistically insignificant.

The 2024 report assessed compliance with 201 CJEU rulings across 17 countries. The 2025 report expands the dataset to 382 rulings by adding eight countries, as well as 2024 rulings and some earlier rulings not previously covered for the original 17 countries. While this expanded dataset offers a more comprehensive view of overall compliance trends, meaningful comparisons over time can only be made by tracking the same set of rulings assessed in last year's report.

Focusing on the 201 rulings previously covered, the data show modest but limited improvement. Of the seventy-one rulings previously not complied with, only five have progressed to full compliance since the 2024 assessment. This limited progress is driven by isolated developments in a small number of states rather than systemic improvements. Sixty-six rulings remain only partially complied with or not complied with at all.

Overall, the data indicate modest improvement rather than a substantial shift in compliance patterns. Partial and non-compliance remain systemic issues in several countries, notably Hungary and Bulgaria, which together account for over half of pending cases (thirty-seven rulings). Bulgaria has made limited progress, with several rulings moving from non-compliance to partial compliance; however, full compliance had not been achieved at the time of assessment. Compliance issues are also evident, to varying degrees, in Italy, Portugal, and Romania.

Poland has recently complied with two previously pending rulings, but structural problems in the judiciary remain unresolved, leaving a significant number of rulings unimplemented. Similarly, while Portugal has complied with one ruling, several others have remained pending for extended periods.

Partial compliance continues to be the dominant pattern. Immediately following a CJEU ruling, partial compliance may signal genuine progress, as seen in Luxembourg. However, when rulings remain partially complied with for years, this indicates judicial or political reluctance to address underlying issues. The proportion of significantly delayed rulings has increased slightly, from around 60% last year to 63.15% in this report. While referring courts often ensure case-level compliance, structural obstacles—such as legislative inertia, executive reluctance, or resistance from top courts—often prevent full implementation. This pattern appears not only in countries with chronic compliance issues, such as Bulgaria, Hungary, Poland, and Romania, but also, at times, in those with otherwise strong track records. Continued failures by several states, including Germany and Italy, to address long-standing issues have led to their being downgraded by one category this year.

Thematically, non- or only partial compliance is most pronounced in rulings touching **judicial independence, access to justice, and procedural safeguards**, where reforms to disciplinary regimes, court governance and criminal procedure lag behind the Court's requirements. **Asylum and migration** judgments are frequently implemented only at the case level, while restrictive legislation and practice remain largely unchanged. In **data protection and surveillance**, many states have yet to overhaul broad data-retention and access regimes that conflict with EU law. Cases on **equality and non-discrimination**, likewise, tend to trigger incremental, piecemeal adjustments, rather than comprehensive reform, reflecting persistent legislative inertia and, in some instances, open resistance by political and judicial actors.

RECOMMENDATIONS

To the European Commission / EU institutions

- Make implementation of CJEU judgments, in the same way as the ECtHR judgments, a **core metric** in the Annual Rule of Law Report, with systematic use of implementation data and clear country comparisons;
- Systematically issue **tailored country-specific recommendations**, based on ECtHR/CJEU implementation records, with particular focus on chronic underperformers (especially Bulgaria, Hungary, Poland, and Romania);
- Develop a **public scoreboard** or equivalent tool tracking national follow-up to CJEU case-law (including preliminary rulings and elements of overall ECtHR implementation records for comparative purposes);
- Use **enforcement tools more decisively** in cases of persistent non-implementation (infringements, follow-up under Article 260 TFEU, and, where relevant, budgetary conditionality);
- Treat serious non-implementation as a **priority topic in political dialogue** with governments and parliaments, supporting pro-reform "compliance communities"; and
- Create or adapt **EU funding lines** (e.g., under CERV and other programmes) specifically to support implementation-oriented work by civil society, legal professionals, and oversight bodies.

To the Council of Europe

To the Committee of Ministers

- Use the **full political toolbox** available to the Committee of Ministers (including enhanced supervision, debates, and infringement proceedings) much more robustly and consistently in response to chronic non-implementation, to avoid its trivialisation;
- Decisively tap into the potential created by the introduction of the *complementary joint procedure between the Committee of Ministers, the Parliamentary Assembly, and the Secretary General*[2] to respond to flagrant instances of resistance to implementation of ECtHR judgments;
- Avoid **premature closure** of complex groups of cases before underlying structural problems are demonstrably resolved in law and practice;
- Apply **political and diplomatic pressure** in a consistent way across all thematic areas

(judicial independence, detention, discrimination, SLAPPs, etc.);

- In line with the Reykjavík Summit pledges, deepen **structured engagement with Ombuds institutions, NHRIs, equality bodies, and NGOs,** going beyond written Rule 9 submissions; and
- Increase resources for execution work – especially for the Department for the Execution of Judgments and related CoE cooperation projects – to ensure that budget increases for reducing the ECtHR judicial backlog do not undermine the implementation mechanism's capacity to reduce its own backlog.

To the Secretary General

- Make proactive use of **Article 52 ECHR inquiries** in states with entrenched non-implementation of key ECtHR judgments, to raise the political costs of inaction and press for concrete reform plans.

To the Commissioner for Human Rights

- Consider prioritising, among various important means of action available, **targeted Rule 9 communications** when addressing implementation matters within the broader context of the mandate of the institution, as well as maximising the budgetary allocations concretely earmarked for the preparation and submission of such communications.

To national authorities in EU member states

- Adopt **coherent national implementation strategies**, with clear timelines, responsibilities, and parliamentary oversight, instead of *ad hoc*, fragmented measures;
- Robustly undertake **politically sensitive structural reforms** flagged as required by ECtHR/CJEU judgments (e.g., in areas such as judicial independence, detention conditions, surveillance, and discrimination) instead of settling for technical or cosmetic fixes;
- Safeguard **judicial independence** and ensure that national courts are not hindered in consistently applying ECtHR and CJEU case-law, including disapplying conflicting national norms where required; and
- Create and strengthen **effective domestic remedies** (preventive and compensatory) to address recurrent violations and reduce the flow of repetitive cases to Strasbourg and Luxembourg.

MAPS AND TABLES

The state of non-implementation of ECtHR judgments in EU member states (leading judgments until 1 January 2025)

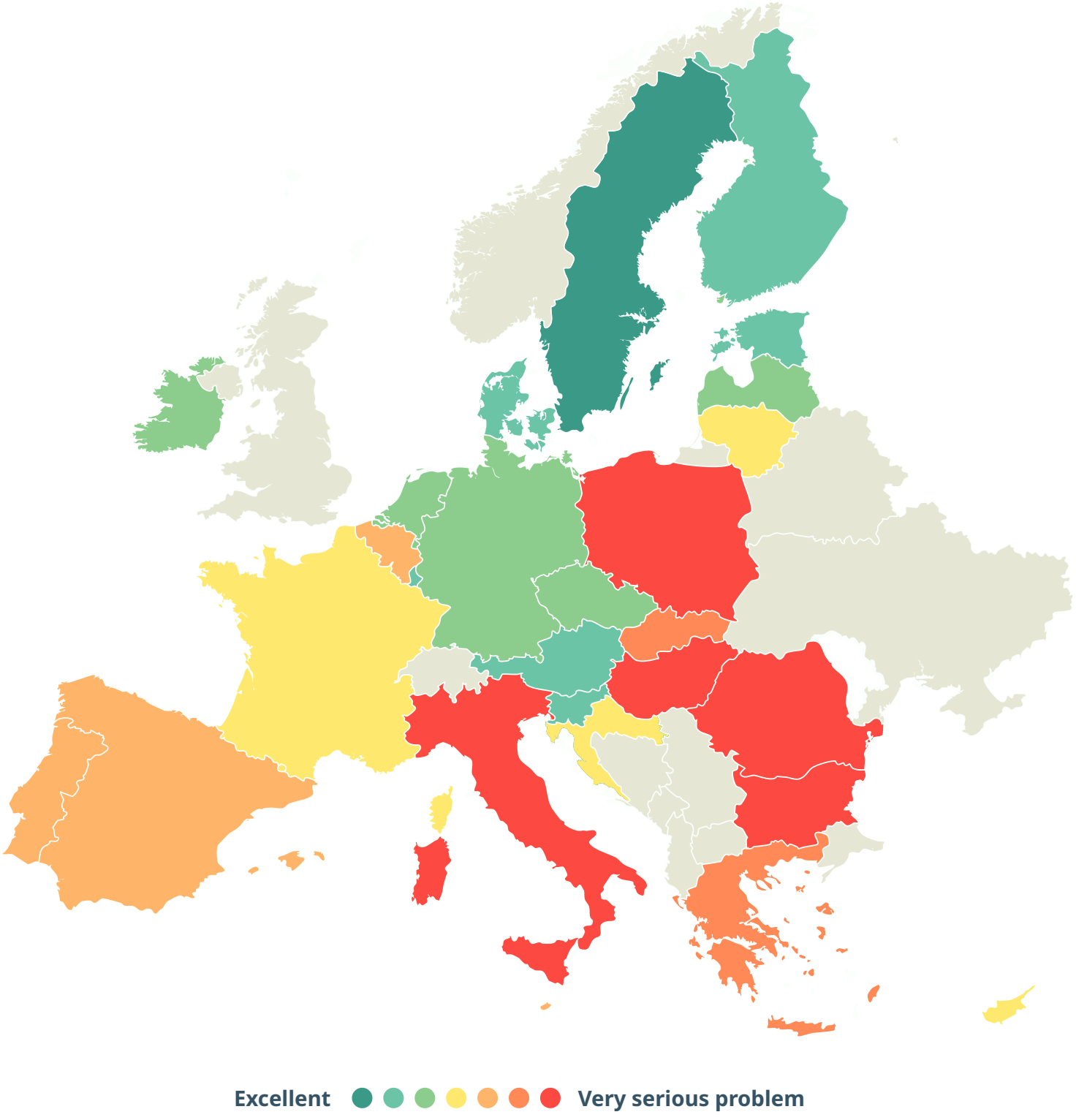


TABLE 1

Country	Overall assessment of implementation record	Indicators		
		Number of leading judgments pending implementation as of 1 January 2025	Percentage of leading judgments pending implementation from the last ten years	Average time leading pending cases have been pending implementation
Sweden	Excellent =	1 (very low) =	14% (low) ↗	3 years and 7 months (moderate) ↗
Austria	Very good ↗	5 (very low) ↘	28% (moderate) ↘	1 year and 11 months (low) ↗
Denmark	Very good =	3 (very low) =	43% (significant) ↘	2 years and 3 months (moderately low) ↗
Estonia	Very good =	5 (very low) ↗	26% (moderate) ↗	1 year and 10 months (low) ↗
Finland	Very good ↗	1 (very low) ↘	0%* (very low) ↘	10 years and 4 months (very high) ↗
Luxembourg	Very Good =	4 (very low) ↗	67% (very high) ↗	1 year and 6 months (low) ↗
Slovenia	Very good =	4 (very low) ↘	12% (low) ↘	1 year and 7 months (low) ↗
Czechia	Good =	9 (low) ↗	44% (significant) ↗	2 years and 8 months (moderately low) ↘
Germany	Good ↗	9 (low) ↘	29% (moderate) ↘	3 years and 8 months (moderate) ↘
Ireland	Good =	2 (very low) =	0%* (very low) ↘	12 years and 7 months (very high) ↗
Latvia	Good =	9 (low) ↗	21% (moderately low) ↗	1 year and 3 months (low) ↘
The Netherlands	Good =	7 (low) ↗	41% (significant) ↗	3 years and 2 months (moderate) ↘
Croatia	Moderate =	30 (moderate) ↗	32% (significant) ↗	2 years and 3 months (moderately low) ↘
Cyprus	Moderate ↗	8 (low) ↘	42% (significant) ↘	3 years and 6 months (moderate) ↗
France	Moderate =	26 (moderate) ↗	34% (significant) ↗	3 years (moderately low) ↘
Lithuania	Moderate =	20 (moderately low) ↘	32% (significant) ↘	4 years and 7 months (significant) ↗
Portugal	Moderately poor ↘	19 (moderately low) ↗	52% (high) ↗	5 years and 6 months (significant) ↘

TABLE 1

Country	Overall assessment of implementation record	Indicators		
		Number of leading judgments pending implementation as of 1 January 2025	Percentage of leading judgments pending implementation from the last ten years	Average time judgments pending implementation from the last ten years
Belgium	Moderately poor =	17 (moderately low) ↘	30% (moderate) ↘	4 years and 9 months (significant) ↗
Malta	Moderately poor =	14 (moderately low) ↘	57% (high) =	6 years and 6 months (high) ↗
Spain	Moderately poor =	23 (moderate) =	48% (high) ↘	3 years and 3 months (moderate) ↗
Greece	Problematic =	30 (moderate) ↗	34% (significant) ↗	6 years and 1 month (high) ↘
Slovakia	Problematic ↘	31 (significant) ↗	59% (high) ↗	3 years and 9 months (moderate) ↗
Bulgaria	Very serious problem =	89 (very high) =	54% (high) ↗	7 years and 3 months (high) ↗
Hungary	Very serious problem =	47 (high) ↗	74% (very high) ↘	6 years and 6 months (high) ↗
Italy	Very serious problem =	74 (very high) ↗	73% (very high) ↗	6 years and 4 months (high) ↘
Poland	Very serious problem =	52 (very high) ↗	51% (high) =	5 years and 5 months (significant) =
Romania	Very serious problem =	111 (very high) ↘	60% (high) ↗	6 years and 3 months (high) ↗

*In respect of the countries concerned, all outstanding leading judgments were falling, on 1 January 2025, out of the methodological scope of the present research as regards the "10-year rate of implementation" indicator, having been pending implementation for more than ten years.

The state of non-implementation of CJEU judgments across the EU (rule of law-related judgments until 1 January 2025)

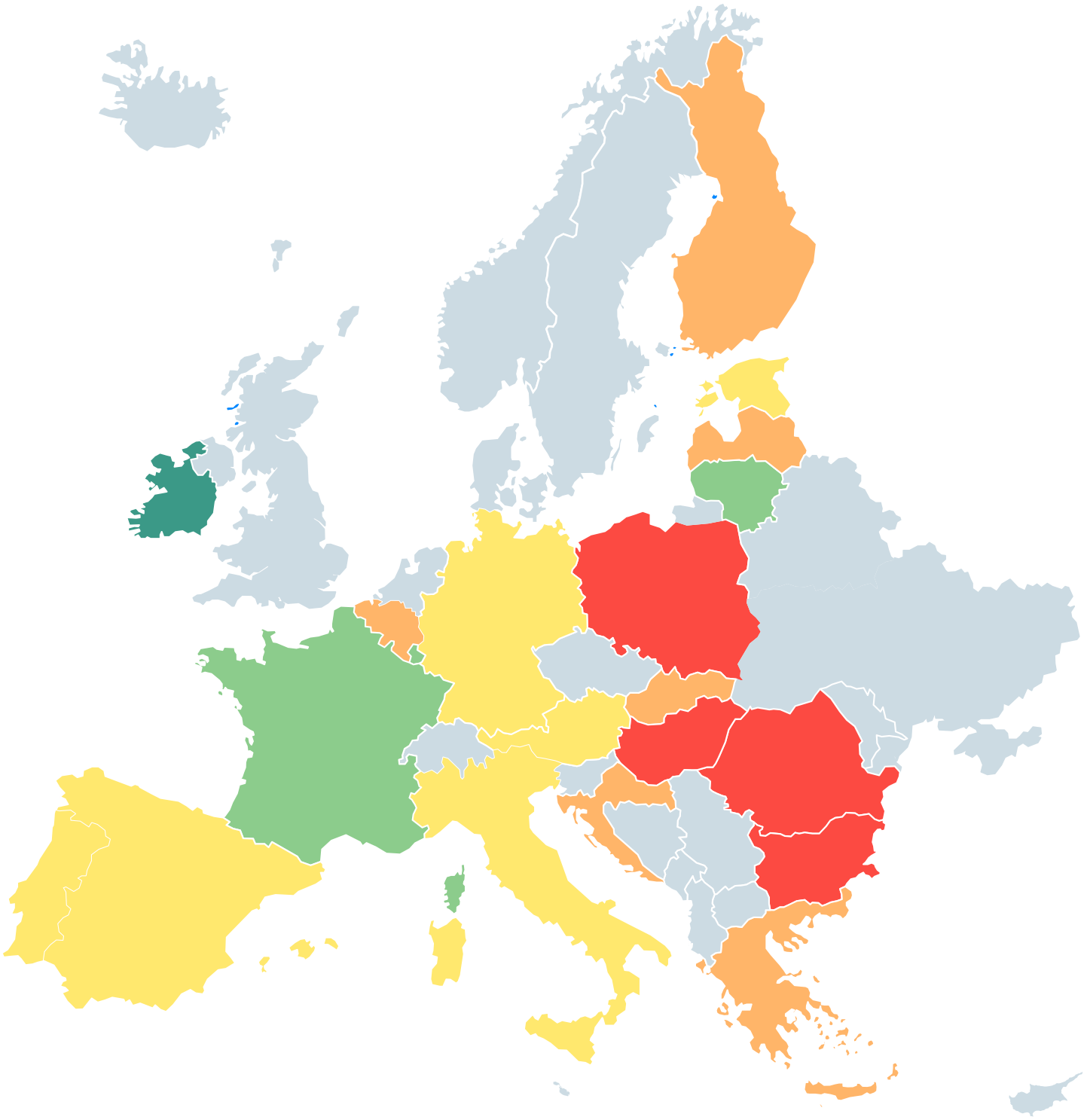


TABLE 2

Country	Final category (incl. adjustments)	No of rulings	Fully complied	Partly complied	Not complied	Impossible to assess	Compliance pending for 2+ years	Note
Ireland	Excellent complier	22	22 (100%)	0 (0 %)	0 (0%)	0 (0%)	0 (0%)	
Luxembourg	Good complier	5	4 (80%)	0 (0%)	1 (20%)	0 (0%)	0 (0%)	Non-compliance % too high for a good complier, exception made due to a small sample size and recency of the case.
France	Good complier	27	21 (77.78 %)	1 (3.7%)	2 (7.4%)	3 (11.11%)	1 (33.33%)	To watch the evolution in the patterns of judicial resistance.
Lithuania	Good complier	10	8 (80%)	2 (20%)	0 (0%)	0 (0%)	2 (100%)	
Italy	Moderate complier	40	33 (82.5%)	6 (15%)	1 (2.5%)	0 (0%)	4 (57.14%)	Downgrade due to delays in compliance in multiple cases.
Germany	Moderate complier	20	16 (80%)	3 (15%)	1 (5%)	0 (0%)	3 (75%)	Downgrade due to delays in compliance in multiple cases.
Spain	Moderate complier	20	14 (70%)	6 (30%)	0 (0%)	0 (0%)	4 (66.66%)	Barely meets full compliance threshold for good compliers; partial compliance too high, delays in multiple cases.
Austria	Moderate complier	42	29 (69%)	11 (26.19%)	2 (4.76%)	0 (0%)	6 (46.15%)	Remains in this category despite delays in multiple cases, as the delay share is lower than in downgraded states and the overall pattern shows low outright non-compliance and substantial partial compliance.

TABLE 2

Country	Final category (incl. adjust-ments)	No of rulings	Fully com-plied	Partly complied	Not com-plied	Imposs. to as-sess	Com-pliance pending for 2+ years	Note
Portugal	Moderate complier	12	8 (66.66%)	4 (33.33%)	0 (0%)	0 (0%)	3 (75%)	Remains in this category because low non-compli-ance and sub-stantial partial compliance mitigate the impact of the delays.
Estonia	Moderate complier	5	3 (60%)	2 (40%)	0 (0%)	0 (0%)	2 (100%)	
Belgium	Poor complier	28	16 (57.14%)	10 (35.71%)	2 (7.14%)	0 (0%)	11 (91.66%)	Downgrade due to signifi-cant delays in multiple cases.
Latvia	Poor complier	7	4 (57.14%)	1 (14.28%)	2 (28.57%)	0 (0%)	1 (33.33%)	Full compli-ance aligns with moderate compliers, but non-compli-ance exceeds acceptable range.
Slovakia	Poor complier	9	5 (55.55%)	1 (11.11%)	3 (33.33%)	0 (0%)	1 (25%)	Full compli-ance aligns with moderate compliers, but non-compli-ance exceeds acceptable range.
Greece	Poor complier	4	2 (50%)	1 (25%)	1 (25%)	0 (0%)	1 (50%)	
Finland	Poor complier	4	2 (50%)	2 (50%)	0 (0%)	0 (0%)	2 (100%)	Downgrade due to partial compliance pattern.
Croatia	Poor complier	3	1 (33.33%)	1 (33.33%)	1 (33.33%)	0 (0%)	0 (0%)	
Romania	Problematic complier	21	10 (47.6%)	4 (19,04%)	5 (23.80%)	2 (9.52%)	7 (77.77%)	Downgrade due to signif-icant delay in multiple cases.
Poland	Problematic complier	20	6 (30%)	6 (30%)	2 (10%)	6 (30%)	5 (62.5%)	Downgrade due to signif-icant delay in multiple cases.

TABLE 2

Country	Final category (incl. adjustments)	No of rulings	Fully complied	Partly complied	Not complied	Impossible to assess	Compliance pending for 2+ years	Note
Hungary	Problematic complier	20	5 (25%)	10 (50%)	3 (15%)	2 (10%)	11 (84.61%)	
Bulgaria	Problematic complier	57	10 (17.54%)	25 (43.85%)	9 (15.78%)	13 (22.8%)	18 (52.94%)	Transparency gap (hard to assess compliance in 13 cases) signals potentially even worse record.
Cyprus	Uncategorised	1	0 (0%)	1 (100%)	0 (0%)	0 (0%)	1 (100%)	Sample size too small.
Slovenia	Uncategorised	1	1 (100%)	0 (0%)	0 (0%)	0 (0%)	0 (0%)	As above
Denmark	Uncategorised	2	2 (100%)	0 (0%)	0 (0%)	0 (0%)	0 (0%)	As above
Malta	Uncategorised	1	1 (100%)	0 (0%)	0 (0%)	0 (0%)	0 (0%)	As above
Sweden	Uncategorised	1	0 (0%)	1 (100%)	0 (0%)	0 (0%)	1 (100%)	As above
All rulings		**382**	**223** (58.4%)	**98** (25.6%)	**35** (9.2 %)	**26** (6.8 %)	**84** (63.15%)	

JUDGMENTS OF THE ECtHR

Case selection

The analysis focuses on leading ECtHR judgments pending implementation, rather than all pending judgments. Leading judgments, as classified by the Committee of Ministers (and as opposed to repetitive ones), identify a human rights problem in a country for the first time and often concern structural or systemic issues. A case is treated as implemented only when a Final Resolution is adopted by the Committee of Ministers, i.e. once all required general measures have fully addressed the root cause of the violation; otherwise, similar violations recur and new repetitive applications reach the Court.

Data collection and country profiles

Data are accurate as of 1 January 2025. The number of pending leading judgments per country is taken from the Council of Europe's *2024 Annual Report on the supervision of ECtHR judgments*[3], while all other indicators are based on statistical analysis carried out relying on data derived from the *"Hudoc Exec" database*.[4] Country profiles present these indicators together with a qualitative assessment of each state's implementation record.

Indicators and classification

Three indicators are applied uniformly across member states: (1) the number of pending leading judgments; (2) the share of leading judgments from the last ten years that remain pending; and (3) the average time leading judgments have been pending. Each indicator is interpreted through a common classification grid, with levels from "very low" to "very high" concern, and associated qualifiers such as "very serious problem", "moderate", "low" or "very low".

Interpreting the indicators

The number of pending leading judgments is the primary indicator, as it reflects the overall backlog of unresolved problems. The ten-year proportion indicator captures the states' global ability to effectively implement ECtHR leading judgments, on the basis of the rule-of-thumb principle that implementation processes unable to be completed within five years in general or within ten years at most as regards complex, structural problems reveal an express or tacit resistance to implementation and/or severe dysfunctions of the national implementation mechanisms. This indicator must be interpreted carefully, as high or zero values may reflect recent inflows or very old backlogs rather than current performance. The average time pending shows how long time a jurisdiction typically needs to fully resolve the entire mix of implementation challenges it is faced with, however small or big these may be; unusually high or falling averages can be explained by the mix of very old, ongoing and newly arrived leading cases, which is taken into account in the qualitative assessment.

Assessing state performance

Based on these indicators, each country receives an overall descriptive rating (e.g. "Excellent", "Good"). This rating is not produced by a rigid formula: it is anchored in the quantitative results but adjusted in light of qualitative information and country-specific context.

Contextual adjustments and methodological limits

The methodology, mirroring that of the Committee of Ministers' when assessing implementation progress, does not distinguish between unjustified delays and the time genuinely needed to implement complex reforms, nor does it quantify the severity of violations or the complexity of required measures. This is because the binary framework relied upon by the Council of Europe institutions to assess implementation, which forms the basis of our own methodology, only allows for the consideration of fully implemented judgments, closed by a Final resolution. To address this, the quantitative indicators are complemented by a qualitative analysis of states' responses to key themes in ECtHR case-law. While imperfect, these indicators and the accompanying classification grid represent, to the authors' knowledge, the best available basis for a comparative assessment of ECtHR judgment implementation across EU member states.

JUDGMENTS OF THE CJEU

Case selection

This fourth edition examines compliance with CJEU rulings related to the rule of law delivered between 1 January 2019 and 1 January 2025 with state of implementation as of 1 May 2025. Relevant rulings are identified using the definition of the rule of law in the *2020 Regulation on the General Regime of Conditionality*[5] and the four pillars of the European Commission's *Rule of Law Report*[6] (justice systems, anti-corruption, media freedom and pluralism, institutional checks and balances). The dataset covers both infringement actions and preliminary references.

Data collection and country profiles

Data was collected for 25 EU member states. Data collection involved identifying rule-of-law–related CJEU rulings and tracking national follow-up. For each member state, at least one (usually two or more) experts contributed to an assessment that recorded: the number of relevant rulings, the share fully, partially and not complied with, and the number and percentage of rulings with significantly delayed compliance (pending for two years or more). These inform country profiles combining quantitative and qualitative analysis.

Indicators and classification

Compliance is defined broadly to capture how judicial and political authorities respond to CJEU rulings. The assessment considers whether referring and higher courts apply the Court's guidance, whether other courts follow and disapply conflicting national rules where necessary, and whether political authorities take steps to align national law and practice with EU law. Three levels of compliance are distinguished: full compliance, partial compliance and non-compliance.

Interpreting the indicators

High levels of full compliance indicate that courts and, where relevant, political authorities generally follow CJEU rulings. Partial compliance can reflect gradual adjustment in the short term, but persistent or widespread partial compliance points to structural implementation gaps. Non-compliance signals ongoing breaches of EU law and resistance to the Court's authority; a high non-compliance share is treated as particularly serious. Significantly delayed compliance (pending for two years or more) is used as an additional indicator of implementation challenges.

Assessing state performance

Member states are grouped into six categories — "excellent", "good", "moderate", "poor", "problematic" and "highly problematic" compliers — based on the proportions of rulings fully, partially and not complied with. Absolute numbers play a limited role, given varying caseloads. Compared to earlier editions, the move to six categories reflects a larger sample (25 states) and dataset, allowing more nuanced and proportionate classification.

Contextual adjustments and methodological limits

While classification is driven by quantitative thresholds, strictly percentage-based categorisation may not fully reflect compliance dynamics. In exceptional cases, factors — such as systemic delays (numerous long-pending cases) or very high non-compliance rates — justify adjusting a state's category by one level. For states with very few relevant rulings, inflated percentages are interpreted with caution, and classifications may be marked as indicative with explanatory notes. As with the ECtHR analysis, the methodology cannot fully capture differences in the effort or difficulty behind similar numerical patterns, so expert judgment and contextualised country profiles play an essential role.

For a more detailed account of the methodology, see Annex 1.

FINDINGS

INTRODUCTION

Marking the 75th anniversary of the European Convention on Human Rights (ECHR), Europe's two regional courts — the ECtHR and the CJEU — remain central pillars of the continent's constitutional order. For decades, they have shaped the standards that safeguard individual freedoms, democratic accountability, and the rule of law. In an era where far-right parties and governments challenge their authority, their role has only grown more critical.

The 2025 case-law of the two Courts underscored the stakes. For example, the ECtHR's judgment in *Ukraine and the Netherlands v. Russia* found Russia responsible for "widespread and flagrant" human rights violations throughout the conflict in Ukraine, from the downing of flight MH17 to systemic abuses against civilians. The CJEU, in C-225/22 R S.A. v AW T Sp. z o.o., reaffirmed that judges appointed to Poland's Supreme Court through a non-independent judicial council lack the independence required under EU law — and went a step further, instructing Polish courts to disregard rulings issued by such judges. This was a decisive shift away from the Court's earlier caution in addressing defective judicial appointments.

While the two courts differ in structure and procedure, both are indispensable to Europe's legal ecosystem. The ECtHR allows individuals to bring claims against Council of Europe states for human rights violations. The CJEU, by contrast, focuses on interpreting and enforcing EU law through infringement actions, preliminary references from national courts, and challenges involving EU institutions. Both can hear interstate cases, but their routes to justice remain fundamentally different.

Enforcement also diverges. Implementation of ECtHR judgments is monitored by the Council of Europe's Committee of Ministers – a well-established but often strained system, with limited capacities to coerce resistant implementers into compliance. The CJEU relies on a patchwork approach: the European Commission oversees compliance in infringement and interstate cases, yet implementation of preliminary rulings depends almost entirely on national courts, with little systematic follow-up. This leaves the broader picture of compliance incomplete. One goal of this report is to close that gap.

At this 75-year milestone – with both courts issuing landmark rulings while facing renewed political pressure – the question of whether states actually implement their judgments is more urgent than ever. Our report examines compliance with ECtHR and CJEU decisions up to 31 December 2024, assesses their real-world impact, and identifies ways to reinforce Europe's legal safeguards in the years ahead.

Despite their differences, both courts bring major gains for human rights and democratic governance when their rulings are respected. The Committee of Ministers and the European Commission have invested heavily in monitoring

compliance, and the ECtHR system, alone, has prompted the closure of many leading judgments over time. Yet resistance is rising. Even established democracies increasingly ignore or sidestep rulings on judicial independence, free expression, asylum rights, or academic freedom — sometimes openly, sometimes by offering only the appearance of engagement.

Our study sets out the scale of the problem. It provides data on how EU member states are performing, highlights key judgments that remain unimplemented, and offers recommendations for both the EU and the Council of Europe. Building on previous editions, this year's report refines our methodology and expands our thematic analysis of systemic human rights issues. The goal is simple but urgent: to expose the growing problem of non-implementation and support efforts to protect the rule of law across Europe.

COMPARING THE TWO COURTS

	European Court of Human Rights	Court of Justice of the European Union
Is an institution of...	the Council of Europe	the EU
Hears cases concerning...	violations of human rights enshrined in the European Convention on Human Rights	the interpretation and application of EU law
Is composed of...	judges representing all 46 Council of Europe member states	judges representing all 27 EU member states
Cases can be brought to it by...	anyone claiming their human rights have been violated by Council of Europe member states, after domestic remedies have been exhausted	references from EU member state courts, by EU institutions, or by anyone claiming their interests have been harmed by the action of EU institutions
Seat in...	Strasbourg	Luxembourg
Implementation of judgments overseen by...	the Committee of Ministers of the Council of Europe	the European Commission
Possibility of financial sanctions over non-compliance with judgments?	No	Yes

What is common in both European jurisdictions are the gains for the protection of fundamental human rights and the upholding of democratic principles and the rule of law that result from effectively implementing the European Courts' rulings. The institutions tasked with overseeing the implementation of the judgments – the Council of Europe's Committee of Ministers and the EU's European Commission – have dedicated significant efforts to pursuing meaningful implementation and follow-up of the judgments, with the Council of Europe mechanism leading to the closure of an important number of leading judgments over the history of the ECtHR – i.e., the apparent (albeit not unquestionable in all instances) resolution of an equal number of human rights problems. Despite this importance, both courts face a growing questioning of their authority by national authorities, unwillingness or inability to follow the courts' judgments, and, in an ever-increasing number of cases, active resistance and attempts to undermine the acquis. Democratic countries that pride themselves on their record on human rights and the rule of law have openly flouted key judgments by the ECtHR and CJEU. Governments trying to sidestep democratic commitments they have made as EU members have systematically ignored rulings related to the independence of the judiciary, free speech, asylum rights, and the autonomy of universities, be it expressly or tacitly, through diversionary tactics that create appearances of engagement with the implementation mechanisms while consistently failing to result in the genuine reforms needed.

Our study aims to highlight the issue of non-implementation, present data showcasing how EU member states perform on implementation, highlight key judgments that are not being followed, and issue recommendations aimed at EU and Council of Europe bodies. We have developed a set of methodologies that allow us to examine the situation related to both the ECtHR and CJEU, and to assess the level of non-implementation of both courts' judgments. While a direct comparison is unfeasible, due to the differences between the courts, our analysis hopes to provide a broader picture of the issue of non-implementation, and to help readers assess the performance of each EU member state. This iteration of our report builds upon three previous editions (*here,*[7] *here,*[8] and *here*)[9], and expands upon the approach taken earlier, with our methodologies evolving to provide a more complete understanding of the issue.

Concerning both European Courts, we have furthermore continued developing a thematic approach, bringing added qualitative elements to further nuance to the analysis, with a focus on fundamental systemic human rights issues. Our report summarises the current state of play with non-implementation, and includes recommendations aimed at key stakeholders towards improving the situation and pushing back against damage to the rule of law in Europe.

2. COUNTRY PERFORMANCE IN RESPECT OF BOTH COURTS

(quantitative analysis)

2.1 (Non) implementation of judgments I: ECtHR

Number of leading judgments pending implementation

As of 1 January 2025, there were **650 leading ECtHR judgments** pending implementation across the EU.[1] Similarly to last year, **Bulgaria (89), Hungary (47), Italy (74) and Poland (52)** continued to negatively lead the scoreboard in respect of this indicator, with **Romania** remaining the state with the highest number of leading judgments pending implementation – **111**. On the other hand, **Austria (5), Denmark (3), Estonia (5), Luxembourg (4) and Slovenia (4)** had the lowest numbers of leading cases pending implementation. Particular mention ought to be made of **Finland**, which managed to almost eliminate its long-standing backlog of leading judgments within two years, bringing the number of pending leading cases **from nine at the end of 2022 to one at the end of 2024**. The important influx of new leading cases decided by the ECtHR in 2024 increased the figures in relation to this indicator more substantially for certain countries, including, e.g., **Czechia and France** (which respectively passed **from five and 20 pending leading cases, in 2023, to nine and 26 in 2024).**

Proportion of leading judgments from the last ten years that are still pending implementation

Regarding the **second indicator, 45.7 per cent** of the leading judgments of the ECtHR pronounced with regard to EU States in the **last ten years were pending implementation at the end of 2024.** In most instances of states presenting elevated figures in respect of this

indicator, this was indicative of an overall struggling jurisdiction implementation-wise (as is the case, e.g., in respect of **Bulgaria (54 per cent), Italy (73 per cent), Poland (51 per cent) and Romania (60 per cent). Hungary** remained the state recording the highest rate of leading ECtHR rulings rendered in the last ten years still awaiting implementation – **74 per cent**. High figures in respect of this metric despite less negative tendencies regarding the other two indicators contributes to the final qualification of a country's overall implementation record as "moderately poor" in almost all jurisdictions concerned (in particular, **Portugal [52 per cent], Malta [57 per cent] and Spain [48 per cent]).** Concerning **Bulgaria, Hungary, Italy, Malta, Poland, Portugal, Romania and Slovakia, over 50 per cent** of the leading judgments rendered against them in the last ten years had yet to be fully implemented.

The above notwithstanding, certain states may be scoring high in respect of this indicator **for other reasons**, not necessarily qualifying as an implementation problem. This mostly concerns instances where an important number of new leading ECtHR judgments **came recently before the Committee of Ministers** for supervision (often in the context of jurisdictions that generally respect the Convention standards and, thus, do not generate violation-finding judgments or **were not already burdened with an important implementation backlog (e.g., Czechia [44 per cent], Denmark [43 per cent] and Luxembourg [67 per cent**]). Finally, in 2024, **Finland and Ireland**'s figures in respect of this indicator went down to **zero**. This was because all outstanding leading judgments of these countries fell, on 1 January 2025, out of the methodological scope of the present research as regards the "10-year rate of implementation" indicator, having been pending implementation for more than ten years. This continued to add to the ever-increasing percentage of judgments that cannot be taken into account in the context of this research because **they reach the regrettable milestone of turning "plus ten-years"** (already representing more than 15 per cent of the overall number of leading cases pending implementation last year).

Average implementation time concerning leading judgments

Regarding the **third indicator**, the **average length of time** leading ECtHR judgments concerning EU states had been pending implementation for in 2024 was **5 years and 4 months**. Several factors contribute to shaping this metric in respect of individual EU jurisdictions. On the one hand, the complexity of certain systemic violations may justifiably increase the time needed for a state to resolve them; on the other, the increased influx of new leading judgments in a given year shortens that indicator artificially. In 2024, **ten states** presented an average implementation time of **more than five and up to more than 12 years.** Six of those are countries with a problematic **(Greece)** or very problematic implementation record **(Bulgaria, Hungary, Italy, Poland, and Romania),** which means that these jurisdictions

have an increased number of cases that remain unimplemented or not fully implemented for an unjustifiably lengthy period. Many of these judgments relate to systemic or structural human rights problems identified in the laws, policies, jurisprudence, and/or practices of the states. These long-standing, unresolved problems contribute to the erosion of democratic values and the rule of law in EU member states, while continuing to negatively affect the rights of citizens and non-citizens alike. Worryingly, **ten states (Belgium, Bulgaria, Czechia, Greece, Hungary, Italy, Lithuania, Malta, Poland, and Romania)**, all have cases that have been pending implementation **for more than 15, and up to 24 years** (this latter negative record was held – until mid-2025 – by Italy and concerned the case of *Ledonne (no. 1)* [10] (excessive length of criminal proceedings). On the contrary, Ireland had, in 2024, an average implementation time of **12 years and 7 months,** but on the basis of only a small backlog of two non-implemented cases. This raises smaller, but still not negligible implementation concerns; although Ireland has generally been, throughout its history, a Convention-compliant jurisdiction, this very high average implementation time begs the question of whether the Irish national implementation mechanism would prove to be an effective one should the country have a bigger backlog of pending cases.

2024: The global ECtHR implementation picture

Regarding the **overall implementation picture, Bulgaria, Hungary, Italy, Poland, and Romania** remained the **most struggling jurisdictions** in 2024 (some potentially more encouraging trends that had started to shape up in respect of Romania at the time of writing this report in 2025 will be evaluated in the next edition). The same jurisdictions remained troubled, in large numbers, by **thematically common violations** that most often turn into implementation stumbling blocks, thus raising important rule of law concerns. By way of example, **nine out of the 14 judgments pertaining to the independence of the judiciary** monitored by the Committee of Ministers in 2024 concerned **Poland**, whereas **Bulgaria and Hungary**'s pending leading judgments concerning **free speech** were jointly accounting for **more than one-fourth of the total number of relevant judgments EU-wide**. A number of member states demonstrated significant dynamics in 2024, resulting in either **improving** their implementation score (**e.g., Austria, Cyprus, Finland, and Germany) or worsening it (e.g., Portugal and Slovakia). Croatia** and **France** borderline maintained their qualifications as **moderate compliers**, but they are candidates for downgrading next year, should some negative dynamics that were detected this year persist.

2.2 (Non) implementation of judgments II: CJEU

This 2025 report covers 382 rulings of the CJEU issued between 1 January 2019 and 1 January 2025, implicating 25 EU member states. Of those **382** rulings, **223 (58.4 per cent)** were fully complied with, **98 rulings (25.6 per cent)** were complied with only partly, and **35 rulings (9.2 per cent)** were not complied with at all. Twenty-six rulings (6.8 per cent) were classified as impossible to conclusively assess, in many instances due to the unavailability of national court rulings or other documents. Of the 133 rulings not yet complied with, 84 have been pending compliance for two years or more (representing 63.15 per cent of the overall number of rulings not yet complied with).

States such as Hungary and Bulgaria are categorised as **problematic compliers**, with low levels of full compliance (25 and 17.5 per cent, respectively), high levels of partial compliance (50 and 44 per cent, respectively) and non-compliance (around 15 per cent each). Significant portions of these rulings not yet complied with have been pending for two years or more – Hungary — 84.6 per cent and Bulgaria – 52.9 per cent.

Poland has shown some progress in the past year, reducing the portion of non-complied rulings from 50 to 40 per cent. This improvement is due to changes in the system of secondment of judges and the reinstatement of a judge, in line with the CJEU rulings. Nevertheless, a significant number of rulings remain pending compliance – eight in total, including six that have been complied with only partly and two not at all. Of these eight rulings, five (62.5 per cent) have been pending for two years or more, while three are relatively new. The core issue is the government's failure to reverse the capture of key judicial institutions, largely due to presidential obstruction of reform efforts. Although some progress has been made, ongoing delays in justice system reform mean that Poland remains in the problematic complier category.

The same applies to **Romania**, where almost all rulings related to the justice system and its independence are still pending compliance; out of nine rulings not yet complied with, eight are related to this theme. Out of those nine, seven, or 77.8 per cent, have been pending for two years or more. This results from the combination of inadequate legislative reforms and resistance from top courts.

Although Belgium, Latvia, and Slovakia would qualify as **moderate compliers**, given that they have fully complied with over half of their rulings, they are instead classified as **poor compliers**. This downgrade stems from high levels of non-compliance in Latvia and Slovakia (around 30 per cent), and from significant delays

in Belgium. In Belgium's case, **11 judgements – amounting to 91.7 per cent of all outstanding rulings – have been pending for two years or more.** Greece and Finland also fall into the poor complier category.

Austria, Estonia, and Portugal fall within the **moderate complier category**, with roughly 60-70 per cent of rulings fully complied with, and 30-40 per cent only partly implemented. Austria has complied with many rulings – mostly related to asylum and migration – only partially. This is particularly concerning, given that **six of these rulings (46.2 per cent) have been awaiting full compliance for more than two years.** Portugal performs somewhat better, as it has acted on all rulings, fully implementing two in the past year, including one from 2021. Four rulings have been only partly implemented, however, and **all but one of these have been pending full compliance for an extended period.**

While Germany and Italy could be regarded as good compliers by virtue of the number and percentage of fully complied-with rulings, this is precluded by significant delays in compliance in multiple cases. Spain meets the threshold for good compliers in terms of full compliance, albeit barely, but is dragged down by 30 per cent partial compliance and multiple rulings pending for over two years.

Ireland stands out as an excellent complier, having fully implemented all assessed rulings without any partial or non-compliance, nor signs of delay or ambiguity. **France** and **Lithuania** follow closely behind in the good complier category. Both display solid full compliance rates (above 80 per cent) and only minimal issues with partial implementation. France is notable for maintaining this position despite isolated top-court resistance in one ruling, while Lithuania's strong record is slightly weakened by delays in two cases. **Luxembourg** is also placed in this category, with a caveat – although one of five rulings has not been complied with (20 per cent, which is too high for a good complier), the small sample size and recency of that case justify an exception. These high performers collectively show that strong compliance is achievable, even in complex legal areas, but that maintaining such standing depends on continuous legal and institutional vigilance.

Cyprus, Malta, Slovenia, and Sweden are not categorised, due to the **limited number of rulings (only one each). Denmark** belongs to the same category, with 2 rulings. In such cases, even a single instance of partial or full compliance can distort the broader picture, and no general pattern can be reliably identified. While Malta and Slovenia fully complied with their single rulings, Cyprus and Sweden only showed partial compliance. These cases are flagged for caution, and their future performance will be evaluated as more data becomes available.

Three key observations emerge from this analysis

Partial compliance, often rooted in judicial resistance or political reluctance to revise laws or practices, is a notable and persistent pattern. It is relatively unproblematic when a ruling is recent, as in Luxembourg's case. It becomes of significantly greater concern, however, when reforms are allowed to drift for extended periods, remain stalled, or are left only partially implemented, as seen in Belgium and Hungary, or even in isolated instances in states with otherwise strong compliance records, such as Germany and Italy.

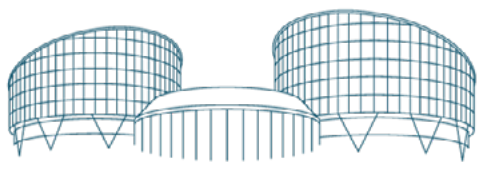
Referring courts often secure **case-level compliance,** but **systemic non-alignment persists.** This is largely due to the failure of national legislatures and executive agencies to adopt broader legal or policy reforms, or to shift entrenched institutional cultures. This pattern is evident, for example, in Austria and Bulgaria. In many situations, the primary bottleneck is not the judiciary, but the political authorities. The absence of systemic solutions often stems from a lack of political will or from obstruction by veto players, such as a president exercising the right of veto, as seen in Poland.

Some correlation emerges between the **quality of a country's rule of law environment** and its **level and depth of compliance with CJEU rulings.** While the relationship is not perfectly linear, the patterns across member states reveal that countries with **strong judicial independence, effective checks and balances, and higher institutional integrity** generally achieve **faster, fuller, and more systemic compliance.** Conversely, states with **weak rule of law safeguards** struggle. Although partial compliance or non-compliance still occurs in countries with solid rule of law records – often because of slow legislative procedures or policy disagreements – the overall trajectory remains towards eventual alignment.

3. CROSS-CUTTING ISSUES IN BOTH COURTS

3.1 Issues in the ECtHR

The implementation of leading judgments of the European Court of Human Rights, especially of those **identifying structural or systemic problems**, often requires the adoption of **a series of complex general measures**, including introducing constitutional or legislative amendments, regulating widespread and/or well-entrenched administrative practices, and reforming policies. Such reforms often require widespread coordination amongst many levels of national and regional governance, as well as the allocation of considerable financial resources. It is therefore natural for the implementation process to extend in time in such cases, creating understandable – up to a certain point — delays between the identification of the problem by the Court and its final resolution at the national level.



EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

As highlighted in previous editions of this report, the undermining of the rule of law, in general, and of the Convention implementation mechanism, in particular, is linked with **undue delays in the implementation process, in the absence of a structural/ systemic nature of the violation established by the ECtHR.** Such delays result from a **lack of political will** to effectively tackle the sources of violations, which is **expressed through either an open or a tacit (through extreme, undue delays) resistance to adopting the necessary reforms**. Against a global climate of governments and parliamentary majorities, especially from the far-right, challenging human rights and the rule of law, specific themes/sources of violations of the Convention are increasingly more susceptible to creating implementation stumbling blocks. In the last evaluation cycle, we

started exploring some of the most important **cross-cutting issues that generate resistance to or undue delays in implementation**. Many of these themes remained relevant in 2024. The present report thus builds on those issues and focuses on further relevant developments recorded in 2024. A constant evolution of the ECtHR case-law also requires expanding the scope of the present research, which, this year, also touches upon the issue of human rights in the context of the triple planetary crisis[2] for the first time. As the present report focuses on 2024 developments only, it should be regarded as complementing the information provided in the *previous edition of this report.*[11]

INDEPENDENCE AND IMPARTIALITY OF THE JUDICIARY

As of 31 December 2024, there were **14 leading ECtHR judgments related to the independence and impartiality of the judiciary pending implementation. Bulgaria, Hungary, and Poland** remain the EU member states raising the most significant concerns. At the end of 2024, substantial reforms required to ensure the upholding of the rule of law in these jurisdictions remained outstanding, despite fragmental progress in some of them. Developments

also continued to be monitored in respect of **Romania and Spain.**

The number of pending leading judgments related to the independence and impartiality of the judiciary in **Poland** increased from six (in 2023) to nine (at the end of 2024). Most of the relevant systemic issues identified by the ECtHR in Poland continued to arise from a series of 2017 judicial reforms, heavily criticised at pan-European level, that weakened judicial independence and directly compromised the rule of law in the country. The pertinent leading judgments concern, in particular:

- Grave breaches of the procedure for the **appointment of judges on Constitutional Court panels**, in contravention of domestic law, affecting the right to a tribunal established by law (*Xero Flor w Polsce sp. z o.o v. Poland*);[12]

- Reforms resulting in the **lack of independence of the National Council of the Judiciary (NCJ) and, subsequently, generating severe relevant shortcomings** (including the appointment of new judges on various Supreme Court Chambers "in an inherently deficient procedure" [*Reczkowicz v. Poland*[13] group]; the premature *ex lege* termination of a judge of the Supreme Administrative Court, who had been elected as a judicial member of the NCJ for a four-year term of office [*Grzęda v. Poland*];[14] and the premature termination of the mandates of a regional court's vice-president [*Broda and Bojara v. Poland*][15]);

- The imposition of **disciplinary or other measures on judges to discourage them from examining the legality of judicial appointments or defending the rule of law** (including measures taken against a judge, judicial member, and spokesperson of the NCJ in connection with his views in defence of judicial independence [*Żurek v. Poland*][16]; and the applicant's suspension from exercising judicial duties by the Disciplinary Chamber of the Supreme Court, because he had assessed the independence of a judge appointed upon recommendation of the captured NCJ [*Juszczyszyn v. Poland*][17]);

In relation to the second cluster of problems, in 2024 the ECtHR rendered, two important, new leading judgments. The first one concerned several violations, resulting from **the unlawful reversal of final domestic decisions, which had found in favour of the applicant, by the Supreme Court's Chamber of Extraordinary Review upon the initiative of the Prosecutor General.** This prompted the ECtHR to apply, in February 2024, the pilot judgment procedure in *Wałęsa v. Poland*[18], and to suspend the consideration of 492 other similar cases for one year, pending the implementation of the pilot judgment. Furthermore, in 2024, the ECtHR found important violations of the Convention as a result of the **discriminatory lowering of the retirement age for female judges** and the refusal on the part of the Minister of Justice and the NCJ to allow the applicants to continue performing their duties after reaching retirement age without providing reasons and without judicial review (*Pająk and Others v. Poland*).[19]

Following a change in government after the October 2023 parliamentary elections,[3] the Polish authorities demonstrated a fundamental shift in their attitude towards the implementation of judgments pertaining to the independence and impartiality of the judiciary, in contrast to the previous government's overt opposition to the authority of the European Courts on this matter.[4] Thus, the Polish jurisdiction became, in 2024, a true rule of law laboratory, as the country began transitioning from an unfavourable environment for the rule of law towards the gradual reinstatement of the latter. Since then, this path has been filled with severe obstacles raised by the depth and complexity of the reforms required, in conjunction with the radically divergent, yet strongly-defended opinions on the most appropriate ways forward.

At international level, in July 2024, the Polish Minister of Justice, Adam Bodnar, addressed the European Commission for Democracy through Law (Venice Commission) with four questions, linked to **two models to address the issue of new judges appointed by the captured NCJ** (the so-called "neo-judges", who were accounting for 20-25 per cent of the total number of judges in the country at the end of 2024)[5] The first model **viewed all judges appointed in the inherently defective procedure as non-judges.** This would have resulted in all decisions issued by these judges, including those about NCJ appointments, being considered as non-existent as well. The second model **favoured a case-by-case analysis of the judicial appointments.** Without assessing directly the models proposed, the Venice Commission *concluded*[20] that a wholesale retroactive invalidation of all the appointment decisions of the NCJ (and thus, a blanket return of all neo-judges to their previous positions) would not fit into the rule of law concept, as it would, among other concerns, fail the proportionality test and the principle of separation of powers. Instead, **the Venice Commission recommended adopting a case-by-case approach**,[6] giving the right to affected judges to seek judicial review against the invalidation of their nominations or promotions.

At national level, in relation to *Xero Flor w Polsce sp. z o.o v. Poland*[21], in spring and summer 2024, the Polish *Sejm* – the lower chamber of parliament – adopted (in addition to a resolution denouncing the effects of the constitutional crisis of 2015-2023 in respect of the activities of the Constitutional Court) **an Act on the Constitutional Court,** including transitional provisions. The draft Act focuses, in particular, on increasing the efficiency, independence, and transparency of the election procedure for judges, as well as on possible ways to eliminate the consequences of the unlawful composition of the Constitutional Court. Controversially, the draft legislation foresaw that all judgments and decisions of the Constitutional Court delivered by unlawfully appointed judges would become invalid (except for those that have, in turn, led to further legal actions), and that the relevant cases would need to be reheard. The Senate referred the draft Act back to the *Sejm* for further modifications. In parallel, **the Senate introduced draft amendments to Poland's Constitution** aimed at strengthening the independence and impartiality of its Constitutional Court. While the Committee of Ministers positively assessed

those draft proposals,[7] **academics and civil society insisted that the government could have opted for a more targeted and nuanced way to address these issues**, including in relation to the irregularly appointed members of the Constitutional Court, on one hand, and to the status of rulings adopted by its irregular composition, on the other, to avoid unnecessary negative effects on the overall functioning of the Polish legal system, on the principle of legal certainty, and on the interests of people who had acquired rights in good faith.

In December 2024, the Venice Commission further *indicated*[22] that three judges irregularly appointed to the Constitutional Court should be required *ex lege* (by law) "to immediately withdraw from all pending cases, with no new cases being allocated to them", and asked the Polish authorities **to reconsider addressing the status of decisions adopted with the participation of irregularly appointed judges in a manner that did not entail an *ex lege* invalidation of all these decisions**. Additionally, the Venice Commission indicated that it could not support the solution proposed in the draft constitutional amendments to restore the lawful composition of the Constitutional Tribunal by completely renewing its membership.

At the end of 2024, all of the above-mentioned reforms were still ongoing, amid intensive deliberations in a highly polarised political environment.

Similarly, at the end of 2024, the legislative reform undertaken in the context of the *Reczkowicz v. Poland*[23] group, seeking to restore the independence of the NCJ by returning the electoral prerogative of the NCJ's judicial members from parliament to judges, was yet to be finalised. In May 2024, the Venice Commission *favourably assessed*[24] the national authorities' **efforts to ensure that the principle of the election of judicial members of the NCJ by their peers is respected and applied.** In September 2024, the Polish minister of justice presented **a tailored legal solution to regulate the status of irregular judges**, by distinguishing between three categories, based on the concerned judges' degree of contribution to the dismantling of the rule of law, and adopting a more lenient approach towards those who express "active regret". Regarding *Broda and Bojara v. Poland*[25] and *Grzęda v. Poland*,[26] the Polish government had not elaborated, by the end of 2024, on the measures required to ensure the protection of presidents and vice-presidents of courts from arbitrary dismissals, including through the introduction of judicial review. Despite the authorities' reference to ongoing legislative work to increase the role of judicial self-government in the functioning of courts, no agreement has been achieved on the **need to introduce a specific judicial remedy in the case of premature ex lege termination of the judicial members of the NCJ**, as the Polish authorities appear to consider that the situation that led to the violation in *Grzęda v. Poland*[27] was extraordinary, and cannot be reproduced. As regards the *Wałęsa*[28] pilot-judgment, the Polish authorities informed the Committee of Ministers of their **intention to carry out a legal reform abolishing the Chamber of Extraordinary Review in the Supreme Court and the extraordinary review appeal.** Despite

the positive assessment of that initiative by the Committee of Ministers, the authorities had not advanced this reform at the end of 2024.

In relation to the *Żurek v. Poland*[29] master group of cases, in 2024 the Polish authorities provided information to the Committee of Ministers on **planned draft amendments to the Law on Common Courts and the Law on the Supreme Court**, which would aim at reversing the nefarious changes previously introduced by the so-called "*Muzzle law*"[30]. The draft amendments would, among other effects, provide for abolishing the ban to assess the legality of a judge's appointment, repealing specific grounds for disciplinary liability of judges, and restoring the judicial self-government. The Committee of Ministers *welcomed*[31] these planned reforms, while requesting that the Polish authorities swiftly proceed with their adoption. Several other crucial issues affecting the independence of the judiciary in Poland remained unaddressed by the government in 2024. These included, notably, the absence of a global plan for a broader reform of the system of disciplinary liability of judges, capable of providing reinforced guarantees against the misuse of disciplinary proceedings and of limiting the influence of the executive thereupon, as well as the absence of measures to ensure the freedom of expression of judges defending the rule of law and judicial independence in the country.

Regrettably, in 2024 the international community continued to wait in vain for **Hungary** to take the decisive steps required to restore the rule of law in the country. No progress whatsoever was recorded in relation to the major reforms still awaited to resolve *Baka v. Hungary*[32] (concerning the **undue and premature termination of the applicant's mandate as the president of the former**[10] **Hungarian Supreme Court and the chilling effect this had on the judiciary**), which now remain outstanding for more than nine years. In particular, the authorities continued to question the obligation to introduce effective oversight by an independent judicial body over the removal by parliament of senior members of the judiciary. Furthermore, at the end of 2024, the authorities were yet to evaluate the domestic legislation on the status of judges and the administration of courts, and the impact of all legislative and other measures adopted and foreseen on judges' freedom of expression. Against this backdrop, the results of an anonymous survey carried out by the Hungarian Association of Judges in 2024 are of utmost concern; **the overwhelming majority of the respondent judges (82 per cent) claimed that they could not effectively express their views on matters of public interest concerning the judiciary**, with over one-third of those who had participated in relevant public debates having faced various forms of retaliation over the last five years.[11]

The issue of judges being **targeted for expressing critical views on matters of public interest with the ulterior aim of political intimidation** remained acute in **Bulgaria**. In 2024, a second leading judgment on harassment of the judiciary, *Pengezov v. Bulgaria*[33] (which concerned the **non-Convention-compliant judicial review by the Supreme Administrative Court of a decision of the Supreme Judicial Council (SJC) to suspend the applicant judge**,

as well as the excessive duration of that suspension) was added to the cases under the Committee of Ministers' supervision. It joined the 2022 judgment in *Miroslava Todorova v. Bulgaria*,[34] which had found that **the SJC had unlawfully sanctioned the applicant for her public criticism of the SJC and the executive**, in her capacity as president of Bulgaria's main judges' association.

A significant **rollback** followed the promising constitutional amendments of December 2023, which had envisaged a reformed SJC with a majority of members elected by peer judges – a development that had been *welcomed*[35] by the Committee of Ministers. In 2024, the Constitutional Court declared several of these amendments unconstitutional; the previous constitutional framework was thus reinstated. This reversal also undermined another positive initiative: the draft Judiciary Act that had been prepared in March 2024. This draft, which had proposed measures such as a nomination committee for SJC candidates elected by parliament, the abolition of the administrative court heads' power to impose disciplinary sanctions on judges, and a role of the judiciary in selecting inspectors of the SJC Inspectorate to the SJC) depended on the now-invalidated constitutional amendments to become operational.

Meanwhile, **civil society continued to document ongoing media and institutional attacks on outspoken judges.**[12] Although months of political negotiations over forming a new government in Bulgaria contributed to the slow pace of reform, and although some reform efforts are ongoing, the regressive steps and continued delays in 2024 suggest a **deeper lack of genuine political will** to swiftly and decisively resolve the serious rule of law problem in the country.

Following key reforms[36,37] that allowed the closure, in 2023, of the landmark leading judgments in *Kövesi v. Romania*[13,38] and in *Camelia Bogdan v. Romania*,[14,39] **Romania continued demonstrating some positive dynamics** in implementing leading ECtHR judgments related to the functioning of the judiciary. In 2024, the leading case of *Brisc v. Romania*[40] (concerning the applicant's **reprimand and consequent removal from the Office of Chief Prosecutor as a result of disciplinary action against him for statements he made to the press** in his capacity as press liaison officer, and in connection with a criminal investigation about alleged influence peddling within the judiciary) was closed. The Committee of Ministers assessed positively the measures taken to raise the domestic courts' and the Superior Council of the Magistracy's awareness on Convention standards regarding the freedom of expression of prosecutors when interacting with the press, as well as the subsequent Convention-compliant proportionality assessment by the highest Romanian instances in similar cases. These positive developments notwithstanding, the Romanian authorities are yet to fully resolve all negative consequence of the 2017 reform in the judicial process, which had drawn international criticism. In 2024, the European Commission indicated that the Venice Commission's recommendations had not been entirely taken up in the design of the

2022 reforms (which allowed the closure of the above-mentioned landmark ECtHR cases), and recommended consultations and evaluations in view of further improving the Justice Laws.[15] Amidst concerns expressed by the civil society about the **continued harassment of judges through subtler and more indirect means**, such as the withholding of promotions, the Court's Grand Chamber judgment in *Danileţ v. Romania*[41] (concerning the **imposition of disciplinary sanctions on a judge on account of social media posts**) continued to be awaited with anticipation throughout 2024.

New, "inventive" ways to deliberately target and intimidate judges who speak out on politically sensitive issues continued to remain unresolved, e.g., in **Spain**, in 2024. This concerns in particular the case of *M.D. and Others v. Spain*[42], which involves **the Catalonian police's compilation of files on judges who had expressed certain views on Catalonia's independence, and the subsequent leaking of material form these files — including photographs — to the press**. Albeit a non-traditional rule of law case, this judgment touches upon the very heart of the independence of the judiciary, as the authorities' gross violation of the Convention resulted in an important breach of the applicants' right to respect for their private lives, capable of creating a "chilling effect" on the judiciary. In 2024, the authorities continued seeking the premature closure of this case, despite the lack of adequate measures to establish the responsibility of the perpetrators of the leak, and their lack of political will to adopt substantial general measures to address this violation, which was not isolated in nature, as ample evidence provided by civil society (available *here*[43] and *here*[44]) has demonstrated.

On a positive note, in 2024, **Belgium** and **Portugal** adopted the reforms required for the Committee of Ministers to proceed to the closure of the rule of law judgments that were pending in relation to these jurisdictions. As regards *Loquifer v Belgium*[45] (concerning the **impossibility of a former judge and a member of the High Judicial Council (HJC) to appeal against the suspension of her HJC mandate due to the initiation of criminal proceedings against her**), the Committee of Ministers assessed positively **the legal amendments and subsequent Convention-compliant case-law** of the highest national instances, which gave effect to the right to appeal against the suspension or revocation of an HJC mandate. In relation to *Ramos Nunes de Carvalho e Sá v. Portugal*[46] (concerning **the lack of a hearing and the insufficient review by the Supreme Court over disciplinary measures imposed on a judge by the High Council of the Judiciary), the adoption of a new law on the status of judges**, which allows for holding public hearings and the conduct of a more profound factual and legal examination by the Supreme Court in similar cases allowed the Committee of Ministers to close the supervision of that case in April 2025.

FREEDOM OF EXPRESSION

In 2024, **several dozens of leading free-speech judgments in respect of at least half the EU member states** were being supervised by the Committee of Ministers, corroborating the strong correlation[16] between the declining state of freedom of expression and the strong rule of law challenges in Europe. Notwithstanding important positive developments in certain jurisdictions (the latter also supported by EIN and its partners in the context of *EIN's large-scale freedom of expression project*[47]), free speech-related challenges remained particularly pronounced in **Bulgaria, Greece, Hungary, Italy, Poland, and Romania**. The relevant cases relate to infringements of a wide array of important rights of journalists, media workers, writers, public figures, and human rights defenders, including the **failure to protect them from disproportionate civil defamation proceedings, from the criminalisation of their free speech, and from hindered access to information of public importance**. The adoption, in April 2024, of the Recommendation of the Committee of Ministers to member states on countering the use of strategic lawsuits against public participation (SLAPPs) (*CM/Rec(2024)2*[48]) offered to national authorities, legal professionals, and European citizens a broad and ambitious normative framework to rely on when legislating and devising public policies on and when advocating for free-speech rights, including with the aim of effectively implementing relevant ECtHR judgments.

Hungary and **Italy** remained among the worst implementers of free-speech ECtHR judgments in 2024, with **Hungary** also remaining among the top EU countries with the biggest numbers of relevant leading judgments pending implementation (seven at the end of 2024). Indicatively, *Kenedi v. Hungary*[49] (concerning the persistent **refusal of the Ministry of Interior to grant access, requested by a historian, to documents needed in the context of a study on the Hungarian State Security Service in the 1960s**) was *transferred*[50] to the enhanced supervision procedure in December 2024, following the long-standing failure of the authorities to adopt the necessary general measures, required since 2009; whereas the authorities continued **failing to allow journalists to access reception centres for asylum seekers** (*Szurovecz v. Hungary*[51]). New free-speech judgments delivered by the ECtHR in respect of Hungary in 2024 concerned **the domestic courts' failure to apply Convention free-speech standards in civil defamation proceedings** (*Index.hu Zrt v. Hungary*[52] group of cases), and the authorities' **refusal to provide information of public interest to an investigative journalist** (*Zoldi v. Hungary*[53]). On the other hand, in **Italy**, the **persistent failure to decriminalise defamation laws for over a decade** (*Belpietro v. Italy group*[54]) continues to significantly affect the freedom and independence of the press, and to contribute to the rise of criminal SLAPPs against journalists.[17]

Greece has recently ranked third among the EU member states with the highest number of SLAPPs targeting journalists and other public watchdogs for their legitimate activities.[18] Against this backdrop, it is regrettable that the ECtHR leading judgments concerning **criminal defamation proceedings** (*Katrami v. Greece*[55] group) and **civil defamation proceedings** (*Vasilakis v. Greece*[56] group) have been pending implementation since 2008, as a result of unresolved sources of violations that have generated more than a dozen repetitive cases since then. It must be acknowledged that, in 2024, the Greek authorities took certain positive steps to conform with the ECtHR judgments: these included the creation of the SLAPP Observatory within the Greek government's Task Force for the protection of journalists[19] and the decriminalisation of the offence of simple defamation. This notwithstanding, the Greek authorities are yet to introduce comprehensive legislative safeguards specifically addressing SLAPPs,[20] which include Greece's obligation to fully transpose the *EU 2024 Anti-SLAPP Directive*[21,57] concerning cross-border defamation cases, based on the EU Commission's *recommendation*[58] on creating a SLAPP-safe environment.

Taking a closer look at SLAPPs in particular, from a global ECtHR implementation perspective, it is worth noting that an important obstacle blocking the effective tackling of this ever-increasing challenge at the pan-European level is raised by the fact that **the Strasbourg Court's case-law is yet to expressly and widely acknowledge SLAPPs as the source of relevant free-speech violations.** The ECtHR continues to examine classic SLAPP dynamics largely from the perspective of the inability of national courts to distinguish between statements of fact and value judgments, rather than from the

perspective of litigation aimed at intimidating and silencing critics within a SLAPP constellation. This narrows the source of violations established by the Court and, thus, allows respondent states to – still overall successfully — argue before the Committee of Ministers that the scope of the general measures to be taken to effectively implement the relevant ECtHR judgments is much narrower than what is needed in reality.

In 2024, civil society for the first time recorded some partial success in illustrating not only the **challenges of attempting to implement traditional ECtHR defamation judgments in the newer, much more complex environment shaped by SLAPP dynamics**, but also the **possibilities for synergies and inter-connection between the EU and the Council of Europe legal orders** and, consequently, for implementing free-speech-related obligations of EU member states, based on the robust protective framework deriving from the combination of Council of Europe standards and EU legislation. In the context of the *Ghiulfer Predescu v. Romania*[59] group (concerning **disproportionate financial sanctions in civil defamation proceedings against journalists**), the Association for the Defence of Human Rights in Romania – Helsinki Committee ("APADOR-CH") provided *crucial information*[60] to the Committee of Ministers, clearly illustrating the large scale of the use of SLAPPs in **Romania** with recent examples, including the extreme case of the dissolution of an NGO due to the inability to cover disproportionately high judicial fees. APADOR-CH stressed that the current situation related to SLAPPs in Romania should be taken into account when assessing the level of implementation of the *Ghiulfer Predescu v. Romania* group, especially as regards the capacity of the measures taken to tackle the chilling effect of disproportionate financial sanctions for alleged defamation. The NGO has (so far) successfully argued before the Committee of Ministers that, given the ongoing work carried out by the national authorities and civil society to prepare an Anti-SLAPP draft law (initiated as part of the process aimed at transposing the EU 2024 Anti-SLAPP Directive into the domestic legal order), ending the supervision of the execution of this group of judgments only on the basis of the improvement of the case-law of the national courts (which now appear capable of upholding Art. 10 standards), would be premature.[22]

On the contrary, despite the best efforts of **Croatian** civil society, in 2024 the Committee of Ministers closed the supervision of the *Stojanović v. Croatia*[61] group of cases (**concerning the award of damages for defamation without relevant and sufficient reasoning provided by the domestic courts**) on the basis of information on Convention-compliant case-law rendered by the Croatian Constitutional Court. This development, seen against the background of the European Commission's concern, expressed in 2023 and 2024, about the situation of SLAPPs in Croatia,[23] and the submissions by NGOs (*here*[62] and *here*[63]) repeatedly substantiating the still-irregular practice of lower courts and of the Supreme Court, and thus the need for more sustained efforts to effectively tackle SLAPPs (in light of the current lack of clarity as to whether stronger, more comprehensive protections, beyond the EU Antil-SLAPP Directive minimum, will ultimately be included in the

draft transposition legislation)[24] was a matter of profound disappointment. The Final Resolution in *Stojanović* was considered as one of 2024's most flagrant examples of **the Committee of Ministers' readiness, on occasion, to take the measures outlined by the authorities at face value** and prematurely close an important group of cases while the necessary reforms to ensure the eradication of the root cause of violations established by the Court are, in reality, underway, are yet to develop their full impact, and are, thus, not yet in a position to ensure that the same violations will not reoccur.

On a very positive note, in **Lithuania**, following the parliamentary rejection of a draft law seeking to eliminate the discriminatory provisions of the Minors Protection Act identified in *Macatė v. Lithuania*[64] (concerning **censorship of a children's book depicting same-sex relationships**), the government addressed the issue to the Constitutional Court. In December 2024, **the highest instance found the impugned provisions to be unconstitutional**, as they violated the constitutional freedoms of thought and family rights, and impeded the development of minors, by restricting public information about same-sex relationships. The ruling removed the legal basis for banning or labelling LGBTIQ+ content as harmful for minors and triggered relevant legislative amendments. Sustained advocacy by national civil society actors – including the Human Rights Monitoring Institute (a beneficiary in *EIN's Freedom of Expression project*[65]), which coordinated a *petition*[66] calling for the referral of the case to the Constitutional Court, and made a strategic use of Rule 9.2 submissions (available *here*[67] and *here*[68]) to the Committee of Ministers – was crucial for maintaining pressure on the Lithuanian authorities. Lithuania, therefore, provided, in 2024, the **quasi-perfect example of what full and effective implementation of a demanding ECtHR case looks like**, with the adoption, in less than two years, of all necessary measures required.

RIGHTS IN DETENTION

The human rights of persons in detention remain a cross-cutting theme in a growing number of EU member states. At the end of 2024, **more than half of the EU member states[25] were concerned by relevant judgments of the ECtHR, in close to 40 pending leading cases**. A specificity of this type of cases is that many relevant judgments, rendered in response to individual applications, reveal systemic problems in the respondent states. This means that the implementation of judgments concerning rights in detention thus affects entire prison populations and/or detainees in remand, who are collectively subjected to treatment that contravenes the standards of Article 3 of the Convention as a result of inadequate conditions of detention (which may include **overcrowding, poor hygiene and sanitary conditions, lack of privacy, inadequate medical care, and the absence of effective remedies to complain against those violations**). These structural shortcomings must be addressed by adopting long-term, coherent, and comprehensive strategies at the national level, including changes in law, policy, administrative practices, and infrastructure. Additionally, states often need to ensure the availability and effectiveness of domestic remedies – both preventive and compensatory – for poor conditions of detention, which requires the introduction of new legal avenues allowing affected detainees to complain thereabout, the development of Convention-compliant domestic case-law, and/or the training of magistrates, prison authorities and staff, and other officials concerned.

In 2024, several EU member states concerned by this problem were failing to ensure sustainable progress, often as a result of the **absence of holistic strategic planning and/or the adherence to penal policies that are not conducive to long-term solutions.** The prison populations in many EU countries thus continued to grow, despite important efforts deployed by national authorities. Indicatively, in **Greece**, despite the **construction and commissioning of new detention facilities and the adoption, in 2024, of a law containing updated provisions on the use of alternatives to detention**, at the time of the writing of this report, the Greek prison system was holding 12,351 detainees (**an occupancy rate of 114 per cent, and reflecting a clear upward trend in the prison population**), with 23 out of 35 prison facilities in the country affected by overcrowding. Another 2024 law, which introduced stricter provisions in the Criminal Code, appears to have contributed to this rise, whereas less restrictive detention facilities remained underpopulated. The remedy for prison detention conditions, introduced in 2022, is yet to contribute tangibly to the resolution of the structural problems detected, with only 28 applications having been accepted since its entry into force (*Nisiotis v. Greece*[69] group). Similarly, in **Belgium**, in response to an ever-continuing rise in the prison population since 2016, the authorities decided **to abandon the strategic aim of reducing the prison population to 10,000 detainees, and to focus instead on increasing prison capacities**, contrary to the international trends on penal policies and European standards. In 2024, the overall occupancy rate reached 112 per cent. (*Vasilescu v. Belgium*[70] group).

In **France**, the situation in the prison system remains alarming. Overcrowding reached historic levels at the beginning of 2025, **with an average occupancy rate of 133 per cent (161.8 per cent in remand centres) and an overall number of 82,921 detainees for 62,358 operational places.** Since 2019,12,850 detainees have been added to the prison population, while 2,200 additional places have been created. The authorities are preponderantly investing in increasing the number of prison places, but the building programme (aiming at an overall number of 75,000 places by 2027, whereas the prison population was approaching 83,000 in early 2025, and accompanied by a reduction in funding for other measures and services, such as recourse to probation and rehabilitation) already seems obsolete.[26] In light of the above, the Committee of Ministers has *urged*[71] the French authorities to reconsider their strategy for combating overcrowding, by tackling its root causes and by assessing the impact of their policies on overcrowding and conditions of detention (*J.M.B. and Others v. France*[72] group). In **Romania**, despite important **efforts to reduce overcrowding (including efforts to increase electronic surveillance and progress in implementing programmes for reintegration and to combat reoffending**), the trend of growing prison population continued in 2024, **having reached 24,586 detainees for 19,542 places** in July 2024. The Committee of Ministers stressed, once again, that measures designed to reduce the prison population and to keep it at manageable levels, embedded in a rational and coherent penal policy, are crucial to achieving a lasting solution. A planned comprehensive reform of the state's penal policy is thus much anticipated (*Bragadireanu v. Romania*[73] group).

MENTAL HEALTH AND PSYCHIATRY

Although violations of the rights of persons facing mental health issues have been assessed in a relatively smaller number of ECtHR judgments compared to other thematic issues, the relevant judgments often raise fundamental, long-standing systemic human rights issues and affect a significant number of particularly vulnerable persons. In 2024, **Bulgaria, Italy,** and **Romania** continued to be the countries with the most concerning records of relevant leading cases remaining not adequately implemented (with 14 such cases concerning Romania alone), whereas the Committee of Ministers also identified important challenges in **Czechia** and **the Netherlands.**

The most recurring issues concern, on the one hand, **systemic breaches of the rights of persons placed in mental health institutions,** including structural deficiencies in the legal protection of mental health patients and important gaps in safeguards when placing individuals into mental health institutions or applying coercive psychiatric treatment, medical neglect, extreme deprivation in living conditions, and, in some cases, even ill-treatment of patients in mental health institutions. On the other hand, relevant judgments often reveal **severe shortcomings in upholding mental health patients' rights when the latter fall under the criminal justice system**, including in respect of conditions of detention or penal treatments that do not take into account the mental health patients' heightened vulnerability

and needs, or the lack of preparedness of law enforcement and health care authorities when interacting with such patients, which may result in severe infringements of their rights. These breaches are often complemented by a **lack of access to justice for victims, and an absence of legal remedies and of adequate investigation** of those serious human rights violations, some of which have led to the death of the persons affected, including children.

In **Romania**, despite some positive steps taken by the government, including the adoption of a new **action plan for the execution of the relevant judgments** in 2024, further decisive action and holistic measures are required to resolve the widespread, structural problems identified by the Court in the *Centre for Legal Resources on behalf of Valentin Câmpeanu v. Romania* [74] master group of cases (the leading judgments examined together in its context concerning **systemic violations of core rights guaranteed by the Convention related to longstanding deficiencies in the mental healthcare system in the country**). The Romanian authorities have been called upon to, along with other measures, ensure, as a matter of priority, that patients' specific living and medical needs are met in mental health and social care establishments, that ill-treatment of patients is eradicated, and that relevant complaints for ill-treatment are effectively investigated, as well as that safeguards at placement and during psychiatric hospitalisation, including the patients' rights to informed consent to treatment, are implemented in all mental healthcare establishments. New legislation allowing the appointment of an independent personal representative to persons in need of legal protection who have no relative able or willing to represent them also needs to be urgently adopted. In **Bulgaria**, and in relation to *Stanev v. Bulgaria*[75] in particular (concerning **widespread violations related to the placement of the applicant, subject to a partial guardianship order following a diagnosis of schizophrenia, in a social care home**), information was outstanding, at the end of 2024, as regards further measures taken by the authorities to ensure Convention-compliant living conditions in social care homes and the existence of effective remedies for related complaints, as well as the adoption of legal safeguards for placement in social care homes.

In respect of **Italy**, a number of challenges in upholding the rights of persons with mental health problems were revealed by the leading judgments in the cases *Sy v. Italy*[76] (**concerning the detention of a person with a psychiatric condition aggravated by drug addiction in an ordinary prison**, despite domestic court decisions ordering his transfer to a psychiatric facility) and *Citraro and Molino v. Italy*[77] (**concerning the failure of the authorities to protect the life of a person suffering from a psychiatric condition and self-harming behaviour, and to prevent his suicide in a prison**). Even though the Italian authorities did not provide information concerning the increase of the R.E.M.S. network (residences for the execution of security measures for "socially dangerous" individuals) capacities in 2024, information from civil society *indicates*[78] that no significant progress has been achieved, and there has been no substantial decrease in the number of persons awaiting to be

transferred from prisons to R.E.M.S. facilities in the past two years. Furthermore, the measures adopted by the Italian government to address the complex problem of suicide prevention in prisons have not yielded the expected results. Against this background, Italy has **still to adopt and implement a comprehensive and holistic action plan and related measures**, including the allocation of adequate financial resources to offer the necessary specialised support, adequate training in suicide prevention, and mental health awareness for medical and prison staff.

In 2024, **Czechia** was added to the list of CoE member states having to deal with important violations of mental health patients' rights. The new case *V. v. the Czech Republic*[79] (concerning the **death of the applicant's brother in a psychiatric hospital, following the use of a taser by the police and administration of a tranquiliser by a hospital nurse**) was classified under the enhanced supervision procedure by the Committee of Ministers. Taking first steps to resolve the underlying sources of the violation, in August 2024, the Ministry of Health, among other actions, **issued a decree establishing a multi-sector working group**, composed of the representatives of all competent law-enforcement and health care authorities, to elaborate guidelines for joint interventions by police officers and health professionals vis-a-vis persons in excited delirium, both in hospitals and in other public spaces. In 2024, the Committee of Ministers **transferred to the enhanced supervision procedure** the case of *Murray v. the Netherlands*[80] (concerning **inhuman treatment on account of the *de facto* irreducibility of the life sentence imposed on the applicant, who suffered from a mental illness and was convicted of murder and sentenced to life imprisonment in the former Netherlands Antilles, situated in the Caribbean**). The long-standing failure of **the Netherlands** to ensure (in a leading case pending since 2016) that detainees suffering from a mental disability and/or a mental-health condition on whom a life sentence has been imposed are detained under such conditions and are provided with such treatment that give them a realistic opportunity to rehabilitate themselves in order to have a hope of release, has triggered this development.

SOGIESC/LGBTIQ+ RIGHTS

The rights of LGBTIQ+ persons represent yet another cross-cutting issue across several EU countries, including **Bulgaria, Croatia, Hungary, Lithuania, and Romania**. In 2024, **Poland** joined those EU member states, following the delivery of two relevant Court judgments, including in *Przybyszewska and Others v. Poland*[81] (concerning the **absence of a specific legal framework allowing for the recognition and protection of same-sex unions**). Besides this subject-matter, other pressing sexual orientation, gender identity and expression, and sex characteristics (SOGIESC) rights-related issues include the **absence of a legal framework governing legal gender recognition and the inability of authorities to ensure the proper investigation of homophobic hate crimes**, including physical and verbal attacks and online harassment.

In relation to judgments pertaining to the **conditions and procedure for the legal recognition of gender identity and for changing official identification documents accordingly**, positive dynamics were recorded in **Romania** in 2024, in relation to the *X. and Y. v. Romania*[82] case. The 2024 statistics and other available data illustrated **positive domestic judicial developments in the context of legal gender recognition cases**, even though individuals concerned still had to undergo various burdensome administrative procedures and remained dependent on the vast discretionary power of the judiciary. The

focus of an interagency working group on a concrete legislative proposal by civil society representatives on the conditions and procedure for legal gender recognition and the authorities' **ongoing co-operation** with the Council of Europe's Sexual Orientation and Gender Identity Unit are positive signs of a jurisdiction that is committed to advancing the necessary reforms.

The legislative gaps in **Lithuania** concerning the conditions and procedure for gender reassignment surgery and legal gender recognition, as identified by the European Court in *L. v. Lithuania*[83], have been partly compensated by several **ministerial bylaws and domestic case-law via the release of judicial orders to civil registry institutions without requiring a mandatory surgical treatment**, which makes the impact of the violation found by the Court much more limited today. The Committee of Ministers, echoing *civil society's submissions*,[84] has, nevertheless, expressed grave concern over the fact that, **more than 16 years since this judgment became final**, and despite the Committee's repeated calls and an *Interim Resolution*[85] on this matter issued in 2024, **the legislative gap concerning the conditions and procedure for gender reassignment surgery persists**, which means that the source of the violation remains unresolved. It is urgent that the Lithuanian authorities demonstrate unequivocal resolve to effectively tackle this problem, through rigorous action that will lead to the creation of an accessible and foreseeable legal foundation, compliant with the principles of rule of law, for full gender reassignment surgery and legal gender recognition in the country, without further delays.

As mentioned in last year's iteration of this report, in February 2023 the Supreme Court of Cassation in **Bulgaria** interpreted the country's legislation as not allowing domestic courts to change data on the civil status register regarding the sex, the name, and the personal identification number of a transgender person. The subsequent case-law has consolidated this country-wide unconditional ban, leaving trans people in Bulgaria in a situation of extreme vulnerability. Although, regrettably, no information has been submitted to the Committee of Ministers by the authorities in relation to *P.H. v. Bulgaria*[86] (concerning the **unjustified refusals of the domestic courts to grant the requests of transgender applicants for recognition of gender reassignment**) in the reporting period, *information*[87] provided to the Committee of Ministers by civil society demonstrates that **adverse dynamics towards the resolution of this important problem persist**. It appears, in particular, that, in March 2024, members of parliament proposed a ban on persons of age changing their unique identification code (including information on a person's gender marker), which was aimed at limiting even further the procedural possibilities for transgender persons to have their identity recognised. This legislative proposal was ultimately defeated, but another one, proposing a ban in the Preschool and School Education Act on the students' access to information (including the banning of "propaganda, popularisation and incitement in any manner, directly or indirectly,

of ideas and opinions related to ... determination of gender identity different from the biological one" [sic], was upheld in August 2024.

Similarly, in **Hungary**, after the 2020 amendment of the Act on the civil registration procedure, explicitly rendering it impossible to change the "sex at birth" register, the implementation of the *R.K. v. Hungary*[88] case (**concerning Hungarian national transgender persons**) has stalled. In the case of *Rana v. Hungary*[89] (**concerning non-Hungarian transgender persons**), despite the Constitutional Court's call on the legislator to create an appropriate solution for transgender foreigners residing in the country, the authorities have continued demonstrating, in 2024, a **persistent reluctance in addressing that pressing issue**. Instead, the Budapest High Court made **a request to the Court of Justice of the European Union (CJEU)** for clarifications on whether the EU General Data Protection Regulation (GDPR) can be interpreted as requiring national authorities of the EU member states to rectify data relating to a person's sex under the national Asylum Act and, if so, under which conditions.

As for the issues related to the **recognition and the protection of same-sex relationships**, in addition to the issues identified in *Buhuceanu v. Romania*,[90] a judgment of 2023 that is yet to be put on the agenda of the Committee of Ministers' Human Rights (DH) meetings, the problems identified by the Court in the *Przybyszewska and Others v. Poland*[91] group of cases require the Polish authorities' attention. The Polish government has **prepared two bills regulating civil partnership, including between same-sex individuals**, aiming at upholding the concerned persons' rights in various areas, such as inheritance and taxation. Although these bills lay, admittedly, an important foundation for implementing the Court's judgments, they have been criticised by civil society (see *here*[92] and *here*[93]) for offering only minimum standards of protection to same-sex couples and for falling to address the legal status of LGBTIQ+ parents and their children.

HUMAN RIGHTS AND THE TRIPLE PLANETARY CRISIS

With the triple planetary crisis being one of the major contemporary pressing issues on an international scale, environmental protection has rapidly gained significant dimensions in the framework of the European Convention on Human Rights. While the Convention does not explicitly enshrine the right to a clean and healthy environment, as such, the European Court of Human Rights has progressively recognised that **environmental harm can interfere with the human rights protected by the Convention, such as the right to life, the prohibition of inhuman or degrading treatment, the right to respect for private and family life, fair trial guarantees, including the right to access to a court, and the right to an effective remedy.** The 2024 landmark judgment in *Verein Klimaseniorinnen Schweiz and Others v. Switzerland*[94] explicitly emphasised a **state responsibility in mitigating climate change impacts and positive obligations to ensure adequate protection from serious adverse effects of climate change**. Even though that ruling concerns a non-EU member state, and will thus not be analysed in the context of the present report, it did set a crucial precedent in a dual way. First, it is a milestone for environmental accountability, paving the way for the conduct of similar assessments by the Court in several applications pertaining to climate change in respect of several EU member states currently pending before it. Second, it offered a certain degree of insight into the question of receptiveness of CoE member states to ECtHR

rulings in cases pertaining to climate change, confirming the heightened political sensitivities that set the ground for tense political discourse on these matters; despite immediate and vocal messaging by the Swiss authorities, both at the *national*[27,95] and at the *international*[28,96] levels, accusing the ECtHR of "inadmissible and disproportionate judicial activism" [sic], the Swiss government has at least not ceased engaging with the implementation mechanism in the context of the *Klimaseniorinnen* Schweiz and Others judgment. An analysis of the effectiveness of the measures taken and/or envisaged falls outside the scope of this research.

Beyond (and before) focusing on climate change-related questions, the ECtHR had assessed a number of cases related to environmental pollution caused by the exploitation of industrial sites or poor waste-disposal management, which harmed the health, lives, and homes of local residents, as well as the failure to ensure the right to an effective remedy for those violations, in particular in respect of **Italy**. In *Di Sarno and Others v. Italy*[29,97] (a case decided in 2012, which remained pending for 13 years), the Court found that the Italian authorities had **failed to ensure the proper functioning of waste collection**, with the treatment and disposal service in the municipality of Somma Vesuviana of the Campania region adversely affecting the applicants' right to live in a safe and healthy environment under Article 8 of the Convention. Similarly, in *Locascia v. Italy*,[98] the Court identified the **protracted inability of the authorities to ensure waste management services,** including securing the *Lo Uttaro* landfill in the Campania region. The third case, *Cordella and Others v. Italy*,[99] relates to **the pollution emitted by the ILVA steelworks in Taranto, which posed significant risks to residents' health and the environment**. In addition, in all three cases, the Court found that the applicants were **deprived of their right to an effective remedy**, as the domestic legal framework did not provide them with redress and compensation for the damages they sustained, nor did it allow the applicants to obtain preventive or restorative measures addressing the root causes and sources of environmental pollution.

The Italian authorities have taken a series of legislative, administrative, and practical measures at both the national and local levels to remedy these violations. These measures included the **adoption of the national environmental plan, in 2014, of the waste traceability system, in 2023, and of the urban waste disposal plan in the Campania region, in 2024; the incorporation of relevant EU regulations into the domestic legal order; and the implementation of particular measures tackling the primary source of industrial pollution identified**, such as the renewal of the steelwork's license and the adoption of plans to secure the landfill site in question permanently. Although the implementation of those measures led to improvements and resulted in the closure of the execution monitoring process in the *Di Sarno* case, in March 2025, further efforts are still required to comply with Convention standards. In addition to the progress on issues related to environmental protection that the Italian authorities are still expected to demonstrate to

the Committee of Ministers, the issue of effective remedy also needs to be addressed, either by demonstrating its availability in practice or by introducing such a remedy into the domestic legal order.

In addition to these three cases, in early 2025 the Strasbourg Court delivered two new judgments, including one under the pilot procedure (*Cannavacciuolo and Others v. Italy*[100]), in relation to the Italian authorities' **failure to deal with a long-standing illegal waste disposal problem** in a densely populated area of *Terra dei Fuochi*, in the Campania region, seriously affecting the health and well-being of local residents and groundwater pollution. In its judgment, the Court held that Italy was **required to establish an independent waste management monitoring mechanism and to set up a public information platform within a two-year timeframe. Notably, the Court adjourned the consideration of 36 related applications, from around 4,700 applicants**, pending the implementation of the judgment.

The respondent authorities are actively engaging with the implementation mechanism, a positive sign of their commitment to ultimately resolve the underlying problems, which has allowed certain progress to be made in addressing environmental issues through the rulings of the Strasbourg Court. That said, overall compliance remains inconsistent, and the necessary reforms often stall. It is expected that the number of such collective applications, grouping together large numbers of applicants – victims of human rights violations – will continue to grow in the coming years, creating a significant burden on national courts and the ECtHR. The robust and effective implementation of those environmental judgments without unnecessary delays will, therefore, be the next litmus test, not just for effectively upholding rights linked to public health and ecological sustainability, but also for avoiding compromising the effectiveness of the implementation mechanism and, more broadly, the rule of law at the national and international levels.

3.2 Issues in the CJEU

The 2025 compliance review of CJEU judgments concerning the rule of law offers a revealing lens through which to view the deeper structural and legal dynamics within EU member states. While the surface-level classification of states into compliance tiers provides a useful typology, **a thematic approach exposes the substantive issues** – areas in which CJEU judgments most frequently expose gaps between EU law and domestic legislation and practice. These include **access to justice and procedural rights, asylum and migration, data protection and surveillance, and equality and non-discrimination**. A final cross-cutting theme emerges in the form of institutional resistance, especially from top courts.

The overview below also addresses **structural and systemic compliance problems**, which cut across all substantive fields. These concern how national institutions respond to CJEU rulings, regardless of the legal subject matter. Here, patterns such as **legislative inertia, inconsistent judicial and administrative practices, and judicial resistance**, including from high courts, as well as broader capacity constraints emerge as key factors explaining why compliance remains partial or delayed even when the legal requirements are clear.

By bringing these two dimensions together – what areas generate compliance difficulties and why these difficulties persist – this analysis provides a more **comprehensive understanding of the structural conditions shaping national alignment with EU law.** The following sections examine each theme in turn, drawing on specific country examples to illustrate the recurring features of the compliance landscape.

These themes and issues cut across categories of "good" and "poor" performers alike, revealing that **compliance is less a static metric and more a dynamic interaction between law, politics, and institutional culture.**

ACCESS TO JUSTICE AND PROCEDURAL RIGHTS

Access to justice remains the most frequently implicated theme across the surveyed rulings. Member states struggle to give full effect to procedural guarantees such as the **right to an effective remedy, the right to be heard within a reasonable time, access to a lawyer, and the presumption of innocence.** These principles, enshrined in both the Charter of Fundamental Rights and broader EU legal doctrine, have repeatedly been interpreted by the CJEU in ways that demand not merely formal adjustments, but systemic change.

The CJEU rulings touched upon various threats to judicial independence, including internal court mechanisms allowing undue influence by judges in administrative roles over their peers' decision-making (*Croatia*[101]) and flaws in and abuse of the disciplinary regime for judges (Hungary, *Poland*,[102] and *Romania*[103]).

Austria,[104] for example, has struggled to **align its rules on court fees** in procurement proceedings with CJEU requirements, leaving applicants facing disproportionate financial obstacles. In **Belgium**, the absence of an automatic **suspensive effect in certain asylum and return decisions** persists despite clear rulings from the CJEU, creating legal uncertainty and unequal access to protective remedies. **Bulgaria** presents the most serious challenges, with systemic deficiencies in the **protection available to suspects and third parties** affected by criminal proceedings – including the absence

of an effective remedy against confiscation measures.

Cases related to the functioning of the justice system are typically those that the states fail to implement. In the case of **Belgium, out of 12 rulings not yet complied with, nine are related in some way to justice issues. Bulgaria**'s record is even more problematic. Out of **34 rulings not yet complied with,** 22 implicated the right to defense and information, the presumption of innocence, and the right to a judicial remedy. **Six out of 8 rulings** currently registered as not fully implemented by **Poland** are related to **judicial independence and the right to a fair trial. Romania** has similarly struggled with compliance in relation to the rulings related to the justice system. Out of **nine rulings not yet complied with fully**, eight are related to the justice issues.

The thematic analysis reveals a broader pattern – even when political authorities acknowledge their obligations, the implementation of access-to-justice standards often falters at the operational level. **Procedural safeguards are undermined by habitual practices, insufficient resources, or opaque internal rules.** In several cases, legislative amendments are either missing altogether or are introduced in a form that allows continued discretion or circumvention, producing what might be termed "cosmetic compliance." The effect is to reduce the scope of CJEU rulings to isolated incidents, rather than enabling structural improvement.

ASYLUM AND MIGRATION

Asylum and migration constitutes one of the most politically sensitive areas of EU law, and this is reflected in CJEU compliance patterns. CJEU rulings in this area often address suspensive effect in asylum appeals, procedural fairness in status revocation, or the right to family reunification. These cases typically demand both legislative reform and a shift in administrative or bureaucratic practices, **changes that many states have been reluctant or slow to undertake.**

Austria exemplifies the gap between judicial and political responsiveness in this area. The Austrian government has **repeatedly resisted or delayed implementing judgments** on the revocation of protection status, the suspension of returns, and the rights of Afghan women applicants, even when national courts have aligned with CJEU case-law. While Austria has moderate compliance rates (69 per cent of rulings have been fully complied), **only one out of seven** of the rulings related to asylum and migration (about 14 per cent) have been complied with. While Austrian courts often follow the CJEU guidance, **political authorities' reluctance to change legislation or practices results in a pattern of partial compliance**. While courts may rule in accordance with CJEU expectations, administrative authorities often continue to apply outdated or incompatible standards, either because enabling legislation remains unaltered or because of bureaucratic reluctance to adjust practices. What emerges is a form of compliance that is procedurally contained, but not legally or substantively transformative.

These cases illustrate the broader dynamic – **that asylum-related rulings often touch directly on politically contested areas of migration management, making full compliance more difficult to secure.** Political sensitivities around migration make systemic compliance particularly challenging. Governments fear appearing lenient or losing control over borders, leading to a pattern where compliance with CJEU rulings is confined to the case at hand, without meaningful generalisation to others in similar legal circumstances. In effect, the rulings remain bounded to the individual litigant, **leaving broader classes of affected individuals without protection.**

DATA PROTECTION AND SURVEILLANCE

Another recurring theme involves data protection, privacy, and state surveillance. This area shows high levels of partial compliance, as **member states frequently struggle to update outdated legislation** or to adapt established administrative practices to the standards set by the CJEU. Several rulings addressed the proportionality and legality of blanket data

retention regimes, the obligations of data controllers under the GDPR, and state powers to access personal data. Many states continue to rely on surveillance frameworks that fail to meet the standards set out in recent CJEU case-law. Austria, Belgium and Bulgaria again offer illustrative examples.

Austria continues to face gaps in its frameworks for *police access to communications data*[105] and *the processing of sensitive information*[106] for targeted advertising. **Belgium** has also grappled with gaps in *legislation governing data retention*.[107] **Bulgaria**'s difficulties run deeper, involving both generalised data retention practices and the absence of adequate judicial oversight for police access to metadata. These cases confirm that data protection rulings often require comprehensive legislative and administrative redesigns, making partial and delayed compliance common.

Courts in these jurisdictions often acknowledge CJEU judgments and apply them in specific cases, **but legislative reform either stalls or results in incomplete updates**, leaving gaps in protection. Another *case*[108] in our dataset implicates **France**, with the CJEU warning against laws providing, as a preventive measure, for the general and indiscriminate retention of traffic and location data, and insisting that targeted retention could be permissible to safeguard national security, but only subject to specific conditions and limitations. In response, the referring court (Conseil d'Etat) **established an exception to the primacy of EU law**, arguing that national security concerns could justify exceptions to EU data protection laws. *Academic commentators*[109] criticised this approach as a challenge to the EU's legal order and paving way for more challenges.

This theme reveals a **structural friction amongst data sovereignty, national security imperatives, and EU-level rights protection.** The political salience of policing and counter-terrorism measures makes governments cautious in reforming surveillance regimes, while judicial actors may lack the authority or political cover to push for stronger safeguards. **The result is compliance that appears engaged but remains incomplete.**

EQUALITY AND NON-DISCRIMINATION

Although less prominent than other themes, equality and non-discrimination concerns appear in several national contexts. The CJEU rulings typically require states to alter long-standing problems related to pensions or social entitlements. **The resistance here can be financial or institutional, rather than only political. Austria** continues to implement individual judgments, but has not systematically addressed the underlying legislative gaps related to pension discrimination or equal treatment in employment. **Belgium** confronts similar issues in the application of long-term residence rules. While courts tend to implement CJEU rulings in this domain quickly, legislative follow-up often lags, resulting in recurring, but lower-intensity compliance problems.

JUDICIAL RESISTANCE PATTERNS

Referring courts typically implement the CJEU rulings and where possible, interpret national legislation in a manner consistent with EU law. Nevertheless, **failures to adhere to the CJEU guidance are not uncommon**, and may arise for various reasons, ranging from the fear of disciplinary sanctions (as in Romania, discussed below) to the burden or cost associated with compliance (as in Croatia). Beyond referring courts, **judicial practice is often uneven**, with not all national courts following CJEU guidance to the same degree. This has been reported, for example, in **Hungary, Portugal, and Romania**. In at least some instances, divergence in judicial practice can be explained by the **varied degrees of *de facto* independence of individual judges.**

Top courts' systemic failure to follow CJEU guidance is alarming, particularly when they create barriers for and discourage lower courts from applying EU law through interpretative decisions binding those courts. In **Hungary**, the politically captured *Kúria's* uniformity procedure poses **significant obstacles to the application of EU law** and CJEU interpretative guidance by lower courts. When an interpretation of EU law by the CJEU conflicts with the *Kúria's* previously adopted mandatory interpretation, judges are required to request the *Kúria's* Uniformity Compliance Chamber to cancel the binding force of the prior decision, in a separate procedure. Until this Chamber amends the previous uniformity decisions, these decisions are binding on courts; they are **effectively considered quasi-laws** within Hungary's legal framework, compelling judges to follow them as they would standard legislation. Consequently, courts adjudicating cases **cannot independently interpret and apply EU law in alignment with CJEU decisions**, if conflicting *Kúria* case-law exists. The uniformity procedure is problematic for two reasons: 1) the *Kúria*, in contravention of Article 267 TFEU, further interprets or replaces CJEU's mandatory interpretation of EU law; and 2) contrary to EU law, the *Kúria* limits the powers of the courts that ensure the effective enforcement of EU law, **thereby hindering the effectiveness of legal remedies**.

Romania's Constitutional Court (RCC) and High Court of Cassation and Justice (HCCJ) have engaged in a **consistent pattern of resistance to the authority of EU law** and the CJEU. With its decision no 390/2021 and subsequent statements, the RCC undermined the primacy of EU law, asserting that national courts cannot disapply legislation declared constitutional by the Constitutional Court, **even when it is**

incompatible with EU law. This stance has not since been revised. By applying EU law in contradiction to the RCC guidance, judges risked disciplinary sanctions. Even though the offence of "non-compliance with RCC decisions" was abolished in 2022, liability remains for "bad faith" or "gross negligence," maintaining **uncertainty and deterrence**. The HCCJ, with its decision no 37-2024, followed the path of the RCC. These courts frequently justify disobedience by invoking national constitutional identity and constitutional protection of legal certainty.

The threat of disciplinary measures for applying EU law **creates a chilling effect**, in the sense that judges would be less willing to send preliminary questions to the CJEU and apply its guidance. This undermines the dialogue between national courts and the CJEU, which is key to the EU legal order. Another related risk lies in the divergent applications of EU law by courts in the same legal system. This creates an **unpredictable and fragmented legal landscape**, contrary to the uniformity required by EU law. The resistance also **impedes the enforcement of anti-corruption rules and standards of judicial independence.**

Pushback from top courts is **not unique to those in countries with a weak rule of law record** and low levels of compliance. **Germany's** constitutional court ruling in the PSPP case and France's Conseil d'État decision on data retention both illustrate this tendency. These are assertions of **national constitutional autonomy in tension with the principle of the primacy of EU law**. While they can be worrying, as they can dilute the CJEU'S normative authority, they do not carry systematic character, as these courts do not refuse to comply with EU law across sectors **and there is no evidence that such resistance is politically orchestrated.** They are different from top courts in **Hungary, Romania, and Poland**, where **resistance has taken a systemic form**, with top courts systematically supporting and legitimising government efforts to delay and reframe compliance.

LEGISLATIVE INERTIA AND DELAYED ALIGNMENT

A further theme that cuts across almost all member states is legislative inertia. Many CJEU rulings require amendments to statutory provisions or procedural codes, yet **governments often delay or avoid making the necessary changes. Austria**'s asylum legislation, **Belgium**'s procedural frameworks for asylum appeals and data protection, and **Bulgaria**'s criminal and administrative codes all remain misaligned with EU law years after the relevant judgments. As a result, national courts must resolve conflicts on a case-by-case basis, **but the structural problems persist**. This pattern of "contained compliance" – in which courts implement EU law while the legislative framework remains unchanged – reoccurs across member states with very different institutional profiles.

Final Observations: Cross-State Patterns of Compliance with CJEU Rulings

The deeper patterns that emerge from this analysis point beyond the subject matter of individual rulings. Structural obstacles – **legislative inertia, inconsistent administrative practice, uneven judicial engagement**, and, in some cases, **overt judicial resistance** – form the underlying architecture of partial or delayed compliance. These dynamics explain why even states with otherwise strong rule of law credentials experience difficulties, and why "good" and "poor" performers alike exhibit similar vulnerabilities once the focus shifts from outcomes to implementation capacity.

Understanding compliance requires more than measuring percentages. It requires **thematic reflection on where the law meets resistance**, how reform is conceived, and which institutional actors drive or delay implementation. From this perspective, the rule of law in the EU is less a stable condition than a dynamic contest, negotiated across courts, legislatures, and administrations, and reflected most clearly in the uneven terrain of CJEU compliance.

3.3 Conclusion

The EU member states' records of compliance with the rulings of ECtHR and CJEU reveal common issues of concern. A major challenge lies in **laws and practices undermining access to justice, including judicial and prosecutorial independence**. The issues of concern have been the **politicisation of the bodies** deciding on judicial careers and resulting flaws in judicial appointment procedures, as well as the **abuse of judicial accountability mechanisms**, such as disciplinary and criminal proceedings to target and silence outspoken judges, which is made possible through influencing the bodies in charge of such proceedings. The case-law signals that justice systems can be vulnerable to political interference and pressure, **where political authorities seek to weaken checks and balances and dismantle the rule of law**. There have also been issues with the implementation of rulings related to various vulnerable groups. These include **asylum seekers**, with concerns in connection to refusals to grant protection and disclose grounds for such decisions invoking national security, as well as to **poor detention conditions**, expulsions despite the **risk of ill-treatment,** and **ineffective judicial remedies** against the decisions of immigration authorities. The ECtHR segment of the study has focused on judgments directed at other vulnerable groups, such as **detainees, LGBTIQ+ persons, and patients of psychiatric hospitals**. The CJEU study reveals emerging themes, with rulings that reveal the **potential for abuse by authorities** if the laws the European Courts found problematic remain in force. One such theme concerns authorities' **access to personal data**, the conditions of such access, and the balance between personal data protection and public security objectives.

4. MULTI-YEAR TRENDS IN THE NON-IMPLEMENTATION OF EUROPEAN COURT JUDGMENTS

4.1 ECtHR

Having carried out annual research into the levels of implementation of ECtHR judgments in the EU for four consecutive years (see the previous iterations of this report *here*[110]), solid trends regarding the evolution of the ECtHR implementation landscape across the EU member states have emerged.

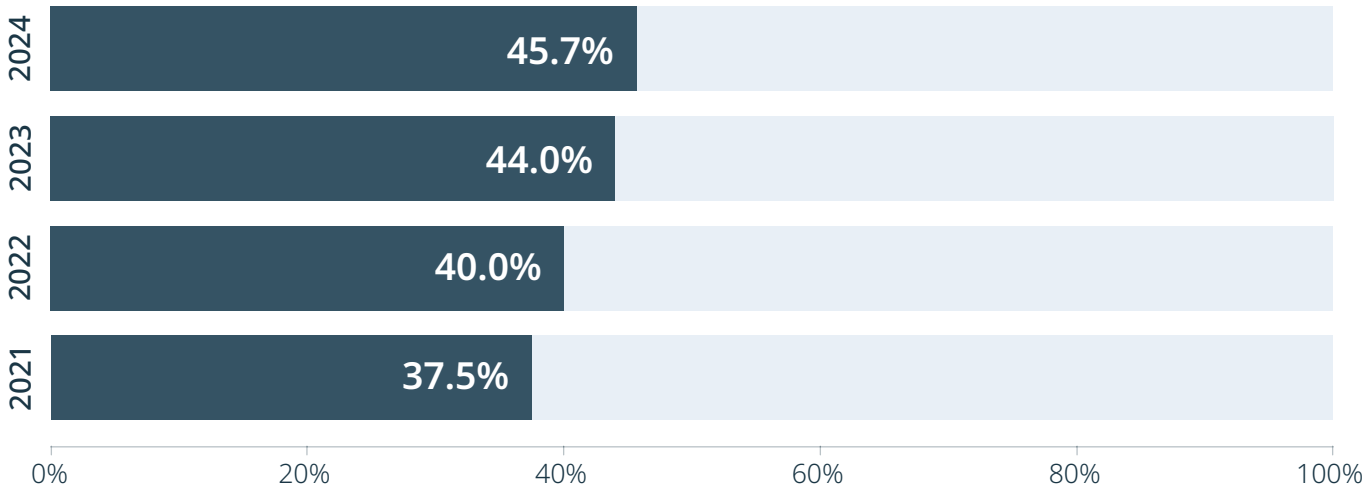
From a purely statistical point of view, all three metrics used to measure implementation progress have been slowly but consistently deteriorating, despite the fact that the importance of effective implementation of the ECtHR judgments is now discussed more prominently than ever, both nationally and internationally, also thanks to civil society's contributions. In particular:

The number of leading judgments pending implementation in respect of EU states has increased from 602 at the end of 2021 to 650 at the end of 2024.

Total number of ECtHR judgment concerning EU states pending implementation.

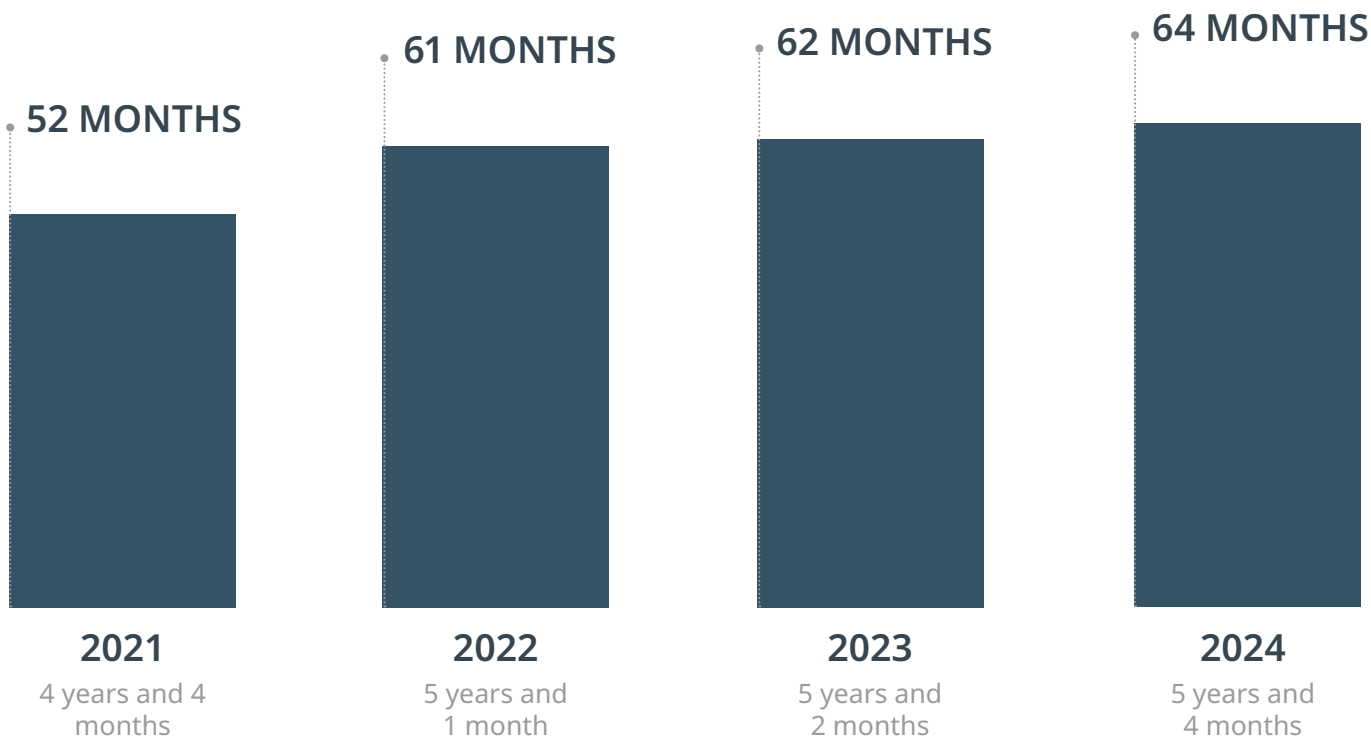
The proportion of leading judgments still pending implementation after up to ten years since their delivery has grown **from 37.5 per cent** at the end of 2021 **to 45.7 per cent** at the end of 2024.

Proportion of leading judgments from the last ten years that have not been implemented.



Finally, the average implementation time has increased by a whole year, climbing from **4 years and 4 months in 2021** to **5 years and 4 months in 2024.**

Average time leading ECtHR judgments (pending as of 1 January 2025) have been pending implementation.



This increase in respect of all indicators is not a simple linear trend. Rather, it is the cumulative result of several factors. This includes, for example, the fact that it has traditionally been easier for the Committee of Ministers to achieve closures of newly-delivered cases than of old leading judgments identifying complex or structural problems. This phenomenon negatively impacts both the "10-year rate of implementation" and the "average time of implementation" indicators, whereas it can also result in an illusory perception as regards the absolute numbers of the backlog of a given jurisdiction – a jurisdiction that can quickly close new, non-complex cases, making its backlog seem reduced, has a problem in the effectiveness of its national implementation mechanism (also with repercussions for the level of respect of the rule of law in the country), if the long-standing, structural problems remain unresolved (thus, for example, in recent years, in **Belgium**, besides the five jurisdictions that consistently score the lowest in respect of all three indicators cumulatively, **i.e. Bulgaria, Hungary, Italy, Poland, and Romania**). In light of this, the long-term reluctance of the Council of Europe's competent bodies to decisively tap into the potential of their procedural competences to respond to flagrant instances of resistance to implementation of ECtHR judgments remains a matter of concern.

In recent years, though, there is an additional reason the Committee of Ministers has been steadily closing significantly fewer cases than the new leading judgments it has been receiving by the Court for supervision in respect of EU states in a year (indicatively, in 2024, in respect of EU member states, the Committee of Ministers **closed 99 leading cases and received 122 new from the Court**; whereas, in 2023, it **closed 105 leading cases, while receiving 114 new**). At this current juncture, this phenomenon is also linked to the fact that the recently increased budgetary allocations to the Court allowed it to optimise its working methods and to **more quickly** treat meritorious, non-repetitive cases, that are often impactful (thus giving rise to large numbers of new, complex leading judgments). It is important to ensure that the increase in budgetary resources allocated to the support of effective implementation of judgments (including, but not limited to, the budgetary provisions concerning the Department for the Execution of Judgments of the ECtHR, and cooperation activities supporting implementation) mirrors the increase of financial support for the activities of the European Court of Human Rights in a proportionate manner. This is with a view to preventing the effect that the progress in tackling the ECtHR backlog as a result of the recently increased budgetary allocations to the Court, and the subsequent optimisation of its working methods, contributes to the inability of the implementation mechanism to meaningfully reduce its own backlog.

On a positive note, as mentioned above, a number of countries improved their overall implementation score in 2024, with **Finland** managing to almost eliminate its long-standing backlog of leading judgments within two years. The **strengthening of the national implementation mechanisms** in these jurisdictions has contributed to this welcome development. **Czechia** also stands out as an

important positive example. Having for some years now **a robust execution coordination authority**, which **has proven capable of moving beyond a defensive or "litigious" approach once a new judgment enters its implementation phase**, has allowed Czechia to weather the strong influx of new violation judgments and to maintain its swift implementation reflexes and overall implementation record. It is important that these good practices be duplicated and followed by other member states.

To support this, ever-increasing cooperation activities to improve domestic implementation mechanisms are being carried out, with last year's promising initiative of the creation of the *Execution Coordinators Network (ExCN)*[111] standing out. The importance of such capacity-building cooperations notwithstanding, in the absence of a **genuine political will to adhere to multilateralism and to effectively fulfil international implementation obligations** the non-implementation crisis will, unfortunately, only continue deepening.

4.2 CJEU

According to last year's findings, only **110 out of 201** of CJEU rulings issued between 1 January 2019 and 1 January 2024 across 17 EU member states (almost 55 per cent) have been complied with fully. There was clear evidence of no or partial compliance for 71 rulings. This included 49 rulings partially complied with and 22 rulings not complied with at all, corresponding to 24.4 per cent and 10.9 per cent of the overall dataset, respectively. Of these, around 60 per cent were pending for two years or more.

This 2025 report analyses **382** rulings involving 25 EU member states. It expands the dataset by adding eight new countries as well as including 2024 rulings for all countries and earlier rulings for the original 17 countries that were not previously covered.

Out of **382** rulings followed up on, **223 (58.4 per cent)** were fully complied with. **Ninety-eight rulings (25.6 per cent**) were complied with only partly, and **35 rulings (9.2 per cent**) were not complied with at all. Twenty-six rulings (6.8 per cent) were classified as impossible to assess, in many instances due to the unavailability of national court rulings or other documents. Out of 133 rulings not yet complied with, **84 (63.15 per cent**) have been pending for two years or more.

Metric	2024 report	2025 report
Total number of rulings covered	201	382
Fully complied with	110 (54.7 %)	223 (58.4 %)
Partly complied with	49 (24.3 %)	98 (25.6 %)
Not complied with	22 (10.9 %)	35 (9.2 %)
Impossible to assess	20 (9.9%)	26 (6.8 %)
Compliance pending 2+ years	43 (out of 71) (60.4 %)	84 (out of 133 — 63.15 %)

While this expanded dataset provides a more comprehensive picture of overall compliance trends, comparisons over time can only be meaningfully made by following up on the same set of rulings already assessed in last year's report.

To assess if the situation has improved since last year for the 19 EU member states covered, we followed up the seventy-one rulings issued by the CJEU between 1 January 2019 and 1 January 2024 that, according to the last year's report, had not been complied with. Out of seventy-one rulings, only five have since been fully complied (two by Poland, one each by Ireland, Portugal and Slovakia), while **sixty-six** remaining pending.

The data indicate that **non-compliance continues to be a systemic issue in several countries**, notably, **Hungary and Bulgaria** which together account for over half (thirty-seven) of pending rulings. Bulgaria has shown limited progress, with several rulings shifting from non-compliance to partial compliance. However, fully compliance had not been achieved at the time of assessment. Patterns of non-compliance are also evident, to varying degrees, **in Italy, Portugal and Romania.**

Although Poland has recently complied with two previously pending rulings, structural problems related to the judiciary remain unresolved. As a result, **Poland** continues to have a significant number of rulings that have not yet been complied with. Similarly, while **Portugal** has complied with one ruling, several others have remained pending for extended periods.

Notably, the latest dataset incorporates thirty-four additional rulings from before 1 January

2024 not included in the initial dataset. Of these, six also remain pending compliance, involving **Spain** (three rulings), **Romania** (two rulings) and **Estonia** (one ruling).

A finding of full compliance can also be somewhat illusory. Even when compliance is formally achieved, such as by annulling a problematic law, the **government may introduce similar legislation or practices that must once again be challenged before the courts**. This has been most clearly illustrated by **Hungary**'s repeal of the law targeting civil society organisations receiving foreign funding following a CJEU ruling, only to introduce several similar measures thereafter.

Partial compliance continues to be the dominant pattern. In the period immediately following a CJEU ruling, partial compliance may signal genuine progress, as exemplified by **Luxembourg**. When rulings remain in partial compliance for years, however, this becomes problematic, indicating judicial or political unwillingness to resolve the underlying issues. This pattern appears not only in states that routinely struggle with compliance (e.g., Bulgaria, Hungary, Poland, and Romania), but also, at times, in those with otherwise relatively strong track records. Continued failure of several states, such as **Germany and Italy**, to tackle long-standing issues led to them being downgraded by one category this year.

5. (NON) COMPLIANCE WITH EUROPEAN COURT RULINGS IN THE EUROPEAN COMMISSION'S 2025 RULE OF LAW REPORT

The European Commission has included data on the implementation on ECtHR judgments in its Rule of Law Report, but the reference to compliance with CJEU rulings is still missing. The 2025 report refers to the CJEU rulings sporadically in several country reports, but offers no aggregate statistics or thematic breakdowns, thereby leaving a critical gap. It avoids turning CJEU compliance into a core assessment metric or trigger for enforcement. True coherence and credibility demand parallel, systemic tracking of CJEU compliance. Incorporating this would strengthen the Commission's role as guardian of both EU treaties and of fundamental rights.

THERE ARE THREE KEY ARGUMENTS IN FAVOUR OF INCLUSION OF THE CJEU DATA

1 LEGAL MANDATE AND INSTITUTIONAL COHERENCE

While the consistent inclusion on ECtHR-related implementation statistical data in the Commission's Rule of Law report is welcome, as a guardian of the treaties, the Commission is responsible for overseeing member state compliance with CJEU rulings. The systemic presentation of ECtHR judgments but not CJEU rulings creates an internal inconsistency. The CJEU compliance should be properly embedded in the rule of law surveillance, not relegated to footnotes. Without systemic CJEU monitoring, the rule of law report risks prioritising external frameworks over the EU's own system. This creates a credibility gap, especially in light of the CJEU's increased role in addressing rule of law backsliding.

2 TRANSPARENCY AND ACCOUNTABILITY

The absence of data on compliance with CJEU rulings obscures the extent to which Member States may be disregarding binding judicial decisions. It also represents a missed opportunity to demonstrate the systemic nature of non-compliance, which appears to affect a significant number of Member States. If the Commission recognises compliance with CJEU judgments as a rule of law issue, then it should report on it transparently and systematically across all Member States. Practical difficulties in tracing the implementation status of rulings arising from preliminary references cannot serve as a sufficient justification for omitting such information altogether.

3 EVIDENCE-BASED ENFORCEMENT

Integrating CJEU compliance metrics would enable the Commission to target enforcement more effectively, identify persistent non-compliance with EU law, and coordinate infringement procedures with budgetary tools (e.g., the Conditionality Regulation) and recovery instruments more coherently.

TABLE 1. **Analysis of the Commission's approach**

Expectation	2025 Performance	Verdict
Systemic monitoring and analysis of CJEU performance for all member states	Mentioned In several country chapters, (sporadic) but no systemic assessment across all countries	Not met
Calling out states for non-compliance; Emphasis on non-compliance in recommendations	Sporadically and insufficiently	Partially met
Link to non-compliance and enforcement	No clear link	Not met

RECOMMENDATIONS

To the European Commission / EU institutions

- Make implementation of CJEU judgments, in the same way as the ECtHR judgments, a **core metric** in the Annual Rule of Law Report, with systematic use of implementation data and clear country comparisons;
- Systematically issue **tailored country-specific recommendations**, based on ECtHR/CJEU implementation records, with particular focus on chronic underperformers (especially Bulgaria, Hungary, Poland, and Romania);
- Develop a **public scoreboard** or equivalent tool tracking national follow-up to CJEU case-law (including preliminary rulings and elements of overall ECtHR implementation records for comparative purposes);
- Use **enforcement tools more decisively** in cases of persistent non-implementation (infringements, follow-up under Article 260 TFEU, and, where relevant, budgetary conditionality);
- Treat serious non-implementation as a **priority topic in political dialogue** with governments and parliaments, supporting pro-reform "compliance communities"; and
- Create or adapt **EU funding lines** (e.g., under CERV and other programmes) specifically to support implementation-oriented work by civil society, legal professionals, and oversight bodies.

To the Council of Europe

To the Committee of Ministers

- Use the **full political toolbox** available to the Committee of Ministers (including enhanced supervision, debates, and infringement proceedings) much more robustly and consistently in response to chronic non-implementation, to avoid its trivialisation;
- Decisively tap into the potential created by the introduction of the *complementary joint procedure between the Committee of Ministers, the Parliamentary Assembly, and the Secretary General*[112] to respond to flagrant instances of resistance to implementation of ECtHR judgments;
- Avoid **premature closure** of complex groups of cases before underlying structural problems are demonstrably resolved in law and practice;
- Apply **political and diplomatic pressure** in a consistent way across all thematic areas

(judicial independence, detention, discrimination, SLAPPs, etc.);

- In line with the Reykjavík Summit pledges, deepen **structured engagement with Ombuds institutions, NHRIs, equality bodies, and NGOs,** going beyond written Rule 9 submissions; and
- Increase resources for execution work – especially for the Department for the Execution of Judgments and related CoE cooperation projects – to ensure that budget increases for reducing the ECtHR judicial backlog do not undermine the implementation mechanism's capacity to reduce its own backlog.

To the Secretary General

- Make proactive use of **Article 52 ECHR inquiries** in states with entrenched non-implementation of key ECtHR judgments, to raise the political costs of inaction and press for concrete reform plans.

To the Commissioner for Human Rights

- Consider prioritising, among various important means of action available, **targeted Rule 9 communications** when addressing implementation matters within the broader context of the mandate of the institution, as well as maximising the budgetary allocations concretely earmarked for the preparation and submission of such communications.

To national authorities in EU member states

- Adopt **coherent national implementation strategies**, with clear timelines, responsibilities, and parliamentary oversight, instead of *ad hoc*, fragmented measures;
- Robustly undertake **politically sensitive structural reforms** flagged as required by ECtHR/CJEU judgments (e.g., in areas such as judicial independence, detention conditions, surveillance, and discrimination) instead of settling for technical or cosmetic fixes;
- Safeguard **judicial independence** and ensure that national courts are not hindered in consistently applying ECtHR and CJEU case-law, including disapplying conflicting national norms where required; and
- Create and strengthen **effective domestic remedies** (preventive and compensatory) to address recurrent violations and reduce the flow of repetitive cases to Strasbourg and Luxembourg.

ANNEX 1
Methodology

This section sets out the methodology used to assess how EU member states implement judgments of the European Court of Human Rights (ECtHR) and rulings of the Court of Justice of the European Union (CJEU). In both strands, the analysis focuses on decisions that are indicative of structural rule of law issues and relies on a limited set of comparable quantitative indicators, complemented by qualitative expert assessment. Countries are subsequently grouped into performance categories, with these ratings deriving from the indicators but, where appropriate, adjusted to take account of national legal and political contexts.

JUDGMENTS OF THE ECtHR

The data for this report is accurate as of 1 January 2025. The number of pending leading judgments in each country has been taken from the *Council of Europe's 2024 Annual Report for the Supervision of Judgments and Decisions of the European Court of Human Rights*.[113] The other indicators have been calculated by extracting data from the Council of Europe's "Hudoc Exec" website.[30] The report should be read through the lens of the methodology summarised below:

1 The data in the report refers to "**leading"**, rather than all, ECtHR judgments pending implementation. Judgments that identify human rights issues for the first time in a country are classified as "leading" by the Committee of Ministers (as opposed to "repetitive" cases, which reveal the magnitude of the problem at issue in a given jurisdiction). These are often **structural or systemic issues, requiring complex reforms**. To successfully implement a leading case, states must ensure that the underlying problems that led to the ECHR violation have been resolved through the adoption of adequate general measures. If the measures required to implement a leading judgment are not fully adopted, allowing the adoption of a Final Resolution by the Committee of Ministers, the underlying problem that led to

the finding of the violation at issue remains ultimately unresolved, despite different levels of implementation progress undeniably achieved in many of the cases concerned. This gives rise to similar violations at the national level and repetitive applications lodged with the ECtHR, thus undermining both the *raison d'être* and the credibility of the Convention mechanism. The most accurate method to assess whether the ECHR system is leading to substantive changes is, therefore, we believe, by examining the state of implementation of leading judgments in the binary method anyway opted for by the Committee of Minsters itself.

2 Qualifiers in the report are applied according to a classification grid (please see the end of this section). These qualifiers range from **"very serious problem"** to "**moderate"**, "**low"**, or **"very low".** The **number of leading cases** pending implementation, the **proportion of leading cases** pending implementation for the last ten years, and the **average length of time** for which leading cases have been pending implementation are indicators assessed in a uniform manner across the different member states, in line with this classification grid.

3 For the overall assessment of the implementation record of the countries, a final descriptive qualifier is applied (as **"Excellent", "Good"**, etc.). This assessment is not, however, subject to a uniform formula. The categorisation of countries and the attribution of the final qualifier cannot be carried out according to a rigid formula, as this would prevent a sufficiently flexible analysis of diverging underlying circumstances and the different challenges facing the 27 EU states. The overall rating is thus based on the three objective indicators, while being further nuanced by qualitative information.

4 Concerning the assessment of the above—mentioned three main indicators in particular, the following needs to be mentioned;

- For the reasons already explained, the **overall number of leading judgments** pending implementation is the weightiest indicator.
- The pro**portion of leading judgments** from the last ten years that are still pending implementation is the second key indicator. This indicator captures the states' global ability to effectively implement ECtHR leading judgments, on the basis of the rule-of-thumb principle that implementation processes unable to be completed within five years in general, or within ten years at most, as regards complex, structural problems, reveal an express or tacit resistance to implementation and/or severe

dysfunctions of the national implementation mechanisms. This indicator needs to be critically assessed. Although, in most instances, an elevated figure is **indicative of an overall struggling jurisdiction implementation-wise**, certain states may be scoring high in respect of this indicator **for other reasons**, not necessarily qualifying as an implementation problem. This mostly concerns instances where an important influx of new leading ECtHR judgments came recently for supervision before the Committee of Ministers (often in the context of jurisdictions that generally respect the Convention standards and, thus, do not generate violation-finding judgments or were not already burdened with an important implementation backlog (thus, in 2024, in respect of Luxembourg)). Inversely, a zero figure does not indicate the absence of judgments pending implementation. In respect of the countries concerned this year (Finland and Ireland), all outstanding leading judgments, albeit few, were falling, on 1 January 2025, out of the methodological scope of the present research as regards the "10-year rate of implementation" indicator, having been pending implementation for more than ten years. The application of the final descriptive qualifier (as "Excellent", "Good", etc.) allows for a nuanced, qualitative assessment of these elements.

- The **average time leading judgments have been pending implementation** is the final indicator. It shows how long a jurisdiction typically needs to fully resolve the entire mix of implementation challenges it is faced with, however big or small these may be. It is an undeniable fact that an important number of leading judgments that could be implemented in a relatively short period of time have stagnated for an unjustifiably long number of years. **The longer leading judgments have been pending implementation, the greater, in principle, the concern that the necessary reforms are not being carried out.**

  Departures from this principle are, nevertheless, equally possible. On the one hand, it is also possible here, too, for states with an overall good record to have a small number of leading judgments that have been pending for a long period, resulting in a high figure under this heading (e.g., Ireland). This raises smaller, but still not negligible implementation concerns. On the other hand, in some instances, a decrease in the average implementation time compared to the previous year may be due either to the delivery of an important number of new judgments in the past year (rather than to the closure of old leading cases, e.g., Czechia), or to the existence, in respect of the jurisdiction, of very old cases (pending implementation for more than ten years), that are thus factored out of the calculation for this indicator (e.g., Romania). Once again, recourse to the final descriptive qualifier allows for the qualitative assessment of these factors.

5 As already mentioned, judgments pending implementation are often the subject of ongoing reforms. The quantitative methodology opted for the purposes of this report **does not distinguish between unjustified delays in the implementation process** (caused, for example, by the lack of political will to proceed to the necessary reforms) and **delays recorded as a result of the significant time objectively required for adopting the necessary implementation measures in respect of complex, structural shortcomings.** Furthermore, the report **does not quantify the severity of violations or the complexity of the required reforms**, as, to the best of our researchers' understanding, there currently exists no method capable of evaluating these elements. Building on the 2024 edition of this report, our research continues deepening the assessment of the states' reactivity in respect of main themes present in the ECtHR jurisprudence, in an effort to derive qualitative conclusions on the types of cases that are more susceptible to becoming stumbling blocks implementation-wise, as a result of the nature of the violations found.

Summing up, the indicators used in this report were chosen not because they are perfect, but because, to our knowledge, they are the best available. Despite certain methodological limitations, we believe this data provides the best quantitative assessment possible of the overall status of the implementation of ECtHR judgments in different countries, while relevant qualitative nuances are also taken into account, to the extent possible.

Classification Grid

	Very low	Low	Moderately low	Moderate	Significant	High	Very High
Leading judgments pending implementation	Less than 5	Over 5	Over 10	Over 20	Over 30	Over 40	Over 50
Percentage of unimple-mented leading judgments from the last 10 years	Below 10%	10-15%	16-25%	26-30%	31-45%	46-60%	Over 60%
Average time leading judgments have been pending implementation	Less than 1 year	1-2 years	2-3 years	3-4 years	4-6 years	6-7.5 years	More than 7.5 years

JUDGMENTS OF THE CJEU

Case selection

This fourth edition of the study on non-implementation of the CJEU rulings traces and evaluates the compliance of EU member states with CJEU rulings related to the rule of law issued over the past six years (1 January 2019 to 1 January 2025).[31] To identify relevant rulings, the study takes the definition of the rule of law from the 2020 Regulation on the General Regime of Conditionality as a starting point. This *definition*[114] emphasises values such as legal certainty, prohibition of arbitrariness by the executive power, effective judicial protection, separation of powers, and equality before the law. Additionally, it covers CJEU rulings falling under the *four*[115] key areas covered by the European Commission's rule of law report: justice systems, anti-corruption, media freedom and pluralism, and institutional checks and balances.

The dataset includes not only Commission-initiated infringement actions, but also rulings delivered in response to preliminary references from national courts.

Defining Compliance

Compliance is defined broadly to capture the level of adherence by national judicial and political authorities to CJEU prescriptions. Our assessment considers not only whether the referring court implemented the CJEU's guidance in the specific case, but also whether:

1. Higher courts in the same case upheld and applied the CJEU's guidance;
2. Courts in similar cases adhered to the CJEU's interpretation and, where necessary, disapplied the national laws or practices that conflict with EU law; and
3. Political authorities effectively responded to CJEU rulings and national courts' application of CJEU guidance by taking appropriate actions to align national laws and practices with EU law.

We differentiate between three levels of compliance: Full-compliance, partial compliance, and non-compliance.

Full compliance occurs when not only the referring court adheres to the CJEU's prescriptions, but other courts do as well, and where relevant, political authorities amend laws and practices to ensure alignment with EU law. The scope of actions expected from national authorities may vary, depending on the specifics of each case.

Partial compliance refers to a situation where adherence to CJEU rulings is incomplete. An example of partial compliance is mixed judicial practice, where, for example, lower courts might follow the CJEU's guidance, while higher courts do not. Partial compliance may also involve

legislative changes that fail to fully and properly implement the requirements set out in the CJEU case-law. In some instances, in the period immediately after the ruling, partial compliance can be understood as a positive development, signalling some progress. Where this is the case in multiple cases and remains for several years, however, this signals systemic issues and reluctance to implement the CJEU rulings.

Non-compliance may manifest in an outright failure to adhere to CJEU rulings, leading to ongoing breaches of EU law. This could occur, for example, through inconsistent judicial practices or the actions of tax or immigration authorities. Non-compliance may also take the form of significant delays in enacting necessary legislative reforms, despite rhetorical commitment to comply. In some cases, this may involve sham reforms that do not genuinely alter the status quo or rectify violations of EU law.

Data collection and preparation of state profiles

The data collection process involved two elements: a) identifying CJEU rulings relevant to the study, and particularly those related to the rule of law; and b) tracking national efforts, if any, to adhere to these rulings. For each jurisdiction, the study relied on at least one, and typically two or more experts. As a consequence, individual country profiles were prepared detailing the number of the rule of law-related rulings covered, and breaking that number down into the rulings fully complied with, those partly complied with, and those not complied with, calculating percentages for each category. Profiles also highlight the number and percentage of rulings where compliance has been significantly delayed. These are rulings issued earlier than May 2023 that were still pending compliance as of 1 May 2025, i.e., pending for two years or more.

Methodology for assessing state performance

The report **categorises EU member states based on their performance**, differentiating between six categories — **"excellent", “good”, "moderate," “poor”, "problematic" and “highly problematic” compliers.** The categorisation is based on the proportions of the rulings that state complied with fully, partly, or not at all. Absolute numbers are less relevant for positioning states, as the number of referrals varies between countries, for example.

The 2024 study covered 17 EU member states that were divided into three categories. The expansion of the study here, from 17 to 25 member states, and the significantly larger dataset justify the move from a three-tier to a six-tier categorisation system. The broader sample and improved expert input necessitated a more nuanced and proportionate classification. The six categories enhance analytical precision, transparency, and comparability, ensuring that

TABLE 1. **Base categorisation**

Category	Parameters			Explanation
	Fully complied	Partly complied	Not complied	
Excellent compliers	>90%	≤5%	≤5%	These states demonstrate sustained commitment and a high level of responsiveness to CJEU rulings. They fully comply with 90 % of these rulings, with minimal instances of partial or non-compliance (5 % or less).
Good compliers	70–90%	≤20%	≤10%	These states show consistent effort, albeit with some room for improvement. 70–90 % of rulings are fully implemented. While there may be some partial compliance (up to 20 %), and very limited non-compliance, these are typically recent cases or due to reasonable delays.
Moderate compliers	50–69%	≤40%	≤20%	These states show mixed performance, with some progress as well as systemic shortcomings. They fully comply with 50–69 % of rulings, and a noticeable share is only partly complied with (up to 40 %). Non-compliance remains limited (typically under 20 %), but partial measures suggest gaps in capacity or follow-through.
Poor compliers	30–49%	≤50%	≤40%	With these states, full compliance drops to 30–49 %. Partial compliance is often substantial and a notable share of rulings are not complied with at all, indicating fragmented and inconsistent enforcement practices.
Problematic compliers	10–29%	>50%	≤40%	With these states, we see chronic under-performance, with only 10-29 % of rulings being complied with fully. Partial compliance dominates (over 50 %), often due to mixed judicial practices and piecemeal reforms. Compliance is slow and incomplete.
Highly problematic compliers	<10%	≤50%	>40%	These states fully comply with less than 10 % of rulings. In contrast to "problematic" compliers, they show a high level of outright non-compliance (over 40 %) and a lower level of partial compliance.

states with different performance profiles are not artificially clustered together.

Need for adjustment

While the primary categorisation of states is based on quantitative indicators – namely, the proportion of rulings fully, partly, or not complied with – there are situations where **strict percentage-based categorisation may not reflect real compliance dynamics.** In such cases, **contextual adjustments may be applied**, but these remain **exceptions**, not the rule. The following qualitative factors are taken into account:

- **Significant delays in Compliance (Pending for 2+ Years)**
  If a significant number of unresolved cases have been pending for over two years, this suggests systemic delay in implementing rulings. Even if the state shows a high overall compliance rate, such delays undermine the credibility of its compliance record.

  Adjustment: Downgrade by one category
  The state may be exempted from the downgrade if, for example, it demonstrates a low non-compliance rate and evidence of at least partial compliance in delayed cases.

- **High Non-Compliance Rate (>30 %)**
  A high proportion of rulings not complied with at all reflects deep structural or political resistance to enforcement. This is more severe than partial or delayed compliance.
  Adjustment: Downgrade by one category

In states with a **very limited number of rulings (typically five or fewer**), even a single instance of non-compliance or partial compliance can produce **inflated percentages** that do not accurately reflect broader patterns. This distorts comparisons with larger states and risks **over-penalising** small caseloads. To avoid disproportionate penalisation, these cases are treated with caution. Where relevant, **the timing and context** of individual rulings are considered, and categorisation may be marked as **indicative** or accompanied by an explanatory note. This ensures the methodology remains **proportionate, fair, and context-sensitive**, particularly when comparing states with vastly different volumes of rulings.

ANNEX 2
Country Profiles for ECtHR and CJEU

The European Court of Human Rights (ECtHR)

Situation as of 1 January 2025

AUSTRIA

Very good

Austria's implementation record is very good. Both the overall number of judgments and the proportion of judgments from the last ten years awaiting implementation, further decreased last year, remaining well below the EU average.

Pending leading judgments do not reveal any complex or systemic issues. Examples of ECtHR judgments in respect of Austria that were still pending implementation at the start of 2025 concerned, for example, the refusal of administrative courts to hold oral hearings in social security disputes (*Pagitsch GMBH v. Austria*,[116] pending implementation since 2021), and the obligation imposed on a media company to disclose data of authors of comments posted on its internet news portal (*Standard Verlagsgesellschaft MBH v. Austria*,[117] judgment final in March 2022).

ECtHR

Very good

5 *(Very Low)*

ECtHR leading judgments pending implementation.

28% *(Moderate)*

Leading judgments rendered in the last ten years still pending implementation.

1 year and 11 months *(Low)*

Average time those judgments have been pending implementation.

Situation as of 1 January 2025

BELGIUM

Moderately Poor

Belgium continues having a moderately poor ECtHR implementation record.

Although both the number of leading judgments pending implementation and the proportion of judgments from the last ten years awaiting implementation in Belgium have slightly decreased as a result of the closure of seven leading Belgian cases (while three new ones came in) in 2024, these closures mostly concerned relatively recent judgments (the majority of which had become final between 2021 and 2024).

The overall picture with respect to the long-standing, complex, or structural problems that require further reforms (and which constitute almost half of the pending leading Belgian cases, i.e., eight out of[17]) remains largely unchanged. This concerns, in particular: the excessive length of criminal proceedings (*Bell v. Belgium*,[118] pending implementation since 2009); inadequate care provision for persons with mental health problems detained in prison psychiatric wings (*L.B. v. Belgium,*[119] pending implementation since 2013); and prison overcrowding, together with poor material conditions of detention (*Vasilescu v. Belgium,*[120] pending implementation since 2015). At the same time, the systemic non-execution of decisions ordering the offer of material assistance and shelter to asylum-seekers (*Camara v. Belgium,*[121] pending implementation since 2023) emerged as a new matter of concern.

All the above have not only impacted negatively the "average time of implementation" indicator (3 years and 11 months last year). Most worryingly, these have prompted the European Commission to raise serious concerns in its *2024 Rule of Law Report country chapter on Belgium*,[122] in connection with the country's non-compliance with both ECtHR and domestic court judgments, and to make an implementation-specific recommendation to the Belgian authorities.[32]

ECtHR

Moderately Poor

17 *(Moderately low)*

ECtHR leading judgments pending implementation

30% *(Moderate)*

Leading judgments rendered in the last ten years still pending implementation

4 years and 9 months *(Significant)*

Average time leading judgments have been pending implementation

Situation as of 1 January 2025

BULGARIA

Very serious problem

Bulgaria's ECtHR implementation record continues to be one of the poorest in the EU, demonstrating an ongoing and very serious problem regarding the implementation of ECtHR judgments. Bulgaria has the second highest number of pending leading judgments in the EU, second only to Romania.

The proportion of pending leading judgments among those rendered in the last ten years remained persistently high (as a result of a balance in the leading cases closed by the Committee of Ministers (eight) and the new leading cases that became final (10) in 2024). The average time of implementation kept rising (from 6 years and 9 moths last year), rendering Bulgaria the third slowest performing country in the EU. Worryingly, about one-third of the pending leading judgments in respect of Bulgaria (27 out of 89) were revealing, at the end of 2024, complex or systemic problems, and were thus being examined by the Committee of Ministers under the enhanced supervision procedure.

Key issues pertaining to the rule of law remain unresolved: disciplinary sanctions against judges in retaliation against criticism of corruption within the judiciary and the executive (*Miroslava Todorova v. Bulgaria*,[123] pending implementation since 2022); systemic problems concerning a lack of guarantees for the independence of criminal investigations against the Chief Prosecutor (*Kolevi v. Bulgaria*,[124] pending implementation since 2010); and unjustified refusals to register associations that represent minorities (*United Macedonian Organisation Ilinden and Others v. Bulgaria*,[125] pending implementation since 2006).

Other long-standing fundamental human rights issues in Bulgaria concern the systemic problem of ineffective investigations in respect of sex crimes (*S.Z. v. Bulgaria*,[126] pending implementation since 2015); and the deaths of children with severe mental disabilities in state facilities, and the lack of effective investigations (*Nencheva and Others v. Bulgaria*,[127] pending implementation since 2013). On the other hand, in 2024, the Committee of Ministers closed the pilot judgment in *Neshkov and Others v. Bulgaria*,[128] concerning prison overcrowding, following the adoption of preventive and compensatory remedies, which it considered to be effective.

ECtHR

Very serious problem

89 *(Very high)*

ECtHR leading judgments pending implementation.

54% *(High)*

Leading judgments rendered in the last ten years still pending implementation.

7 years and 3 months *(High)*

Average time those judgments have been pending implementation.

Situation as of 1 January 2025

CROATIA

Moderate

Croatia continued having a moderate record of ECtHR implementation, mostly as a result of the relatively fast reactions of the Croatian authorities in resolving the root causes of violations established by the Court (reflected in the dropping, for a third year in a row, average time of implementation), and despite the fact that the other two indicators deteriorated slightly last year.

In particular, in 2024, the supervision of ten leading cases was ended, showcasing the ongoing engagement of the Croatian authorities with the implementation process. This is important, particularly in the face of the delivery of a significant number of new leading judgments (12 in 2024). The positive development in respect of the "average time of implementation" indicator (3 years and 4 months at the end of 2023) is linked with the closure, in 2024, of four very old leading judgments, which had been pending implementation for between eight and eleven years. The 2024 closure of one of these, *Stojanović v. Croatia*[129] (which concerned freedom of expression violations on account of disproportionate orders to pay civil damages for defamation), raised concerns, however, as per its premature nature despite credible evidence from civil society that the problem was not fully resolved.

Fundamental human rights problems that remain unresolved include the inadequate investigation of hate crimes against LGBTIQ+ persons (*Sabalić v. Croatia*,[130] pending implementation since 2021) and the collective expulsions of asylum seekers, together with delays in processing detention and asylum proceedings (*M.H. and Others v. Croatia*[131] pending implementation since 2022).

ECtHR

Moderate

30 *(Moderate)*

ECtHR leading judgments pending implementation

32% *(Significant)*

Leading judgments rendered in the last ten years still pending implementation

2 years and 3 months *(Moderately low)*

Average time leading judgments have been pending implementation

Situation as of 1 January 2025

CYPRUS

Moderate

Cyprus now has a moderate ECtHR implementation record, following slight improvements in respect of the two first indicators in comparison with the situation at the end of 2023.

Conditions of detention in prison (*Danilczuk v. Cyprus*,[132] pending implementation since 2018), deportation centres and certain police stations (*Khanh v. Cyprus*,[133] pending implementation since 2018), and instances of the arbitrary detention of asylum seekers (*B.A. v. Cyprus*,[134] which became final in October 2024) are the main human rights issues the authorities should address by taking all necessary general measures.

ECtHR

Moderate

8 *(Low)*

ECtHR leading judgments pending implementation.

42% *(Significant)*

Leading judgments rendered in the last ten years still pending implementation.

3 years and 6 months *(Moderate)*

Average time those judgments have been pending implementation.

Situation as of 1 January 2025

CZECHIA

Good

Czechia maintains a good ECtHR implementation record, having put in place a strong ECtHR implementation mechanism at the national level. A small influx of new judgments (six) in respect of Czechia in 2024 can explain both the important increase in respect of the "10-year rate of implementation" indicator (at 24 per cent last year) and the significant decrease in respect of the "average time of implementation" indicator (4 years and 3 months last year).

A long-standing, systemic human rights problem that still requires significant reforms, not with standing the progress achieved so far, concerns discrimination in education against Roma children (*D.H. and Others v. the Czech Republic*,[135] pending implementation since 2007). On the other hand, the recent *Z v. the Czech Republic*[136] judgment, which concerns the lack of a sufficient legal framework to allow the criminalisation and punishment of non-consensual sexual acts, appears to have already been implemented to a great extent, as the legal framework has changed and new criminal law provisions have been enacted in relation to sex crimes.

ECtHR

Good

9 *(Low)*

ECtHR leading judgments pending implementation

44% *(Significant)*

Leading judgments rendered in the last ten years still pending implementation

2 years and 8 months *(Moderately Low)*

Average time leading judgments have been pending implementation

Situation as of 1 January 2025

DENMARK

Very Good

With a very low number of violation judgments, Demark maintains a very good ECtHR implementation record, ranking amongst the top three EU countries in this respect.

The significant percentage of leading judgments rendered in the last ten years still pending implementation should be assessed against the overall very low levels of Convention violations established by the Court (all pending judgments having been rendered from 2020 onwards). This figure, therefore, should not be interpreted negatively.

The main human rights issues that were still awaiting reforms in Denmark at the end of 2024 included unlawful restraints in psychiatric hospitals (*Aggerholm v. Denmark*,[137] pending implementation since 2020) and the refusal to allow the adoption of children born abroad through surrogacy (*K.K. and Others v. Denmark*,[138] pending implementation since March 2023).

ECtHR

Very Good

3 *(Very low)*

ECtHR leading judgments pending implementation.

43% *(Significant)*

Leading judgments rendered in the last ten years still pending implementation.

2 years and 3 months *(Moderately Low)*

Average time those judgments have been pending implementation.

Situation as of 1 January 2025

ESTONIA

Very Good

Estonia has a very good implementation record, with a very low number of leading judgments and a proportion of pending leading judgments rendered in the last ten years well below the EU average.

Main pending leading judgments concern ineffectiveness of criminal investigations into sexual abuse (*R.B. v. Estonia,*[139] pending implementation since 2021) and the protection of lawyers' privileged data during seizures (*Särgava v. Estonia,*[140] pending implementation since 2022).

ECtHR

Very Good

5 *(Very low)*

ECtHR leading judgments pending implementation

26% *(Moderate)*

Leading judgments rendered in the last ten years still pending implementation

1 year and 10 months *(Low)*

Average time leading judgments have been pending implementation

Situation as of 1 January 2025

FINLAND

Very Good

Finland's ECtHR implementation record is now very good, having significantly improved over the last two years, as a result of the end of the supervision of an important number of old leading judgments.

As of 1 January 2025, there was no judgment in respect of Finland falling into the methodological scope of the present research as regards the "10-year rate of implementation" indicator; the only leading judgment still monitored by the Committee of Ministers in respect of Finland (which concerns the violation of the right not to be punished twice for the same facts, in the context of criminal and administrative taxation proceedings [*Nykanen v. Finland*][141]), has been pending implementation for more than a decade.

ECtHR

Very Good

1 *(Very low)*

ECtHR leading judgments pending implementation.

0% *(Very Low)*

Leading judgments rendered in the last ten years still pending implementation.

10 years and 4 months *(Very high)*

Average time those judgments have been pending implementation.

Situation as of 1 January 2025

FRANCE

Moderate

France maintains an overall moderate ECtHR implementation record.

The delivery of an important number of new leading cases in 2024, which concerned, *inter alia*, the lack of criminal-law protection against anti-Semitic remarks (*Allouche v. France*)[142], precarious living conditions in reception camps for Algerian "Harkis" who fought alongside the French army during the Algerian War of Independence (*Tamazount and Others v. France*[143]), and a disproportionate criminal conviction for defamation (*Allee v. France*[144]), has contributed both to an increase in respect of the "10-year rate of implementation" indicator (at 29 per cent last year) and to a significant decrease in respect of the "average time of implementation" indicator (3 years and 10 months last year).

In addition to an important number of leading cases concerning asylum and migration-related rights that were pending implementation at the end of 2024, the inadequacy of prison conditions (*J.M.B. v. France*[145], pending implementation since 2020) remained among the fundamental human rights problems yet to be resolved in France, with a worrisome, steady increase in the prison population.

More recent problems identified by the Court concern the non-enforcement of decisions ordering improved reception conditions for asylum-seekers (*M.K. and Others v. France*[146], pending implementation since 2023) and disproportionate convictions for presumed glorification of terrorism (*Rouillan v. France*[147], pending implementation since 2022). Finally, the oldest leading judgments in France that have remained under the Committee of Ministers' supervision for more than a decade concern the failure to execute judicial expulsion orders from illegally occupied lands (*Barret and Sirjean v. France*[148], pending implementation for 15 years) and the unlawful evictions of travelers from occupied lands (*Winterstein v. France*[149], pending implementation for 11 years).

ECtHR

Moderate

26 *(Moderate)*

ECtHR leading judgments pending implementation

34% *(Significant)*

Leading judgments rendered in the last ten years still pending implementation

3 years *(Moderately low)*

Average time leading judgments have been pending implementation

Situation as of 1 January 2025

GERMANY

Good

At the end of 2024, Germany's ECtHR implementation record improved to good, with progress achieved in respect of all indicators in comparison with the previous year.

This reflects the country's successful effort to resolve, over the last year, a number of long-standing human rights problems. No new systemic or complex problems have emerged in 2024. The leading judgment *Hentschel and Stark v. Germany*[150], which has been pending implementation for seven years, requires that the authorities take further general measures to improve the effectiveness of criminal investigations into police ill-treatment.

Other human rights issues that require attention from the German authorities concern the lack of procedural safeguards when investigating lawyers' bank accounts (*Sommer v. Germany*[151], pending implementation since 2017) and unjustified strip searches in prison (*Roth v. Germany*[152], pending implementation since 2021).

ECtHR

Good

9 *(Low)*

ECtHR leading judgments pending implementation.

29% *(Moderate)*

Leading judgments rendered in the last ten years still pending implementation.

3 years and 8 months *(Moderate)*

Average time those judgments have been pending implementation.

GREECE

Problematic

Despite the active engagement of the Greek authorities with the implementation mechanism, which is to be welcomed, Greece has steadily presented a problematic ECtHR implementation record over recent years.

One-fifth of the leading cases that were pending on 1 January 2025 (six out of 30), were being examined under the enhanced supervision procedure, whereas almost one-fourth of the overall number of Greek judgments pending implementation (seven out of 30) remained, at the end of 2024, unimplemented or not fully implemented for more than a decade, thus falling out of the methodological scope of the present research as regards the "10-year rate of implementation" indicator.

The persistent refusal, for more than 16 years, and despite a set of measures already adopted, to register non-profit associations for Turkish minorities (*Bekir-Ousta and Others v. Greece;*[153] *House of Macedonian Civilization and Others v. Greece)*[154] constitutes a fundamental implementation challenge in Greece, as these cases have been pending since 2008 and 2015, respectively. A lack of political will to resolve these issues – despite increased pressure from the Council of Europe and civil society – significantly contributes to the problematic nature of Greece's implementation record. Other long-standing fundamental rights issues the authorities needed, at the start of 2025, to further address through general measures concerned freedom of expression violations through abusive recourse to civil defamation proceedings (*Vasilakis v. Greece*[155], pending implementation since 2008), police brutality and ineffective investigations (*Sidiripoulos and Papakostas v. Greece*[156], human rights violations first identified by the Court in 2004, in the case of *Makaratzis v. Greece*[157]) and conditions of detention of asylum seekers and irregular migrants, and lack of an effective remedy to challenge them (*M.S.S. v. Greece*[158], pending implementation since 2011). Different levels of progress have been achieved in respect of these cases; nevertheless, the inability to effectively and sustainably resolve them continue generating big numbers of repetitive violations.

An emerging pattern of non-compliance with the interim measures indicated by the Court, under Rule 39 of the Rules of the Court, also remained under the Committee of Ministers' supervision at the start of 2025 (*M.A. and Others v. Greece*[159], final judgment dated 3 October 2024).

ECtHR

Problematic

30 *(Moderate)*
ECtHR leading judgments pending implementation

34% *(Significant)*
Leading judgments rendered in the last ten years still pending implementation

6 years 1 month *(High)*
Average time leading judgments have been pending implementation

HUNGARY

Very serious problem

Hungary continues to present a very serious problem concerning implementation of ECtHR judgments.

Consistently maintaining the highest percentage of judgments rendered in the past ten years that are still pending implementation among EU member States, Hungary also holds one of the poorest records in the EU regarding implementation of leading ECtHR judgments. Even more worryingly, one-fourth (12 out of 47) of the leading judgments pending implementation now fall out of the methodological scope of the present research as regards the "10-year rate of implementation" indicator, having become final between more than a decade and up to 16 years ago.

Matters pertinent to the rule of law and democratic values continue to remain insufficiently addressed, including due to the absence of political will to resolve the underlying problems. *Inter alia*, the Hungarian authorities are under the obligation to take important further general measures to safeguard the freedom of expression of judges and to remedy legislative shortcomings that systemically hinder judicial independence (*Baka v. Hungary*[160], pending implementation since 2016), to ensure access to public information (*Kenedi v. Hungary*[161], pending implementation since 2009), to guarantee freedom of assembly (*Patyi and Others*[162], pending implementation since 2009) and to finalise enacting proper safeguards against unlawful secret surveillance measures (*Szabo and Vissy v. Hungary*[163], pending implementation since 2016).

Other long-standing matters concern ill-treatment by police officers and lack of effective investigations of such instances (*Gubacsi v. Hungary*[164], pending implementation since 2011), and the disproportionate and, thus, discriminatory assignment of Roma children to schools for children with mental disabilities (*Horvath and Kiss v. Hungary*[165]), pending implementation since 2013.

ECtHR

Very serious problem

47 *(High)*

ECtHR leading judgments pending implementation.

74% *(Very high)*

Leading judgments rendered in the last ten years still pending implementation.

6 years and 6 months *(High)*

Average time those judgments have been pending implementation.

IRELAND

Good

Presenting the same overall picture as last year, Ireland maintains a good ECtHR implementation record.

Ireland globally remains one of the most Convention-compliant jurisdictions in the EU (having only had 14 leading judgments rendered in its respect by the Court throughout its history). What hinders the application of a higher final qualifier is the long-standing inability to fully resolve the jurisdiction's two remaining leading judgments, *O'Keeffe v. Ireland*, and *McFarlane v. Ireland.*[166] Both cases have been pending implementation for more than a decade (since 2014 and 2010, respectively). As of 1 January 2025, there was thus no judgment in respect of Ireland falling into the methodological scope of the present research as regards the "10-year rate of implementation" indicator.

In 2024, positive developments in relation to survivors' claims for historic sexual abuses in schools (*O'Keeffe v. Ireland*[167]) were registered, when further *settlements*[168] with abuse survivors were reached following renewed national and international attention to this case. That notwithstanding, important *concerns*[169] remain over the lack of effective remedies available to victims of sexual abuse in Irish schools falling within the scope of this case, since the jurisdiction's second *ex gratia* scheme (the "Revised Redress Scheme") closed in July 2023, as well as over the wrongful exclusion of many survivors from accessing redress in accordance with the terms of this judgment.

On a more positive note, concerning the problem of the excessive length of criminal and civil proceedings and the lack of an excessive remedy for these problems (*McFarlane v. Ireland*[170]), the Committee of Ministers last year welcomed the enactment of the Court Proceedings (Delays) Act 2024, which established a statutory remedy for instances of excessive length of proceedings.

ECtHR

Good

2 *(Very Low)*

ECtHR leading judgments pending implementation

0% *(Very Low)*

Leading judgments rendered in the last ten years still pending implementation

12 years and 7 months *(Very High)*

Average time leading judgments have been pending implementation

ITALY

Very serious problem

Maintaining the second highest proportion of pending leading judgments rendered in the last ten years in the EU, Italy continues having a very serious problem in terms of its ECtHR implementation record.

The bigger influx of new leading judgments in respect of Italy in 2024 (seven), compared to the leading judgments closed in the same year (three), explains both the increase in respect of the "10-year rate of implementation" indicator (at 65 per cent last year) and the slight decrease in respect of the "average time of implementation" indicator (6 years and 7 months last year).

On a positive note, over the course of 2024, the Committee of Ministers closed the *Abenavoli v. Italy*[171] group of cases, which concerned the excessive length of administrative proceedings in Italy and had been pending implementation since 1997. This has marked the end of a lengthy period of reforms, which led to improvements in reducing the backlog of administrative court cases. On the contrary, at the start of 2025, further steps were still required to complete the reforms that would allow for reducing the length of civil proceedings (pending implementation since 1999).

Longstanding unresolved human rights issues in Italy concern criminal convictions for acts of free speech on matters of public interest (*Belpietro v. Italy*[172], pending implementation since 2013), and gaps in the Italian criminal legislation resulting in the failure to specifically incriminate torture and other types of police brutality amounting to treatment contrary to Article 3 (*Cestaro v. Italy*[173], pending implementation since 2015).

Furthermore, the Italian authorities are still required to take further general measures to address ineffective police responses to domestic violence (*Talpis v. Italy*[174], pending implementation since 2017), secondary victimisation of sexual violence victims (*J.L. v. Italy*[175], pending implementation since 2021), unlawful detention of migrants in hotspots and collective expulsions (*J.A. and Others v. Italy,*[176] pending implementation since 2023), the lack of pluralism/imbalance of presence of political associations in public television programmes (*Associazione Politica Nazionale Lista Marco Panella v. Italy*[177], pending implementation since 2021), and the improper reactions on the part of the authorities to toxic air pollution (*Cordella and Others v. Italy*[178], pending implementation since 2019).

ECtHR

Very serious problem

74 *(Very High)*

ECtHR leading judgments pending implementation.

73% *(Very high)*

Leading judgments rendered in the last ten years still pending implementation.

6 years and 4 months *(High)*

Average time those judgments have been pending implementation.

Situation as of 1 January 2025

LATVIA

Good

With figures well below the EU average, Latvia continues having an overall good ECtHR implementation record.

Emerging human rights issues the Latvian authorities must address concern the impossibility of adequately challenging pre-trial detention (*Spruds and Others v. Latvia*[179], pending implementation since 2024), the lack of effective prosecution of homophobic attacks (*Hanovs v. Latvia*[180], pending implementation since 2024), and the inhuman and degrading treatment inflicted on prisoners in the context of the informal prison hierarchy (*D. v. Latvia*[181], pending implementation since 2024).

ECtHR

Good

9 *(Low)*

ECtHR leading judgments pending implementation

21% *(Moderately low)*

Leading judgments rendered in the last ten years still pending implementation

1 year and 3 months *(Low)*

Average time leading judgments have been pending implementation

Situation as of 1 January 2025

LITHUANIA Moderate

In 2024, Lithuania maintained a moderate ECtHR implementation record.

The considerable increase, in 2024, in the "average time of implementation" indicator (3 years and 8 months last year) although all other indicators fluctuated rather moderately is linked with the fact that, out of the 20 leading judgments that were pending implementation at the beginning of 2025, a significant number (seven) had been pending for more than six and up to almost 17 years, whereas, on the other hand, all six leading judgments closed in 2024 were recent, having become final between 2022 and 2024.

Over the course of 2024, positive developments were recorded in the implementation process of the *Macate v. Lithuania*[182] judgment, concerning the temporary suspension of a children's fairy tale book depicting same-sex relationships, when the Constitutional Court struck down the so-called "gay propaganda" clause in the "Law on the Protection of Minors against the Adverse Effects of Public Information".

Ongoing human rights problems the Lithuanian government should continue addressing through general measures concern the inadequate response to homophobic hate speech (*Beizaras and Levickas v. Lithuania*,[183] pending implementation since 2020) and the lack of legislation governing the conditions and procedures relating to gender reassignment (*L. v Lithuania)*.[184] This later case has been pending implementation since 2008, having raised civil society concerns regarding the existence of genuine political will to address this issue, and having engendered increased political pressure from the Committee of Ministers of the Council of Europe, which, in 2025, urged Lithuania to finalise the legislative process through a rule-of-law-based solution.

ECtHR

Moderate

20 *(Moderately low)*

ECtHR leading judgments pending implementation.

32% *(Significant)*

Leading judgments rendered in the last ten years still pending implementation.

4 years and 7 months *(Significant)*

Average time those judgments have been pending implementation.

Situation as of 1 January 2025

LUXEMBOURG

Very good

Luxembourg maintains a very good ECtHR implementation record, with a very low number of pending judgments.

There are no cases indicating particularly complex or systemic human rights problems, and there are no cases being examined under the enhanced procedure. The very high percentage of leading judgments rendered in the last ten years still pending implementation should be read in context; this is only so due to the overall Convention-compliant record of the Luxembourgish jurisdiction, the resultant overall very low number of leading judgments in respect of Luxembourg (25 judgments throughout its history), and a small influx of leading judgments delivered in respect of Luxembourg from 2021 onwards (five cases).

One important issue pending implementation in Luxembourg concerns the conviction of a whistleblower for disclosing information on tax evasion (*Halet. v. Luxembourg*[185], judgment final in February 2023). This problem merits special attention, as it touches upon the sphere of the rule of law.

ECtHR

Very good

4 *(Very low)*

ECtHR leading judgments pending implementation

67% *(Very high)*

Leading judgments rendered in the last ten years still pending implementation

1 year and 6 months *(Low)*

Average time leading judgments have been pending implementation

Situation as of 1 January 2025

MALTA

Moderately poor

Malta's moderately poor record of ECtHR implementation has remained stable in recent years, with a higher than the EU average proportion of leading judgments rendered in the last decade still pending implementation.

Main human rights issues the Maltese authorities should continue addressing through general measures concern unlawful detention pending deportation (*Feilazoo v. Malta*,[186] pending implementation since 2021), the lack of an effective remedy for complaints against poor detention conditions (*Abdilla v. Malta*,[187] pending implementation since 2018), and disproportionate control of property in the context of the landlord-tenant relationship (*Ghigo v. Malta*,[188] pending implementation since 2006). In the latter case, in 2024, the Committee of Ministers decided to move the case from the enhanced to the standard supervision track, as a result of progress in implementation prompted by a new mechanism, which alleviated some of the effects of the controlled rents on the owners, by providing non-discriminatory enjoyment of their property rights.

ECtHR

Moderately poor

14 *(Moderately low)*

ECtHR leading judgments pending implementation.

57% *(High)*

Leading judgments rendered in the last ten years still pending implementation.

6 years and 6 months *(High)*

Average time those judgments have been pending implementation.

Situation as of 1 January 2025

NETHERLANDS

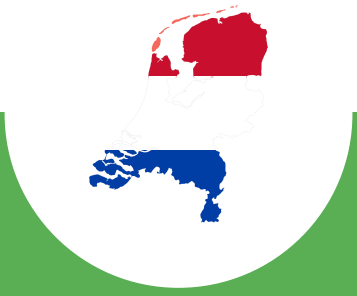
Good

The Netherlands continue having a good record of ECtHR implementation, with a low number of pending leading judgments in comparison with other EU member states.

One of the long-standing implementation challenges in the Netherlands concerns the *de facto* irreducibility of life sentences imposed on prisoners suffering from mental illness (*Murray v. the Netherlands*[189]). Last year, the Committee of Ministers *noted with concern*[190] that this judgment had been pending for more than eight years (since 2016). It criticised this lack of progress, transferring the case to the enhanced supervision procedure, and requesting an updated action plan from the authorities.

Another important matter under the attention of the Committee of Ministers concerns the poor conditions of detention on remand in Sint Maarten, a part of the Kingdom of the Netherlands in the Caribbean (*Corallo v. the Netherlands*,[191] pending implementation since 2018), marked by a persisting lack of material progress.

ECtHR



Good

7 *(Low)*

ECtHR leading judgments pending implementation

41% *(Significant)*

Leading judgments rendered in the last ten years still pending implementation

3 years and 2 months *(Moderate)*

Average time leading judgments have been pending implementation

POLAND

Very serious problem

Poland continues having a very serious problem as regards implementation of ECtHR judgments, with an ever-increasing number of pending leading judgments.

The overall situation is even more worrisome than the figures below let show; approximately one-sixth of the pending leading judgments (nine out of 52) fall outside the methodological scope of the present research as regards the "10-year rate of implementation" indicator, having been rendered more than a decade ago, whereas approximately half of the leading cases are examined under the enhanced supervision procedure.

The most pressing issues in Poland concern the independence and impartiality of the judiciary, which have been negatively impacted since the 2017 judicial reform, with tremendous repercussions for the rule of law in the country. In 2024, nine relevant leading judgments concerned, *inter alia*, the unlawful formation of the Constitutional Court (*Xero Flor w Polsce sp. z o.o. v. Poland*[192]), grave irregularities in the appointment of judges to the Disciplinary Section of the Supreme Court (*Reczkowicz v. Poland*[193]), and the premature termination of judges' terms of office (*Broda and Bojara v. Poland*[194]). Over the course of 2024, promising reforms were initiated to address these issues – legal amendments were adopted by the *Sejm* on the election of the National Council of the Judiciary, and a tailored legal solution to regulate the status of irregular judges was put forward by the Ministry of Justice.

One long-standing human rights issue where implementation is hindered by lack of political will concerns the unlawful restrictions on abortion (*P. and S.*[195], *R.R.*[196], *Tysiac v. Poland*,[197] the latter case pending implementation since 2007). Emerging matters include the absence of any form of legal recognition and protection for same-sex couples (*Przybyszewska and Others v. Poland*[198]), and the insufficiency of guarantees as regards secret surveillance, retention of, and access to communications data (*Pietrzak et Bychawska-Siniarska and Others v. Poland*[199]), as well as the issue of collective expulsions in a non-Convention-compliant manner (*M.K. and Others v. Poland*,[200] pending implementation since 2020).

ECtHR

Very serious problem

52 *(Very High)*
ECtHR leading judgments pending implementation.

51% *(High)*
Leading judgments rendered in the last ten years still pending implementation.

5 years and 5 months *(Significant)*
Average time those judgments have been pending implementation.

Situation as of 1 January 2025

PORTUGAL

Moderately poor

Portugal's overall ECtHR implementation record has worsened slightly in comparison with last year, now qualifying as moderately poor.

The bigger influx of new leading judgments in respect of Portugal in 2024 (four) compared to the leading judgments closed in the same year (one) can explain both the increase in respect of the "10-year rate of implementation" indicator and the slight decrease in respect of the "average time of implementation" indicator. In all, for several years in a row, the Court has been delivering new leading judgments in respect of Portugal considerably faster than the jurisdiction's ability to achieve effective and sustainable implementation progress.

The most systemic human rights issue, which is being examined under the enhanced procedure by the Committee of Ministers, concerns overcrowding and poor conditions of detention in prisons (and the respective lack of effective remedies to complain thereabout) (*Petrescu v. Portugal*,[201] pending implementation since 2020). As per the Committee's request, the authorities should prepare a comprehensive strategy to identify and address the different root causes of overcrowding and achieve long-lasting solutions. The excessive length of judicial proceedings (*Vicente Cardoso v. Portugal*,[202] pending implementation since 2013), is also a long-standing issue in Portugal, with a need for further general measures.

ECtHR

Moderately poor

19 *(Moderately low)*
ECtHR leading judgments pending implementation

52% *(High)*
Leading judgments rendered in the last ten years still pending implementation

5 years and 6 months *(Significant)*
Average time leading judgments have been pending implementation

Situation as of 1 January 2025

ROMANIA

Very serious problem

All metrics continue to reveal the existence of a very serious implementation problem in Romania. Maintaining the highest number of pending leading judgments of any country in the EU, Romania's ECtHR implementation record is among the poorest in the EU.

The overall number of leading judgments pending implementation has improved very slightly (from 115 last year), due, in part, to the closure of supervision in respect of 11 cases in 2024 (an improvement that was neutralised, to a large extent, by the delivery of seven new leading judgments in the same year).

The overall situation is even more worrisome, given the significant number of very old leading judgments that have been pending implementation for more than a decade and up to 20 years, thus falling out of the methodological scope of the present research as regards the "10-year rate of implementation" indicator (close to one-fifth of the leading cases that were pending at the end of 2024 fell into this category). These cases concern, *inter alia*, matters such as the ineffectiveness of the mechanisms set up to afford restitution or compensation for nationalised properties (*Strain and Others v. Romania*,[203] pending implementation since 2005), the failure to enforce final domestic judicial decisions against the state and state-owned enterprises (*Sacaleanu v. Romania*,[204] pending implementation since 2005), and the lack of a proper framework for the use of fire-arms by the police (*Soare and Others v. Romania*,[205] pending implementation since 2011).

ECtHR judgments in the field of psychiatry and mental disability rights reveal some of the most complex, systemic, and long-standing problems in the country, raising important humanitarian concerns. For example, the issue of deficiencies in the legal protection and medical and social care afforded to adults with mental disabilities, and the failure to investigate deaths of institutionalised persons with disabilities (*Centre for Legal Resources on behalf of Valentin Câmpeanu v. Romania*[206]) has been pending implementation since 2014. Last year, an action plan foreseeing a broad range of measures to improve the legal protection system for vulnerable adults was announced.

Concerns with the freedom of expression of journalists, who are sanctioned with excessive defamation fines for discussing matters of public interest (*Ghiulfer Predescu v. Romania*[207], pending implementation since 2017) have also not been fully resolved in Romania, but promising reforms are being discussed.

ECtHR

Very serious problem

111 *(Very High; highest number in the EU)*
ECtHR leading judgments pending implementation.

60% *(High)*
Leading judgments rendered in the last ten years still pending implementation.

6 years and 3 months *(High)*
Average time those judgments have been pending implementation.

Situation as of 1 January 2025

SLOVAKIA

Problematic

Scoring lower than last year in respect of all indicators – and recording such negative developments for a third year in a row – Slovakia now has a problematic ECtHR implementation record, with a proportion of pending leading judgments well above the EU average.

A fifth judgment (*Plechlo and Others v. Slovakia*,[208] concerning the lack of adequate and effective safeguards against abuse in the context of implementation of a secret surveillance warrant linked to a set of criminal proceedings) was added, in 2024, to those already examined by the Committee of Ministers under the enhanced supervision procedure (which thus accounted, at the start of 2025, for almost one-sixth of the overall number of pending leading judgments of the jurisdiction).

The issue of excessive length of civil proceedings (*Maxian and Maxianova v. Slovakia*[209]) has been pending implementation for 13 years; improvements are expected after an administrative reform in the judiciary. Further pending human rights issues concern the excessive use of force during police operations in Roma communities (*R.R. and R.D. v. Slovakia*[210], pending implementation since 2020), which requires the authorities to take further measures, including training and capacity-building for investigators and prosecutors on investigations of racist motives in cases of police ill-treatment, and the unlimited surveillance power of intelligence services (*Zoltán Varga v. Slovakia*[211], pending implementation since 2021).

ECtHR

Problematic

31 *(Significant)*

ECtHR leading judgments pending implementation

59% *(High)*

Leading judgments rendered in the last ten years still pending implementation

3 years and 9 months *(Moderate)*

Average time leading judgments have been pending implementation

Situation as of 1 January 2025

SLOVENIA

Very good

Slovenia maintains a very good ECtHR implementation record, with a very low number of leading judgments, which are all quite recent.

Only one of the judgments pending in respect of Slovenia reveals a systemic or complex problem (*Pintar and Others v. Slovenia*[212], pending since 2021, a case concerning the failure to introduce an effective remedy to challenge decisions by the Bank of Slovenia resulting in the cancellation of all shares or subordinated bonds held by the applicants). Tangible progress has been achieved in response to this problem; in June 2024, the Committee of Ministers noted with satisfaction that a new law that came into force in the same year provided the former holders of the cancelled shares and bonds with access to a legal avenue enabling them to challenge the interference with their right to property. The law set forth various legal solutions that, *prima facie*, appeared to have the potential to make the legal avenue effective.

It is worth noting that, a few years ago, the Slovenian Ministry of Justice set up an Inter-Governmental Working Group for the coordination of the enforcement of judgments of the Court, whereas the Ombudsman has been acting as a watchdog of judgment implementation, monitoring process and making recommendations. This system has contributed to the improvement of Slovenia's ECtHR implementation record and could be replicated by other states that face implementation challenges.

ECtHR

Very good

4 *(Very Low)*

ECtHR leading judgments pending implementation.

12% *(Low)*

Leading judgments rendered in the last ten years still pending implementation.

1 year and 7 months *(Low)*

Average time those judgments have been pending implementation.

Situation as of 1 January 2025

SPAIN

Moderately Poor

Spain continues having a moderately poor ECtHR implementation record, with almost half of the leading judgments rendered in the last ten years still pending implementation.

A particularly complex problem concerns insufficient safeguards in the context of accelerated asylum procedures (*A.C. and Others v. Spain*[213]); this judgement has been pending implementation for more than ten years. On a positive note, this is the only one out of 23 leading judgments in respect of the jurisdiction examined by the Committee of Ministers under the enhanced supervision procedure.

Two main issues that fall into the rule of law sphere still remain largely unaddressed in Spain – the issue of disproportionate criminal convictions for defamation of the royal family (*Stern Taulats and Roura Capellera v. Spain*[214], pending implementation since 2018), which significantly affects the freedom of expression, and the unlawful, secret compiling and subsequent leaking of police files on judges holding pro-Catalan independence views (*M.D. and Others v. Spain*[215], pending implementation since 2022). Regarding the latter, civil society has raised concerns about the non-isolated nature of the problem, *calling*[216] for the creation of an independent institution to investigate allegations of unlawful surveillance or illegal use of private data in cases allegedly related to national security.

ECtHR

Moderately Poor

23 *(Moderate)*

ECtHR leading judgments pending implementation

48% *(High)*

Leading judgments rendered in the last ten years still pending implementation

3 years and 3 months *(Moderate)*

Average time leading judgments have been pending implementation

Situation as of 1 January 2025

SWEDEN

Excellent

Supported by an overall Convention-compliant approach that contributes to the delivery of a very low number of new violation judgments, Sweden continues to have the best ECtHR implementation record in the EU.

In 2024, only one leading judgment was remaining partially unresolved: *Centrum for Rattvisa v. Sweden*[217], a case concerning the insufficiency of safeguards in bulk signals-intelligence gathering (pending implementation since 2021). In 2023, the authorities adopted the bill on "Signals Intelligence in Foreign Intelligence Operations", which introduced safeguards regarding the destruction, transfer, and review of intercepted materials.

ECtHR

Very good

1 *(Very Low)*

ECtHR leading judgments pending implementation.

14% *(Low)*

Leading judgments rendered in the last ten years still pending implementation.

3 year and 7 months *(Moderate)*

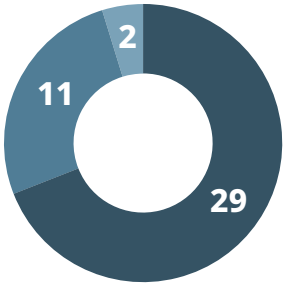
Average time those judgments have been pending implementation.

The Court of Justice of the European Union (CJEU)

Situation as of 1 May 2025

AUSTRIA

Moderate complier



Number of rulings covered by this study: 42

Full compliance (69%)
Non-compliance (4.8%)
Partial compliance (26.2%)

Number and percentage of rulings pending compliance for 2 years and more:

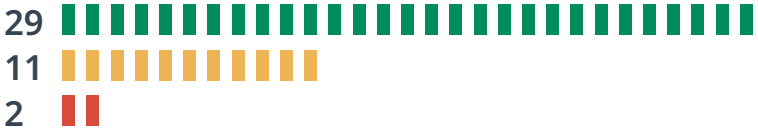
2025 | **6** (46.15 %)

EXPLANATION OF THE DATA

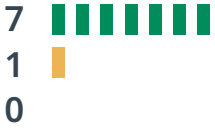
A good portion of the rulings (69.0 per cent) have been complied with fully. It is worth noting, however, that compliance in certain areas – such as asylum and migration and, to some degree, equality and non-discrimination, as well as data processing/protection – remain challenging.

THEMATIC BREAKDOWN OF RULINGS COMPLIED WITH PARTLY OR NOT AT ALL

OVERALL: 42 cases

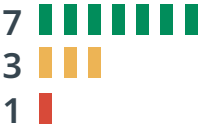


Access to justice/right to an effective remedy: **8 cases**

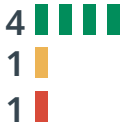


Asylum and migration: **7 cases**

Equalityand non-discrimination: **11 cases**



Data protection: **6 cases**



Other rulings: **10 cases**

Full compliance Partial compliance Non-compliance

KEY TAKEAWAYS

- **Area of concern:** Asylum and migration related cases appear to be the most challenging, with almost all rulings from these categories complied with only partly (typically by courts).
- **Partial/Contained compliance** is a significant pattern in Austria – government actors comply in specific cases but continue broader non-compliance through new regulations or administrative stalling.

Contextual information

"Government powers are effectively limited by the Judiciary", *WJP RoL index*[218]*:* **0.81/1** (regional average: 0.70)

"Justice [system] is free of improper government influence", WJP RoL index:
Civil:[219] **0.83/1** (regional average: 0.73)
Criminal[220]*:* **0.85/1** (regional average: 0.73)

For more about the Austrian justice system, see: *Austria – The Judiciary Map*[221]

RULINGS PENDING COMPLIANCE

Case no Date of the ruling

Non-compliance (2)

C-94/20 🔗 **10 June 2021**

Theme

The CJEU found that requiring proof of language skills for long-term residents to access core benefits violates Directive 2003/109/EC.

Explanation as to the progress

Austrian law remains unchanged, reflecting continued non-compliance through legislative inertia.

C-446/21 🔗 **4 October 2024**

Theme

The CJEU emphasises that personal data, especially sensitive data (such as sexual orientation), cannot be aggregated and processed without limits for targeted advertising purposes, even if the data subject voluntarily disclosed some of that information in a public setting.

Explanation as to the progress

The Supreme Court has not issued a final decision on this case, so full assessment is pending.

The Federal Administrative Court has referred to the present CJEU judgment in the broader context of the requirement regarding lawful processing of data (BVwG 6.12.2024, W292 2285487-1).

No legal change was necessary.

Partial compliance (11)

C-258/17 🔗 **15 January 2019**

Theme

The CJEU indicated that EU law obliges the national court to review not the final disciplinary decision ordering the early retirement of the civil servant concerned, but the reduction in his pension entitlement, in order to calculate the amount he would have received in the absence of any discrimination on the ground of sexual orientation.

Case no Date of the ruling

Explanation as to the progress

The referring court complied. The Constitutional Court and other courts have also referred to the ruling. It has been pointed out in the media, however, that the applicant in the original case has not yet been awarded the respective payments.

C-720/17 🔗 **23 May 2019**

Theme

According to the CJEU, member states must revoke subsidiary protection status if it was granted based on facts later found to be incorrect – even if the person did not intentionally mislead the authorities.

Explanation as to the progress

The referring court fully complied. The judgment is not see as complied with by politicians, however, who argue that a recent terror attack in Villach would not have happened if authority had revoked protection for the attacker who (allegedly) was granted subsidiary protection based on false evidence. In addition, legal literature highlights that Austria is currently missing an explicit legal basis for revoking protection status.

C-432/20 🔗 **20 January 2022**

Theme

The CJEU interpreted **Council** Directive 2003/109/EC (of 25 November 2003, on the status of third-country nationals) to mean that a long-term resident does not lose their status if they are physically present in the EU at any point during a 12-month period. Even if their total stay during that year is only a few days, that is enough to maintain their long-term resident status.

Explanation as to the progress

The referring court fully complied with the CJEU ruling. Other national courts (such as Federal Administrative Court), however, are still applying old case-law, rather than fully aligning with the CJEU's interpretation. VwGH has not yet decided the issue. BVwG continues to refer to the established case-law e.g., in BVwG 18.10.2024, L504 2140780-3.

C-368/20 🔗 **C-369/20** **26 April 2022**

Theme

The CJEU found that Austria's extension of internal border controls exceeded permissible limits under the Schengen Borders Code.

Explanation as to the progress

The referring court fully complied with the CJEU ruling. No sanctions were enforced against the *applicant*[222] in the given case for unlawfully entering Austria, and his legal costs were reimbursed. The Austrian government *continued*[223], however, to reintroduce the same controls, with the *unconvincing*[224] explanation as to the new threat at stake. This reflects "contained compliance", where rulings are respected in individual cases but ignored in systemic practice. Under such circumstances, the enforcement of the ruling is limited to a case-by-case basis before national courts.

Case no Date of the ruling

C-274/21 **C-275/2127** **14 July 2022**

Theme

The CJEU found Austria's flat-rate court fee regime in public procurement cases – unpredictable and potentially excessive – violates Article 47 of the Charter of Fundamental Rights.

Explanation as to the progress

The referring court based its findings on those of the CJEU, and agreed that Article 47 of Charter of Fundamental Rights CFR was violated in its *decision*[225] of 29 September 2023. Subsequently, the Court requested the Constitutional Court to invalidate the relevant laws (§§ 344(2)(3) and 350(7) BVergG 2018).

The expert reported that the Ministry of Justice has begun working on a legislative reform in response. Until the legislative reform materialises, however, the compliance is only partial.

C-663/21 **6 July 2023**

Theme

The CJEU ruled that revocation of refugee status must be assessed separately from refoulement, with full consideration of the risks to the individual.

Explanation as to the progress

While Austrian courts have complied and cited the CJEU ruling in multiple decisions, national legislation remains inconsistent with the decision (notably §§ 8(3a) and 9(2) Asylgesetz), mandating linked revocation and return decisions.

C-560/20 **30 January 2024**

Theme

In this case, concerning the right to family reunification, the CJEU clarified that an unaccompanied minor retains the right to family reunification, even if they reached adulthood during the application process.

Explanation as to the progress

The Austrian courts have complied. The Austrian government has *halted*[226] all family reunifications for asylum seekers, however, a move that *contradicts*[227] EU and international law.

C-222/22 **24 February 2024**

Theme

The CJEU clarified that the self-created risk of persecution post-departure must still be assessed for refugee status.

Explanation as to the progress

While Austrian courts have disapplied conflicting legislation, the problematic provision in the Asylgesetz (§ 3(2), last sentence) remains on the books.

Case no Date of the ruling

C-771/22 **C-45/23** **29 July 2024**

Theme

The case concerned the principle of equal treatment.

Explanation as to the progress

The expert contributing to the study could not locate the follow-up judgment in the database, but pointed out that existing Austrian legislation can easily be interpreted to be in line with the CJEU ruling.

AH (C-608/22) **FN (C-609/22)** **4 October 24**

Theme

The CJEU ruled that Afghan women are subject to systemic discrimination amounting to a breach of dignity, and that their asylum claims do not require individualised assessments of their personal circumstances.

Explanation as to the progress

Austrian courts have followed the CJEU's interpretation. Political figures, particularly from the *FPÖ*[228] and Interior Minister Gerhard *Karner*[229] (ÖVP), have, however, publicly rejected the ruling's implications, insisting on continued case-by-case assessments, thus undermining the effect of the CJEU ruling.

C-548/21 **4 October24**

Theme

The case dealt with whether national rules on police access to mobile phone data complies with EU law.

The CJEU ruled that such access isn't limited to serious crimes but must be clearly defined by law, respect proportionality, and be subject to prior court or independent review – except in urgent cases. The person must be informed once it no longer poses a risk to the investigation.

Explanation as to the progress

The referring court issued a decision on 26 March 2025, but referred to the situation at the time of seizure. Because the criminal police did not (and were not required by law to) act upon authorisation by a court, the court qualified the seizure as unlawful, through direct application of EU law.

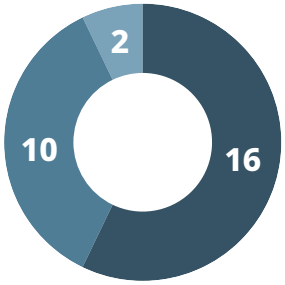
The Constitutional Court declared several provisions of the Criminal Procedure Code concerning the seizure and access to data of the mobile phones of suspects unconstitutional.

The CJEU ruling added to the urgency of the amendment. The provisions on the seizure of mobile phones were changed at the end of 2024. There is still, however, a lack of case-law by the court on how the provisions will be interpreted.

Situation as of 1 May 2025

BELGIUM

Poor complier



Number of rulings covered by this study: 28

- Full compliance (57.1%)
- Non-compliance (7.1%)
- Partial compliance (35.7%)

Number and percentage of rulings pending compliance for 2 years and more:

2025 | **11** (91.7%)

EXPLANATION OF THE DATA

The 2025 dataset contains 28 rulings, with full compliance observed in 57.1 per cent of cases, and partial compliance with 35.7 per cent of the cases. This is a rather high portion of rulings only partly complied with. Also, 91.7 % of the cases that are pending compliance have been pending for 2 years or more. This represents persistent reluctance to implement rulings.

THEMATIC BREAKDOWN OF CASES

OVERALL: 28 cases

16
10
2

Full compliance
Partial compliance
Non-compliance

Access to justice and related
13 cases
4
8
1

Asylum and migration
9 cases
7
2
0

Equalityand non- discrimination
2 cases
2
0
0

Data protection
4 cases
3
0
1

KEY TAKEAWAYS

- **Widespread partial compliance:** Courts generally respect and engage with CJEU rulings. Compliance tends to be only partial, however, often due to slow or incomplete legislative responses and limited follow-up enforcement. While open defiance is not observed, systemic issues, such as administrative inertia and legal uncertainty, affect the full realisation of CJEU jurisprudence.
- **Areas of concern:** we see particular concerns in cases related to justice issues.

Contextual information

"Government powers are effectively limited by the Judiciary", *WJP RoL index:*[230] **0.77/1** (regional average: 0.70)

"Justice [system] is free of improper government influence", WJP RoL index:
Civil:[231] **0.83/1** (regional average: 0.73
Criminal:[232] **0.84/1** (regional average: 0.73)

For more about the Belgian justice system, see: *Belgium – The Judiciary Map*[233]

Situation as of 1 May 2025

RULINGS PENDING COMPLIANCE

Case no Date of the ruling

Non-compliance (2)

C 641/20 5 May 2021

Theme

The CJEU affirmed third country nationals' right of residence and social assistance during the period in which an appeal against a return decision is pending, especially if the individual suffers from a serious illness.

Explanation as to the progress

The national legislation does not automatically suspend the return decision during an appeal, which is required to ensure provisional residence and basic care for individuals at risk of serious deterioration of their health.

C-604/22 7 March 2024

Theme

The CJEU confirms that a structured string of characters capturing users' preferences is personal data, and that a sectoral standard-setting organisation, such as IAB EUROPE, is the (joint) controller of this personal data.

Explanation as to the progress

The procedure before the Court of Appeal still ongoing.

Partial compliance (10)

C-302/18 3 October 2019

Theme

The ruling interprets Article 5(1)(a) of Directive 2003/109/EC to mean that the concept of "resources" for long-term resident status includes not only the applicant's own resources, but also those provided by a third party, if they are stable, regular, and sufficient. The key issue is ensuring that these resources meet the criteria without burdening the social assistance system, requiring careful assessment of individual circumstances for implementation.

Explanation as to the progress

There is no indication that the political authorities have fully aligned national laws with CJEU requirements, suggesting that, while there is some effort, full compliance has not been achieved.

C-706/18 20 November 2019

Theme

The ruling interprets Directive 2003/86/EC to mean that national legislation cannot require authorities to automatically issue a residence permit for family reunification if no decision is made within six months. Authorities must first establish that the applicant meets the requirements for residence in the host member state according to EU law. The key issue is ensuring compliance with EU law before granting residence permits.

Case no Date of the ruling

Explanation as to the progress

The ruling at hand from the Belgian Council of State aligns partially with the CJEU's decision, interpreting Directive 2003/86/EC correctly, by stipulating that authorities cannot automatically grant a residence permit for family reunification after six months without verifying the applicant's eligibility under EU law. The degree of compliance remains only partial, however, because there is no clear indication of consistent application by higher courts or political authorities. National practices may still not fully incorporate the ruling into broader legal reforms, showing that, while the specific case may reflect EU law, the overall alignment is still in progress.

C-133/19 16 July 2020

Theme

In this case, on family reunification, the CJEU clarified that a child's age should be assessed at the time of application, not at the time of the decision. This was to ensure fairness in the event of processing delays.

Explanation as to the progress

The referring court, the Conseil d'État (Council of State, Belgium), implemented the CJEU's guidance by clarifying that the relevant date for determining minor status is the date of application submission. However, the Conseil du contentieux des étrangers (Council for Asylum and Immigration Proceedings) has been inconsistent, dismissing actions as inadmissible when applicants reached majority during the proceedings.

C-233/19 30 September 2020

Theme

A national court hearing a social assistance case involving a seriously ill third-country national must consider a return decision automatically suspended if:

– The legal challenge argues, on non-manifestly unfounded grounds, that enforcement would seriously and irreversibly harm the person's health; and

– National law offers no other clear, predictable remedy that ensures automatic suspension.

Explanation as to the progress

No direct follow up ruling, but the referring court has affirmed in a different ruling that the considerations set out by the CJEU are regularly applied by the lower courts, so that where, within a dispute regarding social assistance, the outcome is linked to the possible suspension of the effects of a return decision, they hold that an action for annulment and suspension against that decision has automatic suspensive effect (Cour du travail Liège, division Liège — n° 2020/AL/377 du 22 juin 2021, paras 32-33). Moreover, citing a different, posterior, preliminary ruling by the Court, the Council of Ministers opined that a child seeking to appeal a return decision, the enforcement of which would expose that child to a serious risk of grave and irreversible deterioration in their state of health, as well as the parent on whom the child is entirely dependent, can make an application for suspension as a matter of extreme urgency, which has an automatic suspensive effect (*Constitutional Court*,[234] 6 May 2021, N°69/2021, para. A.3.2.)

Case no Date of the ruling

C-510/19 24 November 2020

Theme

The main issues are whether the term "judicial authority" in Article 6(2) of Framework Decision 2002/584 has autonomous meaning under EU law what criteria define it, whether the Netherlands Public Prosecution Service fits these criteria, and how to ensure coherence in the surrender process while safeguarding the defendant's rights.

Explanation as to the progress

No direct follow-up judgment is available. The Court of Cassation, however, has cited the preliminary ruling by the Court and applied the considerations therein in its assessment as to whether the Belgian public prosecutor can indeed be considered as an "executing judicial authority" under Framework Decision 2002/584/JBZ (Court of Cassation, 30 January 2024, AR P.24.0112.N).

C-194/19 15 January 2021

Theme

The CJEU stated that effective judicial protection is not guaranteed in the context of an action for annulment brought against a transfer decision under Dublin III regulation, where a national court seized cannot consider post-decision developments.

Explanation as to the progress

The Conseil d'État recognised that, in not considering circumstances that arose after the transfer decision in the context of the Dublin III regulation, the administrative court acted in accordance with the Belgian legislation (article 39/2, §2 of the Law of 15 December 1980).

Nevertheless, in light of the Court's preliminary ruling in C-194/19, the Conseil d'État (CdE) overturned the administrative court's judgment 195.968 of 30 November. In doing so, the CdE ruled that, in the case of an action for annulment of a Dublin transfer, the administrative court can only refuse to take into account circumstances subsequent to the adoption of that decision after a verifying that they are not decisive for the correct application of that regulation. The alternative of an ex-nunc (prospective) review, as referred to by the Court in its preliminary ruling, does not exist within the Belgian legal order.

While the Belgian government has thus maintained that the current Belgian legislation follows EU law in requiring that circumstances after the transfer decision are considered in the context of an action for annulment, the Conseil d'État appears to have come to the contrary conclusion.

While changes have been made to the Law of 15 December 1980 since the Court's preliminary ruling was rendered, the provision at issue has remained unchanged, and, thus, has not been altered in order to explicitly include the power for the administrative court concerned (Raad voor Vreemdelingenbetwistingen) to take into account circumstances arising after the transfer decision in the context of the Dublin III regulation within an action for annulment.

Case no Date of the ruling

C-645/19 15 June 2021

Theme

The CJEU ruled that a national supervisory authority may exercise its power to bring alleged infringements of the GDPR, even if not a lead authority.

Explanation as to the progress

Belgian DPA's standing was initially challenged, but later upheld by the Court of Cassation, indicating compliance with the CJEU ruling in this regard. The full implementation of the "one-stop shop" mechanism and the cooperation procedures among supervisory authorities, however, remains a work in progress.

C-597/19 17 June 2021

Theme

The CJEU held that identification data may be disclosed if proportionate and based in law.

Explanation as to the progress

The Belgian Court (Ondernemingsrechtbank) indicates that, in implementing the Directive 2014/67/EU, the Belgian legislature failed to effectively transpose the objectives of that directive, and particularly the right to information included in Article 8. Consequently, the Ondernemingsrechtbank concluded that Belgian law does not provide a specific legal basis on the grounds of which the retention of the identification data could be justified.

Therefore, while the national court followed the CJEU's guidance, its investigation highlighted a shortcoming in the implementation of the Directive by the Belgian legislator, which, according to the national court, "creates an obstacle that cannot but be considered problematic for rights holders."

C-117/20 22 March 2022

Theme

The CJEU addressed whether duplicate sanctions violate EU law.

Explanation as to the progress

Belgium's approach shows awareness, but lacks fully predictable coordination across authorities.

C-402/19 30 September 2022

Theme

The CJEU emphasised that basic needs of third-country nationals must be met during appeals, and that appeals should suspend deportation when serious health risks are involved.

Explanation as to the progress

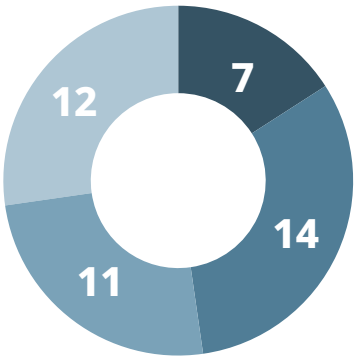
Belgium has not amended its legislation, and practice remains inconsistent and uncertain.

Situation as of 1 May 2025

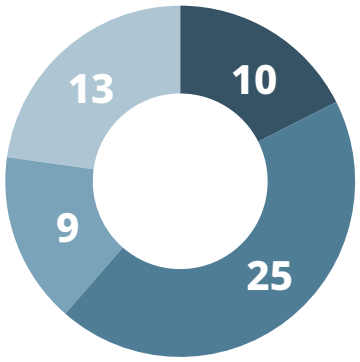
BULGARIA

Problematic complier

Number of rulings covered by this study **44 (2024)**



Number of rulings covered by this study **57 (+13) (2025)**



Number and percentage of rulings pending compliance for two years and more:

2024 (struggling complier)

14 (56%)

2025 (problematic complier)

18 (out of 34) (52.9%)

- **Full compliance** - 2024: 15.9%; 2025: 17.5%
  The number has not increased through progress on any of the older pending cases, but three rulings from 2024.
- **Partial compliance** - 2024: 31.8%; 2025: 43.8%
  This includes 14 still only partly complied with,[33] three cases (C-852-19, C-724-19, and C-655/21) from the previous dataset progressed from non-compliance to partial compliance, one more partial compliance, where the status of compliance was previously not clear (C-340/21). In addition, seven new rulings from 2024 have the status of partial compliance.
- **Non-compliance** - 2024: 25%; 2025: 15.8%
  No progress at all in eight cases from last year. Progress to partial compliance in three cases (C-852-19, C-724-19, and C-655/21), and one new ruling from 2024.
- **Impossible to establish** - 2024: 27.3%; 2025: 22.8%
  Two new rulings added to this category, one from the previous dataset moved to partial compliance.

EXPLANATION OF THE DATA

Based on our *dataset*[235] from last year, Bulgaria was among the worst compliers with the CJEU rulings related to the rule of law – in 31.8% of cases, compliance was partial, while 25% of the rulings were not complied with at all, resulting in an overall non-compliance rate of 56.8%. The difficulty in establishing compliance in a substantial number of cases – due to for example, inaccessibility of relevant documents – suggest the actual situation may be even worse. Notably, 56% of pending rulings (those only partly complied with or not complied with at all) have been awaiting compliance for two years or more.

Based on 2025 data, we see partial compliance in almost 44 % of cases (25 rulings). The number has increased since newly issued rulings (from 2024) have only partly been complied with. In addition, a few rulings have progressed from non-compliance to partial compliance. We also see non-compliance in 16% of cases. The portion of such cases is lower than last year, but it does not indicate a significant progress, since none of the long-standing rulings have been complied with fully. Over 50 % of the rulings is still awaiting compliance for two years or more.

Situation as of 1 May 2025

THEMATIC BREAKDOWN OF RULINGS
that have been complied with only partly or not at all

KEY TAKEAWAYS

- **Systemic disregard of the CJEU rulings:** Bulgaria exhibits a systemic pattern of partial or total non-compliance with CJEU rulings, especially when it comes to various aspects of functioning of the criminal justice system.
- **Substantive areas of concern** Out of 34 rulings complied with only partly or not at all, 22 had to do with the right to information or the right to defense, as well as the right to an effective remedy (including 15 complied with partly and 7 not at all). Another major category touched upon the problems with generalised and often unjustified collection and retention of personal data, including by police and prosecution (see. E.g. C-205/21, C-340/21, C-118/22, C-229/23 and C-80/23).
- **Legislative delays or inaction or partial adaptation of laws:** At least ten rulings of the CJEU would require legislative amendments for compliance, mostly in the Criminal and Criminal Procedure Codes. In a couple of instances (*C-852/19* and C-724-19), the legislative change was undertaken, but experts signal loopholes and remaining risk of arbitrariness.
- **Need for transforming policing and prosecution culture:** Structural issues in police and prosecutorial behavior—characterized by arbitrariness, abuse, and a lack of accountability remain in place. Transformation of institutional culture would be critical for full compliance with EU law.
- **Illusoriness of full compliance:** Fully implemented rulings are the ones that do not require additional effort by the police or prosecution or legislative effort.
- **Abuse of the preliminary reference procedure by politically dependent courts** can be an issue. **Quality of the CJEU rulings:** An expert contributor has expressed concern that the CJEU sometimes overlooks flaws in Bulgarian legislation and practice, placing undue trust in compromised courts and the prosecution.

Contextual information

"Government powers are effectively limited by the Judiciary", *WJP RoL index:*[236] **0.45/1** (regional average: 0.70)

"Justice [system] is free of improper government influence", WJP RoL index: *Civil:*[237] **0.45/1** (regional average: 0.73) *Criminal:*[238] **0.46/1** (regional average: 0.73)

For more about *the Bulgarian justice system.*[239]

RULINGS PENDING COMPLIANCE

Number of the ruling Date of issuance

Non-compliance (9)

C-467/18 19 September 2019

Issue

The right to information about one's rights – the right of access to a lawyer – the right to an effective remedy – judicial checks on the observance of procedural rights.

Explanation as to the progress

The need for legislative change – The CJEU ruling appears to signal that Article 427 and subsequent articles of the Code of Criminal Procedure are not compliant with EU law.

C-393/19 14 January 2019

Issue

The right to an effective remedy for the third parties in criminal proceedings whose property is confiscated as alleged instrumentality or proceeds of a criminal offence – Article 47 of the CFR.

Explanation as to the progress

The need for legislative change: failure to address the deficiencies in the Criminal Code and Code of Criminal Procedure.

C-769/19 14 January 2021

Issue

The right of suspects or accused persons to be informed of their rights – Article 47 (2) CFR – dealing with a case in a reasonable time – national legislation providing for the discontinuance of judicial proceedings in the case of a finding of deficiencies in the bill of indictment by the court.

Explanation as to the progress

At the crux of the case is the controversial modification of the Code of Criminal Procedure, allowing the indicted person to contest procedural violations from the pre-trial stage only at the preliminary hearing, severely compromising their right to defense.

Meanwhile, experts suggest that this judgment could be used as an opportunity to modify the Code of Criminal Procedure — namely, Article 248, especially 248(3).

C-282/20 21 October 2021

Issue

The right of suspects or accused persons to be informed of their rights – Articles 47 and 48 of the Charter of Fundamental Rights of the European Union.

Explanation as to the progress

The ruling concerns the controversial change to the Code of Criminal Procedure restricting the contestation of procedural irregularities to a preliminary hearing. While the CJEU missed the point, its observations can still be used as an opportunity to argue for the reform of the controversial sections of the Code of Criminal Procedure introduced in 2017 – article 248, and especially article 248(3).

How the right to defence was affected would vary from one case to another.

C-505/20 12 May 2022

Issue

Procedural safeguards – the freezing and confiscation of property belonging to a third party to the criminal proceedings – national law not providing a remedy for third parties during the judicial proceedings, and not allowing the return of the property until the end of criminal proceedings,

The right to an effective remedy for the third parties in criminal proceedings whose property is confiscated as alleged instrumentality or proceeds of a criminal offence.

Explanation as to the progress

The failure to address the deficiencies in the Criminal Code and the Code of Criminal Procedure.

C-350/21 17 November 2022

Theme

The general and indiscriminate retention of traffic and location data for a period of six months – combatting serious crime – access to retained data – informing data subjects – The right to bring an action.

Explanation as to the progress

The case concerns the lawfulness of obtaining and retaining electronic data by the prosecutor's office for the purposes of investigation. The CJEU flagged problematic provisions in the Code of Criminal Procedure and the Law on Electronic Messages.

It appears that amendments to Article 251 b of the Law on Electronic Messages, as well as to Article 159a of the Code of Criminal Procedure, are necessary to ensure compliance to this ruling.

Number of the ruling Date of the ruling

C-175/22 9 November 2023

Theme

The obligation to inform the accused person of the re-classification of an offence in sufficient time to enable effective exercise of the defendant's rights.

Explanation as to the progress

National courts ignoring EU law, failing to interpret national law in line with EU law or leaving it unapplied; the failure to reform the Code of Criminal Procedure.

C-209/22 7 September 2023

Theme

The right to information in criminal proceedings – the right of access to a lawyer in criminal proceedings – lack of judicial review of measures to obtain evidence – Articles 47 and 48 CFR – The effective exercise of the rights of defence of suspects and of accused persons during the judicial review of measures to obtain evidence.

Explanation as to the progress

Under Bulgarian law, the right to information and defence is triggered only when one is formally accused. These rights are disregarded for those who are investigated without being formally accused.

The CJEU held that Directive 2013/48/EU of the European Parliament and of the Council of 22 October 2013 on the right of access to a lawyer in criminal proceedings was applicable to such cases, irrespective of the fact that the concept of "suspect" does not exist. It gave an unconvincing answer, however, about the enforcement of the rights of suspects.

Physical searches without the presence of a lawyer are appropriate, the CJEU says, when the practice "follows from the examination of all the relevant circumstances that such access is not necessary in order for that person to be able to exercise his or her rights of defence practically and effectively".

C-200/23 4 October 2024

Theme

Protection of natural persons with regard to the processing of personal data – Regulation (EU) 2016/679 – publication in the commercial register of a company's constitutive instrument containing personal data – Directive (EU) 2017/1132 – non-compulsory personal data – lack of consent of the data subject – the right to erasure – Non-material damage.

Explanation as to the progress

The dispute emerged from the refusal of Bulgaria's Registration Agency to remove personal data. Namely, the agency posted the full details of a person's identity card, including her address, signature, etc. Questions arose regarding Directive 2009/101/EC of the European Parliament and of the Council of 16 September 2009 on coordination of safeguards and the GDPR.

The Registration Agency said it would not delete such data on its own. It posted a template form that citizens can use to apply for deletion of such data. *This is*[240] not the spirit of the judgment:

To check whether one's data has been abused, one needs an electronic signature, which is costly. Meanwhile, the data is freely available for misuse by anyone with an electronic signature.

Number of the ruling Date of issuance

Partial compliance (25)

C-8/19 PPU 12 February 2019

Issue

Procedure for reviewing the lawfulness of pretrial detention decisions – observance of the presumption of innocence – Article 47 (2) CFR – the right to have a case heard within a reasonable time.

Explanation as to the progress

Compliance can only be assessed on a case-by-case basis, yet significant arbitrariness persists. The abuse of pre-trial detention remains widespread, with prosecutors' requests often granted automatically, as courts tend to accept their arguments without scrutiny. The CJEU ruling fails to address this broader systemic issue.

C-25/18 8 May 2019

Issue

Decision of the general meeting of the owners of property in a building – the obligation of the owners to pay annual financial contributions to the budget of the association of property owners as determined by that decision – legal action seeking enforcement of that decision – the decision of the general meeting of the owners of property in a building relating to maintenance costs for communal areas.

Explanation as to the progress

Judicial compliance can only be assessed on a case-by-case basis. Compliance does not seem to require legislative change.

C-377/18 5 September 2019

Issue

The presumption of innocence – public references to guilt – an agreement concluded between the prosecutor and the perpetrator of an offence – national case-law providing for the identification of accused persons who have not concluded such an agreement.

Explanation as to the progress

There are concerns that the CJEU ruling endangers the presumption of innocence/fair trials.

C-688/18 13 February 2020

Issue

The presumption of innocence and right to be present at the trial in criminal proceedings – Article 8(1) and (2) – conditions laid down by national law in order to hold a trial in absentia – the non-appearance of accused persons at certain hearings for reasons either within or beyond their control – the right to a fair legal process.

Explanation as to the progress

There are cases where the CJEU ruling is invoked to uphold procedural rights; a clear overall picture, however, remains difficult to discern.

Number of the ruling Date of issuance

C-845/19 21 October 2021

Issue

The confiscation of money allegedly belonging to a third party – a third party having no right to appear as a party in confiscation proceedings – Article 47 CFR.

Explanation as to the progress

The case concerns the confiscation of assets found during a search in the absence of a direct link between these assets and the crime, implicating the right to property and the right to fair trial.

The referring court complied with the CJEU ruling, ruling the confiscation is not appropriate in the absence of a direct link between assets and the crime for which the person convicted. This does not, however, guarantee compliance by other judicial panels.

C-319/19 28 October 2021

Issue

National legislation providing for the confiscation of illegally obtained assets in the absence of a criminal conviction – the rights of third-country nationals who hold an EU Blue Card – the rights of beneficiaries of international protection – equal treatment – social security – the legislation of a member state excluding third-country nationals from eligibility for a "family card".

Explanation as to the progress

The compatibility of legislation on confiscation with EU law.

The ECtHR already found civil confiscation in Bulgaria incompatible with the ECHR. The CJEU stopped short of this, essentially allowing confiscation in criminal proceedings disguised as civil. Experts highlight the tendency of the prosecution to launch sham criminal proceedings, which then allows for civil confiscation, which does not then allow for the guarantees typical for a fair trial in criminal proceedings. The existing legislation allowing this is still in place.

C-852/19 11 November 2021
(last year, non-compliance)

Issue

The absence of legal remedies against the issuance of a European Investigative Order (EIO), the purpose of which was to carry out searches and seizures, as well as the hearing of a witness by video conference (Article 47 CFR).

Explanation as to the progress

The absence of national remedies against the issuance of EIOs with the purpose of carrying out searches and seizures, as well as the hearing of a witness by a video-conference.

The legislation was adopted in April 2024, but experts warn about loopholes and the likelihood of arbitrariness. For example, the appeal against EIOs is examined in camera and without a hearing, which can be used to cover up arbitrariness. Therefore, the possibility of appeal is more or less pro forma.

Number of the ruling Date of issuance

C-724/19 16 December 2021
(last year, non-compliance)

Issue

The absence of remedies against a prosecutor's ability to obtain traffic data based on an EIO.

Explanation as to the progress

The law was changed; Article 34 of the Law on the European Investigative Order does not provide adequate guarantees against arbitrariness by the authorities.

C-203/21 10 November 2022

Issue

Decision of the general meeting of the owners The principles of the presumption of innocence and the legality and proportionality of criminal offences and penalties – the rights of the defence – the imposition of a criminal penalty on a legal person for an offence committed by the representative of that legal person – parallel criminal proceedings against that representative that have not been concluded (the proportionality requirement).

The legislation allowing the imposition of criminal penalties on legal entities for an offence for which a natural person who has the power to bind or represent that legal entity is allegedly liable, where the legal entity in question has not been put in a position to dispute that offence.

Explanation as to the progress

Compliant judicial practice, but legal amendments are necessary, namely, the amendments to Article 83 of the Law on Administrative Violations and Punishments.

C-348/21 8 December 2022

Issue

The right of an accused person to be present at their trial – Article 47 CFR – the right to a fair trial and the rights of the defence – the examination of prosecution witnesses in the absence of the accused person and their lawyer during the pre-trial stage of criminal proceedings – national legislation allowing a criminal court to base its decision on the previous testimony of said witnesses.

Explanation as to the progress

The legislation allows decisions on the guilt or innocence to be based on witness testimony obtained during a hearing at a pre-trial stage of proceedings without participation of the accused or their lawyer.

Compliance can vary from court to court. Full compliance seems to require changes to the Code of Criminal Procedure – for instance, to Article 281.

Number of the ruling Date of issuance

C-569/20 19 October 2022

Issue

The right to be present at the trial – the possibility of a trial and a conviction in absentia – the right to a new trial, or to another legal remedy, that allows a fresh determination of the merits of the case.

Explanation as to the progress

This case concerns the conditions under which a trial can be held in absentia and/or subsequently reopened in view of the Directive on the presumption of innocence.

Compliance can only be assessed on a case-by-case basis and in full knowledge of the facts of the case.

C-347/21 15 September 2022

Issue

The right of an accused person to be present at their trial – the right of access to a lawyer in criminal proceedings – the examination of an incriminating witness in the absence of the accused person and the lawyer of the accused person.

Explanation as to the progress

This case addresses whether the examination of incriminating witnesses should be invalidated and repeated if the accused was absent for valid reasons (e.g., due to COVID-19). The CJEU ruled that it is sufficient to provide the accused and their lawyer with a transcript of the prior witness testimony, as long as they are later given a full opportunity to question that witness.

While this may seem like a procedural matter, it raises serious concerns. In Bulgaria, it is common for witnesses to recite scripted statements prepared by prosecutors – an illegal but widespread practice. If the accused is absent and only receives a transcript, there is no assurance the original hearing was legitimate, especially in a system plagued by anonymous and, possibly, fabricated witnesses frequently used by the prosecution.

C-205/21 26 January 2023

Issue

The possibility of a judicial authorisation to collect biometric and genetic data – the prohibition against systematic collection of biometric and genetic data unless it is "strictly necessary" for the specific objectives pursued by the public prosecution and there are no other, less intrusive means to achieve the same goal (the proportionality requirement).

Explanation as to the progress

It has been argued that national law governing the collection of sensitive personal data *does not meet the requirements*[241] of EU law, and should be amended. These issues are not fully captured in the CJEU ruling, experts argue. It could also be *argued*[242], however, that even the existing legislation could be applied in good faith, and the problem really lies in the toxic culture of the police. If a person protests and refuses to provide biometric data, they can go to court, but judicial intervention is usually a formality, and the permission is usually granted.

Number of the ruling Date of issuance

C-97/21 4 May 2023

Issue

Legislation permitting separate procedures for financial penalties and the sealing of business premises for the same tax-related offence without coordination, leading to an additional cumulative disadvantage associated with those measures.

Explanation as to the progress

Judicial compliance, but full compliance requires addressing legislative deficiencies – amending the Law on VAT are warranted.

C-608/21 25 May 2023

Issue

The failure to provide information about the grounds for detention at the time of deprivation of liberty or shortly thereafter, and not only when the legality of the detention is challenged in court.

Explanation as to the progress

Bulgarian courts comply with the CJEU rulings, but the police continue to abuse the prerogative to arrest without consequences.

C-340/21 14 December 2023

Issue

The need for national courts to assess the adequacy of protective measures implemented by the data controller on a case-by-case basis; the responsibility of the data controller to demonstrate the appropriateness of such measures; the obligation of the data controller to compensate affected data subjects, where the third party was responsible for the unauthorised disclosure of the data, unless it can prove it was not responsible for the damage. The fear of the data subject regarding the potential misuse can itself constitute non-material damage, the CJEU indicated.

Explanation as to the progress

Some citizens have successfully sued the authorities for data leaks. Case-law, however, is not homogenous. Moreover, the statute of limitations expired last year. This means many citizens affected by the leaks will not be compensated, just because they did not sue on time, in light of the lack of clarity. More problematically, nobody has been found guilty of the leak.

C-752/21 9 March 2023

Issue

Legal remedies – smuggled goods – goods belonging to a third party seized during administrative-offence proceedings – national legislation excluding that third party from the category of persons entitled to bring an action against the administrative penalty notice ordering the seizure.

Number of the ruling Date of issuance

Explanation as to the progress

This case involves customs' practice of confiscating property belonging to a third party (not the party that committed an administrative offence). The CJEU ruling signals a problem with the legislation, which does not provide a right of appeal for those whose property has been seized, but who cannot be regarded as the person committing the administrative offence connected to the penalty imposed.

The problematic provision of the Law on Customs has been amended, but it is difficult to declare full compliance as we need to see what the customs do in practice.

C-655/21 19 October 2023

Issue

The enforcement of intellectual property rights – criminal procedure – harm suffered by the trademark proprietor as a constituent element of the offence – Charter of Fundamental Rights of the European Union – Article 51(1) (Implementation of EU law) – Article 49(1) and (3) (Legality and proportionality of penalties).

Explanation as to the progress

This CJEU judgment indicated the need for changing the Criminal Code (Article 172 b [2]). The change was carried out, with the article now prescribing a minimum sentence of two and a maximum sentence of eight years (previously, the minimum was 5 years).

C-118/22 30 January 2024

Issue

The legislation providing for the storage by police authorities, for the purposes of prevention, investigation, and prosecution of criminal offences, of personal data without periodic review of whether the storage is still necessary, nor granting the data subject the right to have the data erased where the storage is no longer necessary for the purposes for which it is processed.

Explanation as to the progress

The case implicated a person convicted of a crime, who was subsequently rehabilitated and wanted to have his police registration removed.

The CJEU noted that EU law precludes national law providing for storage by police authorities for the purpose of prevention, investigation, or prosecution of criminal offences, of personal data, including biometric and genetic data, concerning persons who have been convicted, until the death of the data subject, even in case of his or her rehabilitation, without imposing on the data controller the obligation to review periodically whether that storage is still necessary, nor granting the data subject the right to have that data erased.

Judicial compliance: The Supreme Administrative Court squashed the decision by the lower instance court based on the CJEU ruling and referred to the case for re-examination. The expert identified other instances where courts complied with the CJEU ruling.

Legislative compliance: The CJEU ruling signalled that the Directive in question needs to be fully transposed, which indicates the need for legislative action.

Police compliance can vary from case to case, and cannot easily be verified without judicial assessment in specific cases.

Number of the ruling Date of issuance

C-15/24 PPU [Stachev] **14 May 2024**

Issue

The right of access to a lawyer of a foreign national that does not speak Bulgarian; police practice of securing the waiver of the right by such persons.

Explanation as to the progress

Compliance may vary from case to case. Courts generally respect the right to a lawyer, but pat terns in police behaviour signal the likelihood of continued violations of the right to access to a lawyer by tricking individuals into giving up this right. There are barriers in terms of access to court to challenge the denial of access to a lawyer. There are issues with the quality of legal aid provided by defenders — those provided by the state when a suspect/accused cannot afford a lawyer.

C-229/23 **13 June 2024**

Issue

EU law does not preclude national law requiring that a judicial decision that authorises wiretapping and storage of data without the consent of the users concerned, but the judicial decision authorising wiretapping must itself contain an express statement of the reasons in writing, irrespective of a reasoned application made by the criminal authorities.

Explanation as to the progress

Whether judges issue such reasoned opinions may vary from one case to another and, hence, compliance can only be assessed on a case-by-case basis. There is limited data on such rulings; a person can only find out about them if they face a criminal trial, or if information is otherwise leaked.

C-80/23 **28 November 2024**

Issue

The verification of the necessity for the systemic collection and retention of personal data about people accused of crimes by police.

Explanation as to the progress

Based on their previous record, the police cannot always be trusted with proper verification of

the necessity for data collection and retention. The quality of such assessments by the police, as a biased authority, can be questioned – they will most likely comply pro forma, but not in essence.

C-476/23 **24 October 2024**

Issue

Postal services in the European Union – Directive 97/67/EC – Article 22(3) – the concept of "postal service provider affected by a decision of a national regulatory authority" – the right of appeal.

Explanation as to the progress

The CJEU held that Article 22(3) of the of Directive 97/67/EC , read against Article 47 of the Charter, must be interpreted as precluding national legislation under which a postal service provider competing with the universal postal service provider cannot challenge before an independent body a

decision of the national regulatory authority, to which it is not an addressee, by which the latter calculates, pursuant to Article 7(3) of Directive 97/67, as amended, the amount of the net costs incurred by the universal postal service provider, and finds that those costs constitute an unfair financial burden within the meaning of that provision.

Based on the CJEU judgment, the Supreme Administrative Court issued Ruling 11998 of 7 November 2024, quashing a decision by the lower court and referring the case for re-examination. It is likely that the problems of this kind will persist, however, because administrative courts traditionally play with the notion of "legitimate interest" to sabotage appeals against administrative decisions.

C-760/22 4 July 2024

Issue

Judicial cooperation in criminal matters – Directive (EU) 2016/343 – the right to be present at the trial – the possibility for an accused person to participate in the hearings in his or her trial by videoconference.

Explanation as to the progress

The Bulgarian court asked the CJEU if participating in a trial by videoconference upon one's own insistence (during the Covid-19 pandemic) was compatible with the Directive on the presumption of innocence/right to be present at trial.

The expert attributed the Prosecutor's Office insistence on in-person participation to the interest in intimidating people.

According to the CJEU, EU law does not preclude an accused person from being able to participate through a video conference in his or her trial, provided a fair trial is guaranteed. Our expert suggested that this guidance is rather vague, and leaves room for speculation.

Compliance can only be verified on a case-by-case basis, and with full knowledge of the facts.

C-471/22 30 January 2024

Explanation as to the progress

In 2019, the European Commission found that the three public procurement procedures had been organised by the Road Infrastructure Agency in infringement of EU law, annulled part of the Cohesion Fund contribution to the operational programme in question and applied a flat-rate financial correction. The Head of the Operational Programme in Bulgaria initiated a financial correction procedure in respect of the Road Infrastructure Agency and in relation to these contracts.

The Road Infrastructure Agency took the Head of the Operational Programme to court.

The referral appears to be an attempt to shield the Road Infrastructure Agency. Hence, it is viewed as an abuse of the preliminary reference procedure.

The CJEU, in response to questions, indicated that when the Commission finds irregularity and imposes a financial correction, the competent national authorities must pursue the recovery of the sums unduly paid, by imposing a financial correction on the beneficiary of the funds, with the beneficiary given an opportunity to express their observations.

Situation as of 1 May 2025

CROATIA

Poor complier

Number and percentage of rulings pending compliance for two years and more:

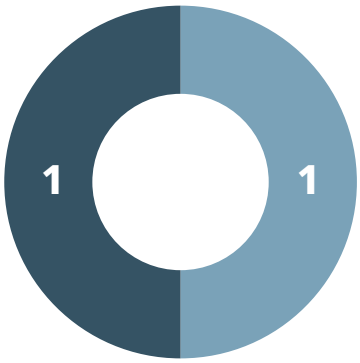
2024 (moderate complier)

0 (0.0%)

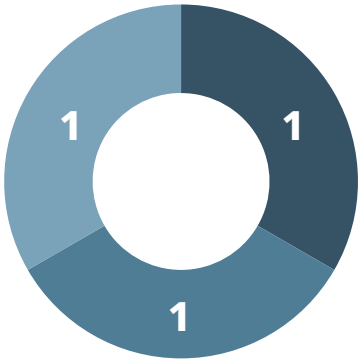
2025 (poor complier)

0 (0.0%)

Number of rulings covered by this study **2** **(2024)**



Number of rulings covered by this study **3** **(2025)**



- Full compliance - 2024: 50.0%; 2025: 33.3%
- Partial compliance - 2024: 0.0%; 2025: 33.3%
- Non-compliance - 2024: 50.0%; 2025: 33.3%

KEY TAKEAWAYS

- **Implementation of CJEU rulings remains slow and uneven,** despite political commitments to compliance. Institutional inertia and legislative delays raise concerns about the effectiveness of national follow-up.
- **Judicial culture and capacity gaps hinder effective enforcement of EU rights,** as illustrated by resistance or reluctance among judges to apply clear CJEU jurisprudence – especially in complex or resource-intensive cases.

Contextual information

"Government powers are effectively limited by the Judiciary", *WJP RoL index:*[243]
0.46 /1 (regional average: 0.70)

"Justice [system] is free of improper government influence", WJP RoL index:
Civil:[244] **0.54 /1** (regional average: 0.73)
Criminal:[245] **0.44/1** (regional average: 0.73)

For more about the Croatian justice system, see: *Croatia – The Judiciary Map*[246]

RULINGS PENDING COMPLIANCE

Case no Date of the ruling

Non-compliance (1)

C-726/21 12 October 2023

Theme

Interpretation of Article 54 of the Convention implementing the Schengen Agreement (CISA), in conjunction with Article 50 of CFR. Both provisions enshrine the ne bis in idem principle.

In the proceedings before the referring court, several individuals were charged with committing, instigating, or aiding acts classified as offences related to commercial transactions. Some of these individuals had already been subject to criminal investigations or proceedings in Austria for acts that appear to correspond – at least in part – to those for which they were later charged in Croatia.

The referring court explained that, according to the Croatian case-law, when assessing the applicability of the ne bis in idem principle, the courts may take into consideration only the facts set out in the enacting terms of procedural documents, such as orders to open or close judicial investigations. Iin the case at hand, however, relevant information for determining whether the ne bis in idem principle applies was included in the grounds of the Austrian procedural documents, particularly in materials related to the investigation but not reflected in the indictment itself.

In its ruling of 12 October 2023, the CJEU ruled that national judicial practice cannot limit national courts in this way when assessing compliance with Article 54 of the CISA. Courts are required to consider not only the facts set out in the operative part of the indictment or final judgment from another member state, but also the facts

mentioned in the grounds for those decisions, as well as other relevant information concerning the material facts previously examined and concluded by a final decision.

Explanation as to the progress

To date, this ruling has not been complied with. There is some indication that the referring court intends not to follow the ruling of the CJEU. The judge who originally submitted the reference has since retired, and the newly assigned judge has doubts about whether the court can comply with the Court's ruling, as was *covered in the media*.[247] To comply with the ruling, the court would need to examine extensive documentation – over 100,000 pages, in German – provided by the Austrian authorities, who had previously closed criminal proceedings against the same individuals. The Croatian court appears to consider this review process too burdensome and costly. Failure to undertake this examination, however, would constitute a blatant disregard of the CJEU's binding ruling, especially by the very court that made the reference, and would represent a serious violation of EU law.

Case no Date of the ruling

Partial compliance (1)

C-554/21 🔗 **C-622/21; C-727/21** **11 July 2024**

Theme

This case concerned threats to judicial independence arising from internal court mechanisms that allowed undue influence by judges in administrative roles over their peers in decision-making panels.

The challenged national mechanism allowed "registration judges" to monitor, delay or block decisions made by judicial panels if those rulings were deemed inconsistent with existing case-law. The decisions could be escalated to section plenums – extra-procedural meetings where non-panel judges could compel a change to the already adopted ruling. This procedural mechanism was rooted in Article 40(2) of the Law on Courts and Article 177(3) of the Rules of Procedure of the Courts. The CJEU found it incompatible with the rule of law, judicial independence, and the principle of effective judicial protection under Article 19(1) of the TEU.

The Court emphasised that allowing judges not involved in deliberations to influence final rulings undermines the autonomy of the deciding panel and deprives parties of procedural clarity. It also ruled that the discretionary powers of registration judges – who could return decisions for re-examination without clear legal basis or justification – violate EU law. The CJEU particularly noted that national legislation does not envisage such a role for registration judges.

In paragraph 80 of the ruling, the Court outlined acceptable procedural mechanisms to ensure uniformity of case-law, while respecting judicial independence. It clarified that referring contentious legal questions to extended panels is permissible – provided such referrals occur before

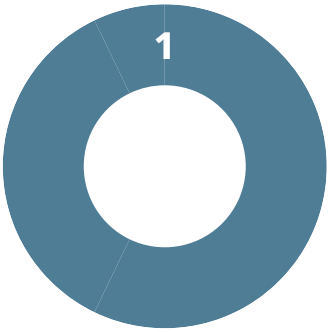
the deciding panel has deliberated, follow clear legal criteria, and preserve the procedural rights of the parties.

Croatian law already includes a mechanism for referring complex legal issues to extended panels of the Supreme Court, introduced via amendments to civil procedure. National experts consider this a more appropriate tool for ensuring consistent application of the law than the discredited administrative interventions.

Explanation as to the progress

The CJEU's ruling received positive statements from Croatian officials, including the president of the Supreme Court and the minister of justice, who promised alignment with Article 19(1) TEU. A working group was formed to draft legislative reforms, involving officials, judges, and legal scholars. However, no proposals have yet been published. The Supreme Court's amendment process has also been delayed due to the death of its president in March 2025. Unofficial reports suggest that Article 40(2) will be abolished, and discussions are ongoing regarding the composition and convening conditions of extended Supreme Court formations. While the Rules of Procedure remain formally in force, registration judges have ceased blocking rulings. They now only offer non-binding suggestions, and deciding panels may invoke the direct effect of Article 19(1) TEU to proceed with delivering decisions.

CYPRUS



Number of rulings covered by this study: 1

Partial compliance (100%)

Number and percentage of rulings pending compliance for 2 years and more:

2025 | **1** (100%)

EXPLANATION OF THE DATA

Case *C-584/18*, the ruling of 30 April 2020, involved the disproportionate restriction to enter EU territory for third-country nationals and the lack of effective remedies in such cases. Compensation was awarded as soon as the CJEU judgment was issued, but the case is still pending before the District Court of Larnaka. Wider considerations, such as those concerning the nature of the rights of third-country nationals, state liability, and the airline's role, have not been fully addressed.

Contextual information

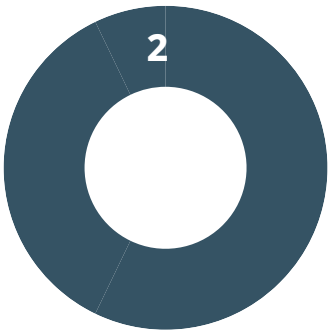
"Government powers are effectively limited by the Judiciary", *WJP RoL index:*[248]
0.60 /1 (regional average: 0.70)

"Justice [system] is free of improper government influence", WJP RoL index:
Civil:[249] **0.75/1** (regional average: 0.73)
Criminal:[250] **0.76/1** (regional average: 0.73)

For more about the Cyprus justice system, see: *Cyprus – The Judiciary Map*[251]

Situation as of 1 May 2025

DENMARK



Number of rulings covered by this study: 28

Full compliance (100%)

Number and percentage of rulings pending compliance for 2 years and more:

2025 | **0** (0.0%)

Contextual information

"Government powers are effectively limited by the Judiciary", *WJP RoL index:*[252]
0.96/1 (regional average: 0.70)

"Justice [system] is free of improper government influence", WJP RoL index:
Civil:[253] **0.93/1** (regional average: 0.73)
Criminal:[254] **0.99/1** (regional average: 0.73)

For more about the Dannish justice system, see: *Denmark – The Judiciary Map*[255]

Situation as of 1 May 2025

ESTONIA

Moderate complier

Number and percentage of rulings pending compliance for two years and more:

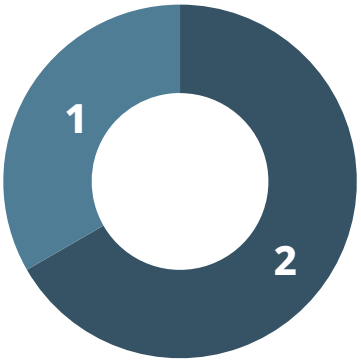
2024 (moderate complier)

1 (100.0%)

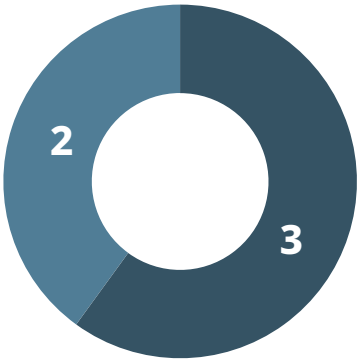
2025 (moderate complier)

2 (100.0%)

Number of rulings covered by this study **3 (2024)**



Number of rulings covered by this study **5 (2025)**



- Full compliance - 2024: 66.7%; 2025: 60.0% (C-2/19, C-241/21, C-795/19)
- Partial compliance - 2024: 33.3%; 2025: 40.0%

KEY TAKEAWAYS

- **Partial legislative compliance is a persistent pattern:** Although courts have applied CJEU rulings in practice, relevant legal provisions have not been fully amended. Judicial practice shows strong adherence to the primacy of EU law, even in the absence of legislative alignment.
- **Lack of follow-through at the legislative level** may undermine legal certainty and coherence, despite courts' willingness to align with EU standards.

Contextual information

"Government powers are effectively limited by the Judiciary", *WJP RoL index:*[256]
0.83/1 (regional average: 0.70)

"Justice [system] is free of improper government influence", WJP RoL index:
Civil:[257] **0.87/1** (regional average: 0.73)
Criminal:[258] **0.86/1** (regional average: 0.73)

For more about the Estonian justice system: *Estonia – The Judiciary Map*[259]

Situation as of 1 May 2025

RULINGS PENDING COMPLIANCE

Case no Date of the ruling

Partial compliance (2)

C-746/18 2 March 2021

Theme

The CJEU of Justice held that Article 111(1) of Estonia's Electronic Communications Act, which allowed for general and indiscriminate data retention, violated EU law – specifically, Directive 2002/58/EC and the Charter of Fundamental Rights. Additionally, Article 90(1) of the Code of Criminal Procedure was found to breach EU law by assigning both the conduct of pre-trial proceedings and prosecutorial oversight to the Prosecutor's Office, thus undermining the principle of judicial independence.

Explanation as to the progress

The Code of Criminal Procedure, Article 90(1) has been changed, but the Electronic Communications Act, Article 111(1) remained unchanged. Despite this, Estonian courts have applied the principle of primacy of EU law, consistently aligning their case-law with the CJEU's interpretation.

Following the judgment, Estonia saw intense political and legal debate regarding the implications of the CJEU ruling. The chancellor of justice argued there was no excessive interference with privacy, and several legal scholars questioned the appropriate scope of data retention by telecoms companies.

C-420/19 20 January 2021

Theme

The CJEU held that Article 16 of Council Directive 2010/24/EU of 16 March 2010 must be interpreted to mean that the courts of the requested member state are bound by the assessment of the requesting member state when it comes to applying precautionary measures. Thus, Estonian courts, when handling such requests, must rely on the documentation and analysis provided by the requesting state, rather than making an independent factual or legal assessment under domestic law.

Explanation as to the progress

In this case, the Supreme Court of Estonia did not issue a ruling, as the Finnish tax authorities withdrew their request, followed by the Estonian Tax and Customs Board withdrawing its cassation. No legislative measures were taken. The principles of the CJEU ruling have not been further transposed into the Supreme Court's case-law. Nonetheless, lower courts have occasionally referenced and applied the CJEU principles (see, e.g., *Decision 31300680*[260], *Decision 32570068*[261], *Decision 33194403*[262], and *Decision 37025577*[263]).

Situation as of 1 May 2025

FINLAND

Poor Complier

Number and percentage of rulings pending compliance for two years and more:

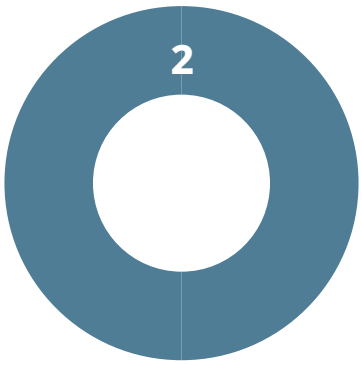
2024 (moderate complier)

2 (100.0%)

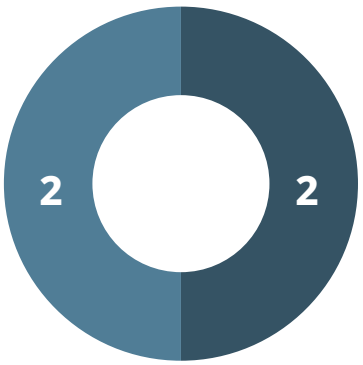
2025 (poor complier)

2 (100.0%)

Number of rulings covered by this study **2** **(2024)**



Number of rulings covered by this study **4** **(2025)**



- Full compliance - 2024: 0.0%; 2025: 50.0%[34]
- Partial compliance - 2024: 100.0%; 2025: 50.0%

Contextual information

"Government powers are effectively limited by the Judiciary", *WJP RoL index:*[264]
0.90/1 (regional average: 0.70)

"Justice [system] is free of improper government influence", WJP RoL index:
Civil:[265] **0.90/1** (regional average: 0.73)
Criminal:[266] **0.98/1** (regional average: 0.73)

For more about the Finnish justice system, see: *Finland – The Judiciary Map*[267]

SELECTED INSTANCES OF NON-COMPLIANCE /PARTIAL COMPLIANCE

The CJEU's preliminary ruling of 6 October 2021, in case C-35/20, concerned the application of the requirements of proportionality under EU law to national sentencing systems. A Finnish citizen travelling to Estonia and back by boat did not carry his passport with him, and was subsequently fined. The Supreme Court of Finland requested a preliminary ruling from the CJEU to determine whether the national penal provision was compatible with an EU citizen's right to freedom of movement, and whether the punishment was proportionate under EU law. The CJEU ruled that, while EU law does not preclude national legislation criminalising such behaviour, in these circumstances, the Finnish

day-fine system constituted a criminal sanction disproportionate to the seriousness of the offence (crossing the border without a travel document), due to the excessively high total monetary amount of the fine (EUR 95,250), which was determined based on the boatman's income.

The Supreme Court of Finland reiterated that the day-fine system and the basic principles of calculating the monetary amount of a day fine are integral to the Finnish criminal justice system. The Court was obliged, however, to find a solution that aligned the proportionality of the criminal sanction imposed with the requirements of proportionality under Directive 2004/38/EC and Article 49(3) of the Charter of Fundamental Rights, as interpreted by the CJEU in its ruling. To achieve proportionality, the majority lowered the number of day fines from 15 to five, reducing the total amount of the fine to EUR 58,310. Nevertheless, from the perspective of EU law, the total amount of the fine might still be deemed disproportionate.

The Supreme Court of Finland did not expressly call for legislative change. The tension between the principled nature of the CJEU's ruling and the Finnish sentencing system has, however, been pointed out in academic commentary[35]. It has been argued that, while the CJEU's ruling is justifiable from the point of view of EU law, the view on proportionality adopted by the CJEU is too narrow, and often in conflict with the broader requirements of proportionality adopted in national criminal justice systems.

Situation as of 1 May 2025

FRANCE

Good complier

Number and percentage of rulings pending compliance for two years and more:

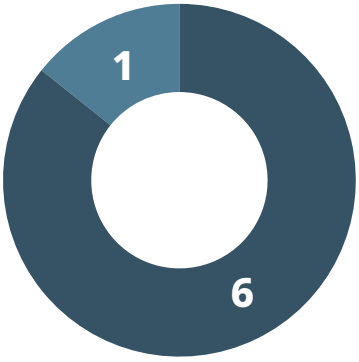
2024 (Good complier)

1 (100.0%)

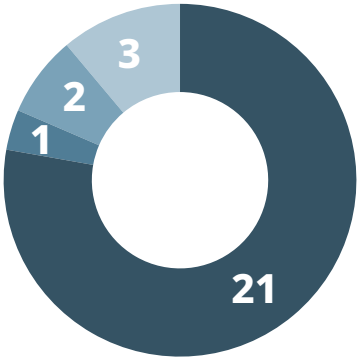
2025 (Good complier)

1 (33.3%)

Number of rulings covered by this study **7 (2024)**



Number of rulings covered by this study **27 (2025)**



- Full compliance - 2024: 85.7%; 2025: 77.8%
- Partial compliance - 2024: 14.3%; 2025: 3.7%
- Non-compliance - 2024: 0.0%; 2025: 7.4%[36]
- Impossible to give a conclusive assessment - 2024: 0.0%; 2025: 11.11%

EXPLANATION OF THE DATA

Based on the 2025 dataset, the French authorities have complied with a large portion of rulings. There is persisting, principled non-compliance in one instance (described below in greater detail). In a few instances, not enough time has passed for the national (referring) courts to issue rulings and, hence, compliance is not yet secured.

Contextual information

"Government powers are effectively limited by the Judiciary", *WJP RoL index:*[268]
0.66/1 (regional average: 0.70)

"Justice [system] is free of improper government influence", WJP RoL index:
Civil:[269] **0.75/1** (regional average: 0.73)
Criminal:[270] **0.72/1** (regional average: 0.73)

For more about the French justice system, see: *France – The Judiciary Map*[271]

SELECTED INSTANCES OF NON-COMPLIANCE/PARTIAL COMPLIANCE

In France, NGOs challenged national regulations requiring electronic communication providers and operators to store and process personal data automatically, to detect terrorist threats. They argued these regulations violated EU law. The Conseil d'Etat paused proceedings and sought guidance from the CJEU.

The CJEU's ruling of 6 October 2020, *C-511/18* (La Quadrature du Net and Others v Premier ministre and Others) addressed the balance between personal data protection, on one hand, and public security objectives and access by security and intelligence services to telecommunications data, on the other. The CJEU cautioned against laws providing, as a preventive measure, for the general and indiscriminate retention of traffic and location data, but noted that targeted retention may be permissible to safeguard national security where the threat is genuine, provided that the retention is subject to effective review. The CJEU also stressed that the retention should be limited to targeted groups or geographic regions, and also in time to what is necessary.

In response, the Conseil d'État established an exception to the primacy of EU law, indicating that national security concerns could justify exceptions to EU data protection laws. Academic commentators have *warned*[272] that the approach followed by the Conseil d'État is surreptitious, rather than obviously confrontational, and could be more efficient in challenging the implementation of EU fundamental rights standards within member states. The French court may have provided a tempting alternative for national courts and governments that are uneasy with aspects of CJEU case-law. By openly challenging the EU's legal order both in its form (the ruling) and in its substance (the Charter of Fundamental Rights), France might be doing both – *paving*[273] the way for further weakening of the Rule of Law across the EU, and possibly also paving the way for more challenges coming from France on other issues. It seems that the French Conseil d'État and Constitutional Council confirmed the general grounds introduced here to allow for exceptions to the primacy of EU law in later rulings.

Situation as of 1 May 2025

GERMANY

Moderate complier

Number and percentage of rulings pending compliance for two years and more:

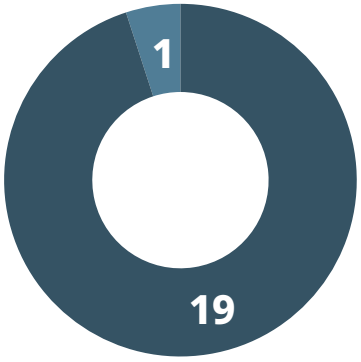
2024 (Good complier)

1 (100.0%)

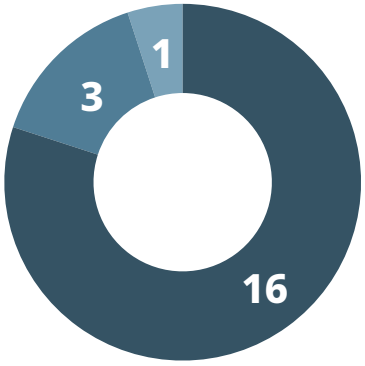
2025 (Moderate complier)

3 (75.0%)

Number of rulings covered by this study **20 (2024)**



Number of rulings covered by this study **20 (2025)**



- Full compliance - 2024: 95.0%; 2025: 80.0%
- Partial compliance - 2024: 1.0%; 2025: 15.0%
- Non-compliance - 2024: 0.0%; 2025: 5.0%

Contextual information

"Government powers are effectively limited by the Judiciary", *WJP RoL index:*[274]
0.82/1 (regional average: 0.70)

"Justice [system] is free of improper government influence", WJP RoL index:
Civil:[275] **0.90/1** (regional average: 0.73)
Criminal:[276] **0.90/1** (regional average: 0.73)

For more about the German justice system, see: *Germany – The Judiciary Map.*[277]

RULINGS PENDING COMPLIANCE

Case no | Date of the ruling

Non-compliance (1)

Joined Cases: **C-508/18, C-82/19** PPU **27 May 2019**

Theme

In 2019, following two preliminary ruling requests by the Irish High Court and the Supreme Court of Ireland, the *CJEU*[278] determined that Germany's prosecution services, being subject to external orders of the ministries of justice, could not be considered independent "issuing judicial authorities"

within the meaning of Framework Decision 2002/584 on the European Arrest Warrant. This means justice ministries could directly influence decisions to issue or withhold European Arrest Warrants. The UN Human Rights Committee also voiced concerns about the lack of independence in prosecution services and urged Germany to consider reform (CCPR/C/DEU/CO/7, 30 November 2021, paras. 40-41).

Explanation as to the progress

The previous government coalition promised to amend the law in accordance with the requirements of the CJEU decision, and to adjust the ministerial powers of instruction. The federal justice minister proposed a reform in May 2024 that would not abolish that right but narrow it further; ministers could only use the right to prevent illegal decisions in cases where there is a legal margin of appreciation, and they could only do so with stated legal reasons. The expert reporting on Germany highlighted, however, that, as long as the law is not amended, it is interpreted in light of EU law. This means that the criminal justice system has adapted its practice to EU law, by subjecting every European Arrest Warrant to a judge's decision. The public prosecutors' offices are still tasked, however, with the preparation and execution of European Arrest Warrants.

Due to the dissolution of the government and new elections, it is not clear when legislative amendments will be passed.

Partial compliance (3)

C-505/19 12 May 2021

Theme

The CJEU addressed the scope and applicability of the ne bis in idem principle (prohibition against punishment twice for the same offence) in transnational proceedings, specifically in the context of Interpol Red Notices. The Court interpreted Article 54 of the Convention Implementing the Schengen Agreement and Article 21(1) of the TFEU in light of Article 50 of the Charter of Fundamental Rights. It held that these provisions do not preclude the provisional arrest of a person, pursuant to an Interpol Red Notice issued at the request of a third state, by the authorities of a Schengen State or EU Member State – unless it has been established, in a final judicial decision taken in a Schengen state or EU member state, that the person has already been finally tried for the same acts. With this interpretation, the Court effectively requires that national law provide a judicial remedy capable of determining whether the ne bis in idem principle applies to the acts covered by the Red Notice.

Explanation as to the progress

The decision of the referring court following the CJEU's ruling is not available online. In its original request for a preliminary ruling (Case 6 K 565/17.WI), however, the Administrative Court of Wiesbaden had already assumed that the ne bis in idem prohibition applied in the case at hand, aligning with the position later confirmed by the CJEU. On the other hand, the judicial remedy envisioned by the CJEU – namely, a legal mechanism to establish that the ne bis in idem principle applies to the acts covered by the Red Notice – does not currently exist under German law.

C-128/18 🔗 **15 October 2019**

Theme

The CJEU ruled that, when an executing judicial authority has objective, reliable, and specific information about systemic deficiencies in prison conditions in the issuing member state, it must assess whether there is a real risk of inhuman or degrading treatment upon surrendering the individual. That assessment is not limited to the review of obvious inadequacies. For the purposes of that assessment, the executing judicial authority must request from the issuing judicial authority the information that it deems necessary and must rely, in principle, on the assurances given by the issuing judicial authority, in the absence of any specific indications that the conditions of detention infringe Article 4 of the Charter of Fundamental Rights.

The executing judicial authority cannot rule out the existence of a real risk of inhuman or degrading treatment merely because the person concerned has, in the issuing member state, a legal remedy enabling that person to challenge the conditions of his detention or because there are, in the issuing member state, legislative or structural measures that are intended to reinforce the monitoring of detention conditions

Explanation as to the progress

In one instance, the Federal Constitutional Court ruled the extradition of a non-binary individual to Hungary inadmissible. The Berlin Court of Appeal had not adequately reviewed the risk of inhuman or degrading treatment in Hungarian prisons, despite extensive reports about systemic deficiencies like overcrowding, poor hygiene, and violence. The Court of Appeal relied on general assurances from Hungarian authorities, which the Federal Constitutional Court found insufficient, declaring the decision unconstitutional.

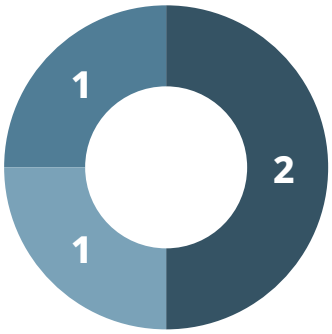
C-396/22 🔗 **C-397/22** 🔗 **C-398/22** 🔗 **21 December 2023**

The national provision of sec. 83, para. 1 No. 3 IRG contravenes the Framework Decision, which obliges the national courts to interpret the national law in accordance with EU law to the greatest extent possible. The national legislature has not yet reformed the faulty transposition into national law.

Situation as of 1 May 2025

GREECE

Poor complier



Number of rulings covered by this study: 4

- Full compliance: 50.0%[37]
- Partial compliance: 25.0%
- Non-compliance: 25.0%

Number and percentage of rulings pending compliance for 2 years and more:

2025 | **1** (50.0%)

Contextual information

"Government powers are effectively limited by the Judiciary", *WJP RoL index:*[279]
0.62/1 (regional average: 0.70)

"Justice [system] is free of improper government influence", WJP RoL index:
Civil:[280] **0.57/1** (regional average: 0.73) *Criminal:*[281] **0.54/1** (regional average: 0.73)

For more about the Greek justice system, see: *Greece – The Judiciary Map.*[282]

CASE HIGHLIGHTS

C-280/18, 7 November 2019: The CJEU held that Article 6 of the EIA Directive (following the requirements of the Aarhus Convention) precludes public consultation on environmental projects to be conducted at the peripheral level within the broader municipality in which the project takes place. Such consultations must meaningfully involve the local community directly affected by the project. This includes the use of up-to-date (e.g., electronic) means of communication and engagement. The request concerned several cases in various municipalities in Greece.

Compliance with the ruling is considered partial for two reasons: First, there was a considerable delay of approximately four to five years between the CJEU ruling and the issuance of the final decisions of the Simvoulion tis Epikrateias (StE), the Supreme Administrative Court of Greece. **Second**, although the StE recognised and referred to the CJEU ruling, in some cases (e.g., the construction of a port in Patmos), it did not assign the CJEU ruling decisive weight; the StE accepted other evidence submitted by domestic authorities as sufficient to demonstrate that the consultation took place and characterised shortcomings – such as holding consultations at the municipal rather than the local level – as errors not significant enough to invalidate the overall process. This does not amount to outright defiance – the StE supports its position with alternative evidence of consultation – other than at the municipal level, but it does raise questions about whether the Greek authorities (including domestic courts) are taking the requirement of environmental consultation seriously.

Situation as of 1 May 2025

HUNGARY

Problematic complier

Number and percentage of rulings pending compliance for two years and more:

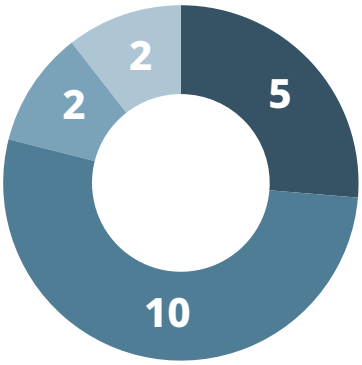
2024 (struggling complier)

8 (66.7%)

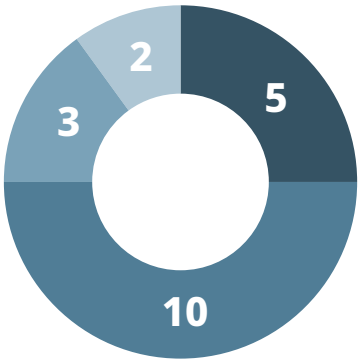
2025 (Problematic complier)

11 (84.6%)

Number of rulings covered by this study **19 (2024)**



Number of rulings covered by this study **20 (2025)**



- Full compliance - **2024:** 26.4%; **2025:** 25.0%
- Partial compliance - **2024:** 52.6 %; **2025:** 50.0%
- Non-compliance - **2024:** 10.5%; **2025:** 15.0% (+1 from 2024)
- Impossible to give a conclusive assessment - **2024:** 10.5%; **2025:** 10.0%

EXPLANATION OF THE DATA

DRI's 2024 *report*[283] on compliance with CJEU rulings characterised Hungary as one of the struggling compliers, with full compliance in only 26.4 per cent of cases within the dataset of rule of law related rulings. Of the rulings, 52.6 per cent (10 out of 19) were only partly complied with. This is because, while national courts often apply CJEU guidance correctly, laws and administrative or other practices contradicting EU law persist. Furthermore, two rulings (approximately 10 per cent) were not complied with at all. Most alarming instances of non-compliance and partial compliance are related to the asylum and migration policy, often also implicating issues with access to justice.

2025 data provided by national experts' signal that the situation has not changed significantly. The numbers remained largely the same, even though several observations can still be made:

- While one CJEU ruling has been declared as fully complied with after Hungary repealed the law targeting NGOs receiving foreign funding, the introduction of similar laws not yet subject to the CJEU ruling indicate that formal compliance was a tactical move rather than a sign of genuine commitment of the EU values. These legislative initiatives – notably 2023 Sovereignty Protection Act and, more recently, the 2025 Transparency Bill – seek to suppress dissent and further shrink civic space, by targeting entities receiving foreign funding.
- The proportion of instances of partial compliance remains high/unchanged. In several instances where judicial compliance has been mixed (see, e.g., cases C-556/17, C-519/18, and C-406/18), no new instances of judicial non-compliance have been reported since last year and, hence, these cases remain under observation.

The politically captured *Kúria's* Uniformity Procedure poses significant obstacles to the application of EU law and CJEU guidance by lower courts. When an interpretation of EU law by the CJEU conflicts with the *Kúria's* previously adopted mandatory interpretation, judges are required to request the *Kúria's* Uniformity Compliance Chamber to cancel the binding force of the prior decision in a separate procedure. Until this Chamber amends the previous uniformity decisions, these decisions are binding on courts. They are effectively considered quasi-laws within Hungary's legal framework (Fundamental Law of Hungary, Article 25[3]), compelling judges to follow them as they would standard legislation. Consequently, courts adjudicating cases cannot independently interpret and apply EU law in alignment with CJEU decisions if conflicting *Kúria* case-law exists. The uniformity procedure is problematic for two reasons: i) The *Kúria*, in contravention of Article 267 of the TFEU, further interprets or replaces CJEU's mandatory interpretation of EU law; and ii) Contrary to EU law, the *Kúria* limits the powers of the courts that ensure the effective enforcement of EU law, thereby hindering the effectiveness of legal remedies.

A recent uniformity decision Jpe.III.60.053/2024/12 of 24 February 2025 – issued in connection with the CJEU ruling in joined cases *C-420/22* and *C-528/22* (NW and PQ) – exemplifies how national courts can be prevented from adhering to CJEU guidance.

Contextual information

"Government powers are effectively limited by the Judiciary", *WJP RoL index:*[284]
0.38/1 (regional average: 0.70)

"Justice [system] is free of improper government influence", WJP RoL index:
Civil:[285] **0.28/1** (regional average: 0.73)
Criminal:[286] **0.28/1** (regional average: 0.73)

For more about the Hungarian justice system, see: *Hungary – The Judiciary Map*[287]

RULINGS PENDING COMPLIANCE

Number of the ruling Date of issuance

Non-compliance (3)

C-808/18 **C-123/22** (Commission v Hungary) **17 December 2020**

Issue

The CJEU ruled that Hungary's legislation allowing the removal of all third-country nationals staying illegally in its territory and limiting access to asylum was contrary to EU law.

Explanation

Hungary has not implemented legislative changes as mandated by the ruling. The CJEU imposed a substantial financial penalty – a lump sum of EUR 200 million, plus EUR 1 million per day of non-compliance *(C-123/22)*. The government, however, has refused to pay the fine or make necessary changes in law and in practice.

Number of the ruling Date of issuance

C-823/21 22 June 2023

Issue

The CJEU found Hungary in violation of EU law for failing to provide third-country nationals or stateless persons effective access to an international protection procedure.

Hungarian legislation requires individuals to submit a declaration of intent at a Hungarian embassy in a third country and obtain a travel document before applying for international protection in Hungary. This disproportionately interferes with their rights to seek asylum.

Explanation

Hungary defended its 2020 law, citing the right to authorise or refuse entry into its territory. It also maintained that the law allows ensuring territorial sovereignty and self-determination. The judgment did not lead to any change in legislation and practice, and access to asylum remains restricted.

C-420/22; C-528/22 25 April 2024

Issue

The CJEU addressed the withdrawal, on the basis of classified information, of a residence permit for a third-country national raising a child who is an EU citizen. It held that such withdrawal must be subject to an effective remedy under Article 47 of the Charter of Fundamental Rights. This provision requires that the individual concerned be able to ascertain the reasons behind the decision, thereby enabling them to defend their rights effectively. It also ensures that they can decide, with full knowledge of the relevant facts, whether it is worthwhile to appeal to the court with jurisdiction, and the court is placed in a position to review the lawfulness of the national decisions at issue.

Explanation

Following the NW and PQ judgment, the Szeged court annulled the decisions of NDGAP (National Directorate General for Aliens Policing) in both cases, and ordered new procedures.

In response to the NW and PQ case, the *Kúria* recognised the need to revise its existing binding jurisprudence, which had previously prohibited disclosure of the essence of the grounds. To facilitate this, the *Kúria* initiated a uniformity procedure in a separate pending case similar to NW and PQ. This procedure sought “permission" to depart from the existing *Kúria's* jurisprudence, which conflicted with the NW and PQ judgment. Uniformity decision 3/2025 (Jpe.III.60.053/2024/12.) appropriately summarises the NW and PQ ruling, but then deviates from it. It introduces a new system, requiring the judge to invite the prosecutor into the procedure. If the prosecutor acts, they must review the classified information and declare whether they consider the individual to pose a risk to national security, without revealing the substance of the grounds for their conclusion to the applicant. If there is a disagreement between the judge (or parties) and the prosecutor, there is no room for an adversarial proceeding, as the judge is not obligated to provide reasons for their decision, regardless of whether they concur with the prosecutor. Since the essence of the grounds remains undisclosed to the applicant, this system contravenes the NW and PQ judgment.

Number of the ruling Date of issuance

Additionally, the uniformity decision diverges from the NW and PQ case in its interpretation of the right to invoke Article 20 of the TFEU arguments in an expulsion case. The *Kúria* stipulates that if the authority issues a separate decision on expulsion, the right of derived residence may be invoked in the related appeal procedure only if the authority examines the right of derived residence within that procedure. In the context of a decision to expel, this examination is only permissible if the decision is not based on a preceding decision by the authorities excluding the individual's right to stay in Hungary (para. 38).

Partial compliance (10)

C-556/17 29 July 2019

Issue

The CJEU indicated that EU law intended to give national courts the power to issue a binding ruling as to whether the applicant concerned satisfies the conditions to be granted international protection. It would be deprived of any practical effect if the quasi-judicial or administrative body could take the decision contrary to that assessment.

Explanation

The referring court followed the CJEU guidance. Other courts have not followed it uniformly, even though no new instances of non-compliance have been reported in the past year.

C-189/18 16 October 2019

Issue

The administrative practice in tax (VAT) fraud cases due to the tax authority using the evidence collected in the parallel criminal case, without allowing the taxpayer to have access to the evidence and challenge the evidence, exercising the rights of the defence. It also concerned the legal redress before a court of law that should be available to a taxpayer when such evidence is used in the tax administration procedure by the tax authority. The breach of Article 47 EUCFR did not emerge from national legislation but, instead, from the conduct of national tax authorities in individual cases and from the review of their decisions delivered in those cases in judicial review procedures before national (administrative) courts.

Explanation

As made clear by the CJEU, implementation required that the principles established by the CJEU are followed by national administrative courts when exercising their judicial review competences in such tax cases, and, eventually, national authorities, having understood that their action is illegal, end their practice, or modify them according to the legal requirements imposed under EU law.

There is evidence of judicial compliance, but not that of compliance by tax authorities.

C-519/18 (TB ruling) 12 December 2019

Issue

A member state is not precluded from authorising the family reunification of a refugee's sister where she could not provide for her own needs, provided that the inability is assessed having regard to the special situation of refugees and it may be ascertained that material support of the person concerned is actually provided by the refugee, or that the refugee appears to be the family member most able to provide the material support required.

Explanation

Judicial Response:

The referring court respected it (38.K.701.960/2020/6., 29 May 2020). Another court reviewing a negative decision on family reunification has ruled, by reference to the TB ruling, that the examination of dependency limiting it solely to the health status of the applicant is unlawful (Metropolitan Regional Court, judgment No. 38.K.701.960/2020/6). The jurisprudence of the courts is not unified, although, as in another case, without mentioning the TB judgment, the court explicitly rejected the need for a complex examination (judgment No. 16.K.706.405/2020/8, point [26] of the Metropolitan Regional Court, 5 November 2020. The judgment was upheld by the Supreme Court, Kfv.II.37.074/2021/2, 16 February 2021).

Administrative Response:

The immigration authority still fails to apply the complex examination of the dependency condition, and categorically excludes mental health issues from sicknesses that might justify dependency.

C-406/18 19 March 2020

Issue

EU law allows national laws to give courts only the power to annul, not amend, decisions on international protection, provided that any new decision by authorities follows the court's ruling and is made promptly.

EU law permits a 60-day deadline for courts to hear cases on rejected asylum applications, but only if it doesn't undermine the applicant's EU rights. If it does, courts must disregard the time limit.

Explanation

As regards the power of courts, the observations regarding case C-556/17 apply.

As regards the time limit for the court to decide, the experts reported that courts typically issue a decision within 60 days. The pressure on judges through administrative means has not changed.

Joined Cases **C-924/19** PPU **C-925/19** PPU 14 May 2020

Issue

According to the CJEU, EU law precludes national laws under which the amendment by an administrative authority of the country of destination stated in an early return decision can be

contested only by means of action brought before an administrative authority, without subsequent judicial review of the decision.

Also, EU law precludes national legislation allowing an application for international protection to be rejected as inadmissible on the ground that the applicant arrived on the territory of the state concerned via a state in which that person was not exposed to persecution or a risk of serious harm.

The obligation imposed on a third-country national to remain permanently in a transit zone the perimeter of which is restricted and closed and which they cannot leave voluntarily, appears to be deprivation of liberty or detention. EU law does not authorise the detention of an applicant for international protection in a transit zone for a period of more than four weeks.

A third-country national cannot be detained for the sole reason that they are subject to a return decision and are unable to provide for their needs; such detention cannot take place without a reasoned decision and without the necessity and proportionality of such a measure being assessed; there should be a judicial review of the lawfulness of the administrative decision ordering detention. If national law doesn't allow courts to review detention decisions, national courts must still step in, assess whether the detention violates EU law, and release the person immediately if it does.

Explanation

Following this case, the Hungarian government ended the entire transit zone detention regime. Nevertheless, the transit zones have never been officially closed and still host case officers of the NDGAP (National Directorate General of Aliens Policing). Moreover, the legislative framework has also been left intact but is not currently applicable by virtue of the provision of the Transitional Act. Just five days after emptying the transit zones, on 26 May 2020, the Government introduced the so-called "embassy procedure", severely limiting access to asylum on the Hungarian territory or at the border. Since this is only a temporary regulation, the Government might decide at any moment to set the transit zone regime in motion again.

On 22 March 2022, the referring court adopted its decision, upholding the applicants' claims (9.K.701.219/2021/6.). Based on the findings in the CJEU's judgment, the domestic court found that the immigration authority had acted unlawfully, as it had failed to designate the applicants' place of stay outside the transit zone. It ruled that the applicants' placement in the transit zone pending the asylum proceedings and the alien policing procedure was unlawful because of the absence of a formal reasoned detention order, and in view of the lack of legal remedies. The NDGAP appealed the judgement, but the appeal was inadmissible, as they did not state the relevant violation of law.

Regarding "safe third country ground": In the FMS case, the CJEU also stated that the LH judgment (case C-564/18) is to be considered a new fact in the meaning of Article 33(2)(d) of the Procedures Directive, and, thus, a new application for international protection by the applicant concerned should not be registered as a subsequent application within the meaning of Article 33(2)(d). Despite this clear instruction from the CJEU, the NDGAP considered two applicants of the FMS case as subsequent

applicants until the end of their asylum procedure, denying them the right to reception conditions.

Regarding effective remedy against expulsion: A new Act on the Entry and Stay of Third Country Nationals, which entered into force on 2 January 2024, still does not provide a judicial remedy against the modification of the destination country of expulsion. This clearly shows a deliberate non-implementation of the FMS judgement. In practice, such modifications of expulsion decisions are no longer performed by the NDGAP, but the legal uncertainty remains.

C-821/19 16 November 2021

Issue

The CJEU declared that Hungary has failed to fulfil its obligations under EU law:

By allowing an application for international protection to be rejected as inadmissible on the ground that the applicant arrived in its territory through a state in which the person was not exposed to persecution.

By criminalising in its national law, the actions of any person who, in connection with an organising activity, provides assistance in respect of the making or lodging of an application for asylum.

By preventing any person suspected of having committed such an offense from the right to approach its external borders.

Explanation

Legislation was amended more than a year later (on 7 December 2022). Amendments entered into force on 1 January 2023. The automatic ban of persons accused of having violated Section 353/A of the Criminal Code (the provision on the criminalisation of assistance) from an eight-kilometre area of the external Schengen borders was repealed, and the ground to reject asylum applications as inadmissible on the basis "safe transit country" was removed from the Asylum Act. The rejection ground remains, however, in the Fundamental Law as a restriction on the right to asylum.

Contributors to the study asserted that the amendments fail to implement the CJEU's judgment, because the general criminalisation of assistance was replaced by a new, vaguely defined criminal activity that jeopardises the attorney-client privilege and, in the case of non-attorney helpers, forces them to sacrifice the applicant's best interests in order to protect themselves from potential prosecution.

C-564/19 23 November 2021

Issue

The ruling examined the declaration by the *Kúria* of the judge's preliminary reference as unlawful for being irrelevant and unnecessary for the dispute at hand. Disciplinary proceedings were also initiated against the Hungarian judge who referred the case to the CJEU, but later dropped it. The CJEU held that EU law prohibits: i) the *Kúria* from declaring preliminary references unlawful on grounds of irrelevance or necessity for the resolution of the dispute in the main proceedings; and ii) disciplinary proceedings against national judges for referring cases to the CJEU. The mere prospect of such proceedings undermines judicial independence and the mechanism of preliminary references.

Explanation

Act X of 2023, on the Amendment of Certain Laws on Justice related to the Hungarian Recovery and Resilience Plan (adopted by the parliament on 3 May 2023, in force as of 1 June 2023) abolished procedural obstacles for Hungarian

judges making a preliminary reference to the CJEU. It upheld the interpretation provided by binding precedential decision No. Bt.III.838/2019/11. of the *Kúria*, however, which deems such references as unlawful if irrelevant (to the case at hand), preserving its legal force. The *Kúria* has re-affirmed the position taken in the precedential decision, despite the CJEU ruling.

As regards the right to interpretation and translation in criminal procedures, Hungary has not established a central state register for independent translators and interpreters who are appropriately qualified. No concrete measures have been taken to ensure the quality of the interpretation and translations provided to defendants to understand the accusations against them and to have interpretation reviewed by national courts. It can be argued that this goes against the CJEU's preliminary ruling, handed down in case C--564/19.

C-159/21 🔗 22 September 2022

Issue

In its ruling of 22 September 2022, the CJEU affirmed the right of applicants for international protection to access the grounds for an asylum authority's refusal of asylum, even when such information relates to national security.

Explanation

The failure to amend legislation in light of the CJEU ruling. National courts (see referring court judgment — 22.K.703.693/2022., 15 February 2023 and rulings in similar cases) have followed the CJEU judgment and ordered a new procedure, where the essence of the grounds must be disclosed to the applicant. Security agencies, however, claim that this disclosure is impossible without compromising sensitive information, opting instead to withdraw their opinions. In cases where some information was disclosed, it did not comply with the required standard of revealing "the essence of the grounds".

C-528/21 🔗 27 April 2023

Issue

The CJEU's ruling of 27 April 2023 stated that EU law prohibits member states from banning entry of third country nationals who are family members of an EU citizen for reasons connected with national security, without considering the implications of such a ban for their family members. The ruling emphasised that derogations from the derived right of residence under Article 20 of the TFEU are permitted to maintain public order or safeguard public security. The third-country national must, however, represent a real, immediate, and sufficiently serious threat, and the derogation cannot be based solely on their criminal record. Instead, a specific assessment of all relevant circumstances must be conducted, factoring the principle of proportionality, the fundamental rights protected by EU law, and the best interests of the child who is an EU citizen. This includes assessing any

dependency relationship between the third-country national and their minor child.

Additionally, the ruling signalled that national courts should disapply legislation incompatible with EU law and, when necessary, apply relevant provisions directly in the dispute at hand. The Court also addressed Hungary's practice of administrative authorities disregarding final court decisions ordering suspension of entry ban enforcement due to alerts in the Schengen Information System. This was found to violate both the Return Directive and Article 47 of the EU Charter of Fundamental Rights.

Explanation

The *Kúria* judgment (Kfv.II.37.292/2023/6., 6 September 2023) referred to the *M.D.* case and applied directly Article 5 of the Return Directive, according to which family and personal circumstances have to be considered before ordering expulsion. Although legislation was also amended, **compliance remains incomplete.** The obligation to assess the consequences of deportation for a family member staying in Hungary and the lack of ties to the country of origin only applies to those third-country nationals who have been residing in Hungary permanently, and to those that are not seriously endangering national security, public security, or public order. Immigration authorities continue to rely on the opinion of security agencies regarding national security risks in cases involving long-term residents.

The *Kúria's* uniformity decision (Jpe.III.60.053/2024/12, dated 24 February 2025) further restricted the examination of the derived right to residence for third country nationals under Article 20 of the TFEU. According to this decision, the derived right of residence can only be examined once during the procedure, either before rejecting a residence permit application revoking the residence document or issuing an equivalent decision leading to expulsion, or during the appeal against such decisions. If the authority subsequently takes a separate decision on expulsion, the right of derived residence may only be invoked in the related appeal procedure if the authority has examined this right within that procedure. In expulsion cases, the examination of the derived right to residence is limited to instances where no prior decision excluded the individual's right to stay in Hungary. This interpretation – as outlined in paragraph 38 of the decision – effectively precludes courts from reconsidering the derived right to residence if an earlier decision already addressed the matter.

C-132/21 🔗 **12 January 2023**

Issue

The original case concerned the right of access of an individual shareholder to the recordings made at the general shareholder meeting of a public limited company, which the individual shareholder had attended. The company shared the recordings with the individual shareholder in a heavily edited format. The individual shareholder turned to the Data Protection Supervisory Authority for remedies, but was unsuccessful. The shareholder initiated two legal proceedings in parallel: i) judicial review proceedings against the negative decision of the Data Protection Supervisory Authority; and ii) civil proceedings against the data controller (the public limited company). The latter case was successful,

and the Hungarian civil court established that the data controller violated the applicant's right of access to his personal data.

The court proceeding in judicial review (Budapest-Capital Regional Court) was unsure how it should interpret the relationship between, on one hand, a civil court's assessment of a decision adopted by the data controller and, on the other, the supervisory authority's parallel decision on the same matter. It was unsure in particular whether one legal remedy might take priority over the other. The central concern was that the parallel exercise of the remedies provided for in Articles 77 to 79 of the GDPR could give rise to contradictory decisions concerning identical facts.

The CJEU ruled that the remedies can be exercised concurrently, with and independently of each other. The regulation of their relationship was deferred back to the member states, with the instruction that the detailed rules introduced must ensure the adequate protection of the data subject and the consistent application of the GDPR provisions, as well as the right to an effective remedy before a court or tribunal, as referred to in Article 47 of the CFR.

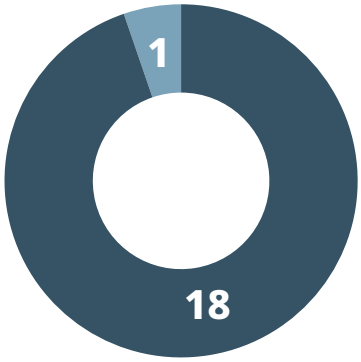
Explanation

Judicial compliance, even though the referring court and the *Kúria* had different opinions about the appropriate domestic legal framework for implementing the CJEU ruling. The CJEU ruling predominantly required judicial compliance – national courts establishing their jurisdiction when parallel remedies are sought in the framework of the GDPR. A full and absolutely certain compliance would, however, require the modification of legislation.

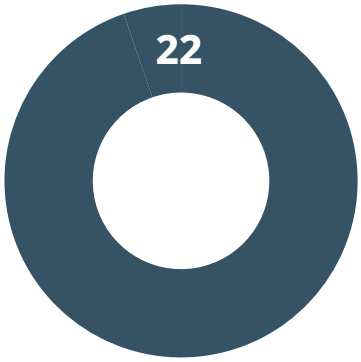
IRELAND

Excellent complier

Number of rulings covered by this study **19 (2024)**



Number of rulings covered by this study **22** (+3 rulings from 2024) **(2025)**



Number and percentage of rulings pending compliance for two years and more:

2024 (Good complier)

0 (0.0%)

2025 (Excellent complier)

0 (0.0%)

- Full compliance - 2024: 94.7%; 2025: 100.0%
- Non-compliance - 2024:5.3%; 2025: 0.0%

EXPLANATION OF THE DATA

The dataset on Ireland has been expanded to cover three rulings issued in 2024. All rulings in the dataset have been fully complied with, including the one that was not yet complied with, as established in last year's study. This was the ruling in case C-84/22, involving two issues: i) access to information in environmental matters balanced against cabinet confidentiality; and ii) the scope of res judicata. The matter was referred back to the High Court to decide whether government discussions constituted internal communications within the Directive or proceedings of public authorities – the classification having an impact in terms of the scope of the exception to access to environmental information. Experts report that the case was heard by the court in December 2024 (Right to Know CLG v An Taoiseach[288] [2024] IEHC 713 [20 December 2024]). The Court carefully and thoroughly applied the CJEU ruling, going so far as to declare an early judgment in the same proceedings to be "erroneous".

There was a lengthy analysis of the application of the principle of procedural autonomy, to determine whether issue estoppel applied as part of the principle of res judicata. The Court was of the view that it had some discretion and, in this instance, the public interest in the important issue of the scope of confidentiality of cabinet papers in light of the ruling of the CJEU outweighed the need for finality in litigation. An order of certiorari was made, setting aside the respondent's prior 2018 decision. An ancillary order was made, remitting application for access to records to be reconsidered by the respondent in light of the CJEU's ruling.

The case has been cited in one other, on a procedural point related to written pleadings (see Eco *Advocacy CLG v. An Bord Pleanala* [2025] IEHC 15).

The case is very significant, both for the scope of cabinet confidentiality in relation to the Environmental Information Directive and for the exercise of judicial discretion in relation to issue estoppel in light of the application of a ruling from the CJEU.

Contextual information

"Government powers are effectively limited by the Judiciary", *WJP RoL index:*[289]
0.84/1 (regional average: 0.70)

"Justice [system] is free of improper government influence", **WJP RoL index:**
Civil:[290] **0.93/1** (regional average: 0.73)
Criminal:[291] **0.89/1** (regional average: 0.73)

For more about the Irish justice system, see: *Ireland – The Judiciary Map.*[292]

ITALY

Moderate Complier

Number and percentage of rulings pending compliance for two years and more:

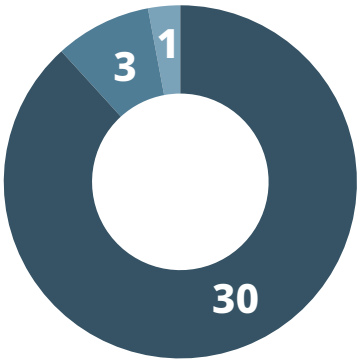
2024 (Good complier)

3 (75.0%)

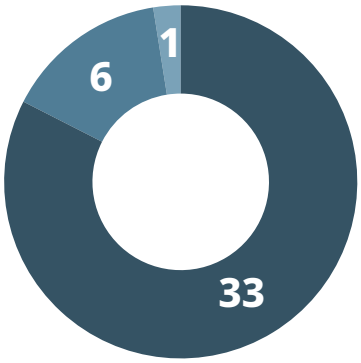
2025 (moderate complier)

4 (57.1%)

Number of rulings covered by this study **34 (2024)**



Number of rulings covered by this study **40** (+6) **(2025)**



- **Full compliance** - 2024: 88.2%; 2025: 82.5%
  Three rulings from 2024 that have fully been complied with (C-561/19. C-481/19, C-719/18) were added to the dataset.
- **Partial compliance** - 2024: 8.8%; 2025: 15.0%
  3 rulings that were partially complied with remained on the list. 1 ruling progressed from non-compliance to partial compliance since the last report. 2 are new from 2024.
- **Non-compliance** - 2024: 2.9%; 2025: 2.5%
  C-658/18 progressed from non-compliance to partial compliance. One new ruling not yet complied with (C-126/23).

EXPLANATION OF THE DATA

Last year's last report showed high levels of compliance in most cases, but also a significant number of instances of partial compliance and non-compliance (over 10 per cent). These instances are mostly connected with failure to adapt the legislation or only partial adaptations. Additionally, there have been instances where problematic schemes were withdrawn, only to be reintroduced in a different form.

2025 data shows that, while Italy has made some progress and generally maintains a high percentage of full compliance (82.5 per cent), it has been downgraded from good to the moderate complier category, due to long-standing delays in implementing several rulings. Currently, seven rulings have been pending compliance, including four that have been pending for extended periods of time.

Contextual information

"Government powers are effectively limited by the Judiciary", *WJP RoL index:*[293]
0.68/1 (regional average: 0.70)

"Justice [system] is free of improper government influence", WJP RoL index:
Civil:[294] **0.67/1** (regional average: 0.73)
Criminal:[295] **0.83/1** (regional average: 0.73)

For more about the Italian justice system, see: *Italy – The Judiciary Map.*[296]

RULINGS PENDING COMPLIANCE

Number of the ruling | Date of issuance

Non-compliance (1)

C-126/23 7 November 2024

Issue

The Court of Venice referred a preliminary question to the CJEU in the context of a dispute between the relatives (parents, sister, and children) of a murder victim and the Presidency of the Council of Ministers and the Ministry of the Interior of Italy. The dispute centred on the Italian State's obligation to provide compensation when the perpetrator of a violent intentional crime is insolvent and cannot pay damages. The core issue is whether the Italian "sistema a cascata" for victim compensation complies with Article 12 of Directive 80/2004, which requires that all member states establish fair and appropriate compensation schemes for victims of violent crimes.

The CJEU found that EU law (Article 12(2) of Directive 2004/80/EC, concerning compensation for victims of crime, precludes national legislation establishing a compensation scheme for violent intentional crimes, that makes the right to compensation for the victim's parents conditional on the absence of a surviving spouse and children, and that of siblings, conditional on the absence of parents. EU law requires that such compensation is fair and adequate, and where it is manifestly insufficient in light of the gravity of the crime, it fails to meet the standard. A lump sum payment may be permissible, provided it reflects the seriousness of the crime and suffering of the victim's relatives.

Explanation

The Italian compensation scheme does not comply with EU law. Italy has not amended Article 11 of Law No. 122 of 7 July 2016, despite the CJEU's clear guidance. The existing legislation excludes certain family members from compensation on the basis of formal succession rules, ignoring the actual impact of the crime.

The domestic proceedings remain ongoing in the Court of Venice (Second Section) under General Register No. 664/2022, currently in the stage of clarification of conclusions. As of now, no further public information has been made available about the procedural developments.

Situation as of 1 May 2025

Number of the ruling Date of issuance

Partial compliance (6)

C-658/18 16 July 2020

Was failure to comply last year, progressed to partial compliance this year

Issue

The CJEU assessed whether national law establishing different working conditions for professional and honorary magistrates – specifically regarding paid annual leave – merely because honorary magistrates were considered as temporary workers was compatible with EU law.

Explanation

The Constitutional Court, with order No. 157/2022, while declaring the conflict raised by a justice of the peace inadmissible, explicitly valued the jurisprudence of the CJEU (UX, C-658/18), emphasising that honorary magistrates fall under the European Union concept of "workers" and, therefore, enjoy the protection provided for by EU law.

C-236/20 7 April 2022

Partial compliance also last year

Issue

The CJEU considered whether EU law preludes a national legislation that denies paid leave and access to social security and welfare benefits to justices of the peace, if they fall within the notion of part-time or fixed-term workers, despite their comparable status to ordinary magistrates. The CJEU found that EU law, indeed, precludes such differentiation.

Explanation

The referring Emilia Romagna court complied with the CJEU case-law in case C-236/20, and declared that, despite the divergence between honorary and ordinary magistrates, the justices of the peace must be entitled to 30 days of paid annual leave. It stated that "the working relationship of Justices of the Peace should be considered partially comparable with that of ordinary judges for the purpose of the recognition of vacation entitlement as well as welfare and social security protection."

C-41/23 27 June 2024

Issue

The CJEU reaffirmed that EU law precludes national legislation from excluding honorary magistrates in comparable situations to ordinary judges from entitlements, such as allowances during the holiday period of suspension of judicial activity, social security coverage, and protection against occupational risks. Moreover, it condemns the successive renewal of honorary magistrates' contracts without safeguards against abuse, such as effective sanctions or conversion into permanent contracts.

Explanation

The Court of Cassation (sentence No. 5434/2025) referred to case C-236/20, to affirm the principle that part-time workers cannot be penalised in the absence of objective justification, extending this principle also to atypical contracts in public employment.

Legislative responses:

A partial legislative adaptation in 2022 according to experts, did not remove discrepancies between honorary and professional magistrates. This included disparities in pay, social security coverage, disciplinary safeguards, and other fundamental aspects of judicial status (e.g., transfers, leave entitlements, and incompatibility rules). In 2023 and 2024, further adaptations followed, such as Law No. 234/2021, Decree-Law No. 75/2023 (Article 15-bis), and Decree-Law No. 131/2024 (converted by Law No. 166/2024). These reforms introduced assimilation of compensation to employment income, and affiliation to the INPS (National Institute for Social Security) for social security purposes, the introduction of evaluation paths for the classification in administrative roles "until exhaustion" at the Ministry of Justice, and – a crucial point – the possibility of opting for a full-time regime with exclusivity. Commentators have argued, however, that these provisions, while making progress, do not yet ensure full compliance with the principles established by the CJEU, as disparities persist in social security treatment, paid leave, and judicial protection, which meant infringement procedure 2016/4081 remained formally open.

C-462/20 🔗 **28 October 2021**

Partial compliance also last year

Issue

The CJEU addressed the exclusion of third country nationals from eligibility to the family card – a benefit granting discounts or reduced prices on goods and services offered by public or private entities, under agreement with the Italian government. The case concerned the application of the equal treatment provisions of different directives. The CJEU concluded that the Italian legislation in question amounted to unequal treatment of third-country nationals, thereby breaching EU law.

Explanation

The national court aligned with the CJEU's interpretation, recognising the discriminatory nature of the legislation. The Italian legislature abolished the "family card" in 2021, however, and replaced it with alternative instruments. As a result, the national court's recognition of the right of the third-country nationals under the previous scheme became moot, as the benefit no longer exists. Moreover, the new measures introduced appear to replicate the same discriminatory restrictions condemned by the CJEU in relation to the family card.

C-14/21 🔗 **C-15/21** **1 August 2022**

Partial compliance also last year

Issue

The CJEU addressed whether cargo ships operated by humanitarian organisations for non-commercial purposes, specifically search and rescue activities, may be subject to additional inspections from port states on grounds of health, safety, working conditions, or environment. Sea Watch challenged certain port state measures, arguing that the authorities of the port state had exceeded their powers. The CJEU clarified that the port state may inspect ships that systematically carry out search and rescue activities, albeit only where there is substantial legal and factual evidence indicating serious risks related to the above-mentioned concerns. Italy was urged to amend its domestic legislation to clearly define the scope of the port state powers regarding inspections and administrative measures, in line with the CJEU guidance.

Explanation

National judges have reiterated the CJEU's position. Italian authorities continue, however, to inspect and detain NGO vessels. Italy has so far failed to amend the relevant legislation – Article 3 of the Legislative Decree No. 53 of 24 March 2011. No legislative proposals addressing the issue are currently pending. The detention of NGO vessels remains politically contentious.

C-403/23 **C-404/23** **26 September 2024**

Issue

The CJEU held that EU law precludes national legislation that prevents the original members of a temporary consortium from withdrawing after the validity period of the tender has expired, in cases where the contracting authority seeks to extend the validity period, provided that the remaining members still meet the eligibility criteria set by the contracting authority and the continued participation does not place other tenderers at a competitive disadvantage. The CJEU further concluded that the principles of proportionality, equal treatment, and the obligation of transparency under Directive 2004/18/EC preclude national legislation that imposes the automatic forfeiture of a provisional security deposit following a tenderer's exclusion from a public procurement procedure following a tenderer's exclusion from a public procurement procedure, even when the contract has not been awarded.

Explanation

Italy's new Public Contracts Code (Legislative Decree 36/2023) partially aligns with the CJEU's findings. Article 68 (17), now allows one or more companies in a temporary consortium to withdraw freely, provided that the remaining members meet qualification requirements. Additionally, Article 97 (2) governs the expulsion or replacement of non-compliant members, making a shift away from the previously rigid formalism. However, Article 106 (6), on the enforcement of the security deposit, though less automatic than the former Article 93 (6), remains open to interpretations that may still conflict with the principle of proportionality, as emphasised by the CJEU. Thus, while compliance is substantially achieved concerning modifications with temporary consortiums, it is only partial with regard to the treatment of provisional deposits, pending further assessment in practice.

The issue of automatic forfeiture of provisional deposits remains under scrutiny in several cases before the CJEU, initiated by the Italian Council of State.

CASES TO WATCH: CASES RELATED TO THE ITALY-ALBANIA PROTOCOL BEFORE THE CJEU

The Protocol signed between Italy and Albania on 6 November 2023 allows Italy to process asylum applications through an accelerated procedure at two centres built on Albanian territory. Italian courts have found that migrants that were not granted international protection after such an accelerated procedure could not be kept in these centres, since their home countries – Egypt and

Bangladesh – were not deemed *safe*.[297] The Italian Government promptly reacted to these judicial decisions and passed a *Decree, on 23 October 2024*,[298] that added both Egypt and Bangladesh to its list of safe countries (the list has been left *unaltered for 2025*).[299]

On 4 November 2024, the Tribunal of Rome lodged a *request for a preliminary ruling*[300] to the CJEU, seeking clarification on the powers of MS to designate a third country and countries of origin as safe by a legislative act of primary law. The hearing (case *C-758/24*, see also *C-759/24*) was held on 25 February 2025. The questions centred on several issues – specifically, whether a national legislature can designate a third country as a safe country of origin through primary legislation, and whether it must ensure the sources used for that designation are both accessible and verifiable. It also examined whether national judges can rely on independent information beyond that listed in Article 37(3) of Directive 2013/32/EU, and whether such a designation is permissible when certain groups face particular risks in the country concerned.

On 10 April 2025, the advocate general of the European Court of Justice, Richard de la Tour, delivered his *advisory opinion*[301] on these cases. The commentary indicates that the advocated general sought to strike a balance between showing deference to member states and upholding the primacy of EU law. Regarding the first question, the de la Tour concluded that EU law does not preclude a state designating a third country as safe, but when deciding on the rejection of a request for asylum, a national judge should be able to request and review the sources relied on for such a designation if they have not been published before.

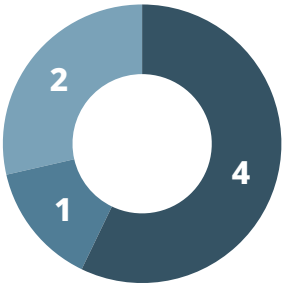
De la Tour noted that a member state may designate a third country as generally safe, even when there are some categories of people that are deemed "at risk" in that same third country (for example, the LGBTQ+ community). If, however, there are too many exceptions from what would be the case in a generally safe country, the presumption of general safety will not hold, and these exceptions will reflect systemic failures and deficiencies. Commentators have expressed concerns regarding the vagueness of standards for determining general safety and discretionary assessments, and called for clarifications from the court in this respect, due to the vulnerability of these processes to politicisation.

Notably, this matter has been referred to the CJEU by the District Court of Bologna in a separate case concerning the Italy-Albania Protocol (case *C-750/24* Ortera). This case raises the question of whether the existence of forms of persecution or serious harm targeting a specific social group precludes a country's designation as a safe country of origin. The referral also inquires whether the principle of primacy of EU law obliges national courts to disapply national provisions that conflict with the requirements set out in the relevant Directive, concerning the designation of safe countries of origin. Crucially, it questions whether this duty to disapply applies even when the designation is made under primary legislation, such as an ordinary law.

Situation as of 1 May 2025

LATVIA

Poor complier



Number of rulings covered by this study: 7

- Full compliance (57.1%[38])
- Partial compliance (14.2%)
- Non-compliance (28.6%)

Number and percentage of rulings pending compliance for 2 years and more:

2025 | **1** (33.3%)

EXPLANATION OF THE DATA

Two rulings from 2024, in cases C-507/23 and C-255/23 and C-285/23, from 4 October and 6 June, respectively, have not yet been complied with – cases are still pending before national courts.

As regards to case C-391/20, the ruling of 7 September 2022, the CJEU indicated that EU law does not preclude legislation obliging higher education institutions to provide teaching solely in official languages, insofar as such legislation is justified on grounds related to the protection of the country's national identity, and that is necessary and proportionate to the protection of the legitimate aim pursued. As the CJEU recognised that member states may require higher education institutions to provide teaching solely in the official language, and recognised the protection of national identity as a legitimate ground for such restriction, the implementation measures had to be a correct application of the proportionality test by the Constitutional Court, which referred to the CJEU, in the particular case, and by the Parliament adopting laws on language use in higher education institutions.

In the most recent development in the case, the Parliament, on 13 June 2024, *adopted*[302] amendments to the Law on Higher Education Institutions. The amendments provide liberal rules for study programmes in the EU languages, but restrict the use of other languages.

Contextual information

"Government powers are effectively limited by the Judiciary", *WJP RoL index:*[303]
0.65/1 (regional average: 0.70)

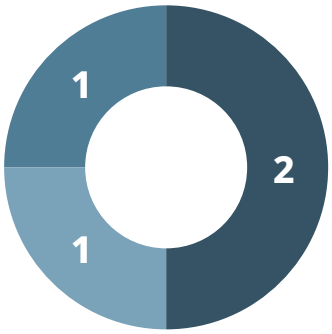
"Justice [system] is free of improper government influence", WJP RoL index:
Civil:[304] **0.73/1** (regional average: 0.73)
Criminal:[305] **0.81/1** (regional average: 0.73)

For more about the Latvian justice system, see: *Latvia – The Judiciary Map.*[306]

Situation as of 1 May 2025

LITHUANIA

Good complier



Number of rulings covered by this study: 10

- Full compliance: 80.0%
- Partial compliance: 20.0%

Number and percentage of rulings pending compliance for 2 years and more:

2025 | **1** (100.0%)

Contextual information

"Government powers are effectively limited by the Judiciary", *WJP RoL index:*[307]
0.67/1 (regional average: 0.70)

"Justice [system] is free of improper government influence", WJP RoL index:
Civil:[308] **0.76/1** (regional average: 0.73)
Criminal:[309] **0.80/1** (regional average: 0.73)

For more about the Lithuanian justice system, see: *Lithuania – The Judiciary Map.*[310]

RULINGS PENDING COMPLIANCE

Number of the ruling | Date of the ruling

Partial compliance (2)

Case C-72/22 PPU 30 June 2022

Theme and Explanation of Progress

Lithuania's compliance with the CJEU ruling is assessed through two key dimensions: the national court's follow-up decision, and subsequent legislative amendments.

National Court Decision: On 28 July 2022, the Supreme Administrative Court of Lithuania partially upheld citizen M.A.'s appeal, following the CJEU ruling in Case C-72/22. The Court ruled that member states cannot broadly invoke public order threats under Article 72 of the TFEU to justify restricting asylum applications. It acknowledged, however, that special border procedures can be implemented to handle clearly unfounded or abusive claims. The ruling annulled a lower court's decision and rejected the detention request for M.A., setting a precedent in Lithuanian case-law.

Legislative Amendments: In December 2023, Lithuania modified its legal framework, removing

"unlawful border crossing" as a sole ground for detention. While the government claims full compliance, legal experts argue that implementation reflects a narrow, literal interpretation of the preliminary ruling. A restrictive border regime persists, limiting asylum access except under exceptional humanitarian grounds.

Broader Context:

- On 7 June 2023, Lithuania's Constitutional Court ruled that previous laws restricting asylum seekers' movement violated Article 20 of the national Constitution.
- Awaiting **ECHR Grand Chamber rulings** on Lithuania, Poland, and Latvia, which will define states' positive obligations in asylum policy.[42]

Case C-184/20 1 August 2022

Theme and Explanation of Progress

The CJEU ruled that national law cannot mandate the online publication of declarations of private interests in a way that discloses name-specific data of certain connected persons, if it is not strictly necessary. Essentially, EU law prevents overly broad, indiscriminate disclosure of personal data.

On 18 April 2023, the Regional Administrative Court, following a preliminary ruling, upheld the applicant's complaint, and annulled the decision of the Chief Official Ethics Commission. The uniqueness of this case lies in the fact that the request was granted because they (individuals related to public officials) did not fall within the categories of individuals whose data were required to be publicly disclosed. Therefore, the interpretation provided by CJEU was applied indirectly. While this interpretation was applied, it also revealed that Lithuanian legislation does not align with the CJEU's interpretation.

While the decision specifically addressed the obligation for managers of companies receiving structural fund support to publish declarations of public and private interests, the underlying reasoning points to a broader, more urgent need to revise Lithuania's legal framework and current practices concerning the public disclosure of such declarations. The CJEU reasoning suggests that the existing general rule in Article 10 of the Law on the Coordination of Public and Private Interests – which presumes declarations are public unless stated otherwise – should be replaced with a standard consistent with EU data protection law. In particular, only information strictly necessary to uphold transparency in the political system should be made publicly accessible.

Situation as of 1 May 2025

LUXEMBOURG

Good complier

Number and percentage of rulings pending compliance for two years and more:

2024 (Good complier)

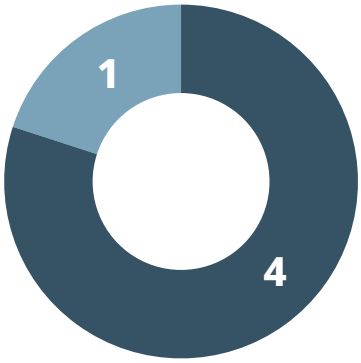
0 (0.0%)

2025 (Good complier)

0 (0.0%)

Number of rulings covered by this study **4** **(2024)**

Number of rulings covered by this study **5** **(2025)**



Full compliance - 2024: 100.0%; 2025: 80.0%
Non-compliance - 2024: 0.0%; 2025: 20.0%

EXPLANATION OF THE DATA

The dataset expanded by one ruling, in case *C-432/23*, ruling of 26 September 2024, since last year. The CJEU indicated that, under Article 7 of the Charter of Fundamental Rights, legal advice given by a lawyer in company law matters falls within the scope of the strengthened protection of communications between lawyers and clients guaranteed by that article, with the result that a decision requiring a lawyer to provide the authorities with documentation and information related to their relations with the client, concerning such legal advice, constitutes interference with the right to respect for communications between lawyers and their clients.

Shortly after the judgment was issued, the Bar Association welcomed the CJEU's judgment with great relief.

The case is back before the Administrative Court of Appeal, so it remains to be seen how the CJEU's judgment will be integrated into national law and practice.

Contextual information

"Government powers are effectively limited by the Judiciary", *WJP RoL index:*[311]
0.81/1 (regional average: 0.70)

"Justice [system] is free of improper government influence", WJP RoL index:
Civil:[312] **0.85/1** (regional average: 0.73)
Criminal:[313] **0.72/1** (regional average: 0.73)

For more about the Luxembourg justice system, see: *Luxembourg – The Judiciary Map*[314]

MALTA

Number and percentage of rulings pending compliance for two years and more:

2024

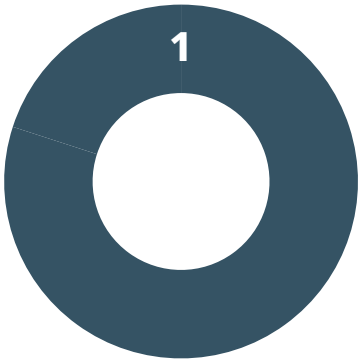
0 (0.0%)

2025

0 (0.0%)

Number of rulings covered by this study **1** **(2024)**

Number of rulings covered by this study **1** **(2025)**



Full compliance - 2024: 100.0%; 2025: 100.0%

EXPLANATION OF THE DATA

The use of the preliminary reference procedure in Malta is rare. There is little by way of data to ascertain the exact reasons for this, beyond public statements. Some analysis suggests that factors such as Maltese public support for EU integration play a role in the decision as to whether to use the procedure. Open-source material connected to the cases that have been forwarded suggests that some are discouraged from doing so for fear of excessive exposure. Experts have suggested that the most recent and highly publicised CJEU preliminary rulings may have had a chilling effect on Maltese courts' use of the procedure, particularly surrounding issues connected to the rule of law. The case in point – Repubblika v Il-Prim Ministru, ruling of 20 April 2021 (C-896/19) – likely had notable implications in this regard. In the mentioned case, the body sitting as the Constitutional Court of Malta requested a preliminary ruling in the context of the case between Repubblika, an association promoting the rule of law, and the prime minister. The case concerned conformity with EU law of the provisions of the Constitution related to the judicial appointment procedure. The CJEU concluded that Maltese legislation was in line with the relevant EU law, as executive discretion was mitigated by the engagement of the appointment committee, following notable reforms in 2016 and 2020. The latter reforms had somewhat reflected the Council of Europe Venice Commission's recommendations on the subject. This meant that no regression could be noted, per se. Subsequently, Repubblika withdrew the case at the national level, considering that its goal in this context – to shed light on the situation in Malta – had been achieved.

Though the latest reforms delegate judicial appointments to the president, who is to make this selection following recommendations and scrutiny undertaken by the Judicial Appointments Committee, notable blogs have argued that the prime minister's involvement in judicial appointments, while tangibly limited by the reform, remains significant. Legal commentators continue to indicate that judicial appointments are based on nepotism, rather than merit-based selection. While these concerns may be meritorious in a number of circumstances, analysis must bear in mind the highly politicised (and tight-knit) context on the ground. Commentators are themselves often members of the opposition – some are even former cabinet members – and cannot be said to be neutral or lacking vested interests. To a certain extent, this is inevitable in Malta; its legal and political systems are tied together, with much of its legal elite often current or former members of parliament or, at the very least, politically affiliated.

While the dataset includes only rulings issued up to 1 January 2025, it is worth noting that, on the CJEU delivered a landmark judgment in Commission v Malta (*Case C-181/23*), ruling that Malta's investor citizenship scheme, commonly known as the "golden passport" programme, violates EU law. The CJEU signals that, while the definition of the conditions for granting and losing the nationality of a member state is a matter of national competence, that competence must be exercised consistently with EU law. "Commercialisation" of citizenship is incompatible with the basic concept of Union citizenship as defined by the treaties; it infringes the principle of sincere cooperation and jeopardises the mutual trust between member states concerning the granting of their nationality, which governed the establishment of Union citizenship in the treaties.

It has been *reported*[315] that Malta promises to eliminate its citizenship by investment programme, and expand a discretionary citizenship scheme for individuals of "exceptional merit".

Contextual information

"Government powers are effectively limited by the Judiciary", *WJP RoL index:*[316]
0.65/1 (regional average: 0.70)

"Justice [system] is free of improper government influence", **WJP RoL index:**
Civil:[317] **0.69/1** (regional average: 0.73)
Criminal:[318] **0.76/1** (regional average: 0.73)

For more about the Maltese justice system, see: *Malta – The Judiciary Map*[319]

Situation as of 1 May 2025

POLAND

Problematic complier

Number and percentage of rulings pending compliance for two years and more:

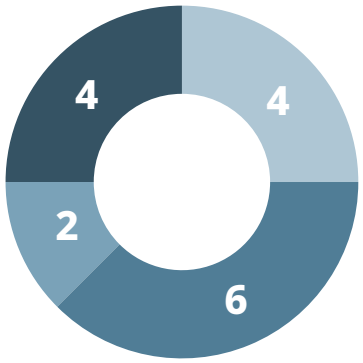
2024 (struggling complier)

6 (75.0%)

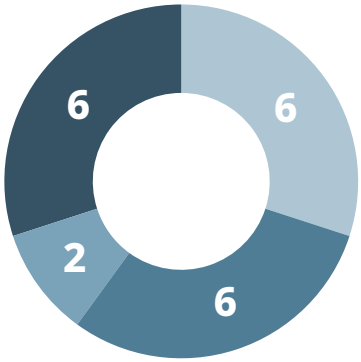
2025 (problematic complier)

5 (62.5%)

Number of rulings covered by this study **16 (2024)**



Number of rulings covered by this study **20** (+4) **(2025)**



- Full compliance - 2024: 25.0%; 2025: 30.0% (including 2 in 2024).
- Partial compliance - 2024: 37.5%; 2025: 30.0%
- Non-compliance - 2024: 12.5%; 2025: 10.0%
- Impossible to give a conclusive assessment - 2024: 25.0%; 2025: 30.0%

EXPLANATION OF THE DATA

Based on our *dataset*[320] from last year, Poland was among the struggling compliers with the CJEU rulings related to the rule of law – in 37.5 per cent of cases, compliance was partial, while 12.5 per cent of the rulings were not complied with at all, resulting in an overall non-compliance rate of 50.0 per cent. The difficulty in establishing compliance in a substantial number of cases – due to, for example, the inaccessibility of relevant documents – suggests the actual situation may be even worse. Notably, 75.0 per cent of pending rulings (those only partly complied with or not complied with at all) have been awaiting compliance for two years or more, a factor here being the rule of law crisis in Poland, which has resulted in no progress on legislation addressing the core issues with judicial independence in the country.

Based on 2025 data, Poland has shown some progress, reducing the portion of non-complied rulings from 50.0 to 40.0 per cent. This improvement is due to changes in the system of secondment of judges and the reinstatement of a judge, in line with the CJEU rulings. Nevertheless, a significant number of rulings remain pending compliance: eight in total, including six that have been complied with only partly and two not at all. Of these eight rulings, five (62.5 per cent) have been pending for two years or more, while three are relatively new.

Situation as of 1 May 2025

THEMATIC BREAKDOWN OF RULINGS
that have been complied with only partly or not at all

OVERALL: 8 cases

Full compliance
Partial compliance
Non-compliance

Independence of the judiciary/right to a fair trial/status of courts and judges under EU law: **6 cases**

Procedural rights in criminal law: **1 case**

Electoral rights: **1 case**

KEY TAKEAWAYS

- **Progress in Legislative Improvements:** The new Government has made some strides in improving legislation to address the concerns raised in CJEU rulings. Notably, changes have been introduced to enhance the quality and accountability of decision-making by the minister of justice, such as improving the secondment process for judges.
- **Creative Solutions to Mitigate Disciplinary Abuse:** In response to concerns over the misuse of disciplinary procedures against judges, the Polish government has implemented creative solutions. These include the ability for the minister of justice to replace politically motivated disciplinary officers on a case-by-case basis. These do not, however, constitute a comprehensive, systemic solution to the underlying issues.
- **Pattern of Partial Compliance:** A significant number of rulings have only been partially implemented. While draft laws addressing key CJEU findings have been prepared, their adoption is being delayed. The primary obstacle to full compliance is the Polish president's ongoing reluctance to approve these reforms, which has led to continued uncertainty.
- **Ambitious Promises and Problematic Follow-up:** In 2024, the newly established centrist Government, under Prime Minister Donald Tusk, presented to the European Commission a roadmap for restoring the rule of law in the country, foreseeing several legislative initiatives that would implement the pending CJEU and ECtHR judgments. Based on these declarations, the Commission has unlocked funds frozen for Poland over the rule of law concerns. There has been little progress on the roadmap, however, due to resistance from the president, and concerns are mounting that implementing the judgments will not be possible in the foreseeable future.
- **Shift in the Government's Position Before Courts:** The new centrist Polish Government has

markedly shifted its way of engaging with CJEU and ECtHR, ending the previous Government's practice of arguing against the claims of lack of judicial independence, and challenging the legitimacy of both courts, by bringing up earlier judgments of Polish Constitutional Tribunal that found aspects of the TEU and the ECHR to not be compliant with the Polish Constitution.

Contextual information

"Government powers are effectively limited by the Judiciary", *WJP RoL index:*[321]
0.56/1 (regional average: 0.70)

"Justice [system] is free of improper government influence", WJP RoL index:
Civil:[322] **0.52/1** (regional average: 0.73)
Criminal:[323] **0.50/1** (regional average: 0.73)

For more about the Polish justice system, see: *Poland – The Judiciary Map.*[324]

RULINGS PENDING COMPLIANCE

Number of the ruling | Date of issuance

Non-compliance (2)

C-603/22 Commission v Poland **5 September 2024**

Issue

The Court held that children who are suspected or accused in criminal proceedings must have the practical and effective opportunity to be assisted by a lawyer — including a court-appointed lawyer, if necessary — before or, at the latest, during their first questioning by police or another authority.

Explanation

Reaction from the government: No legislative initiative to remedy the issue has been initiated by the Polish authorities so far.

C-814/21 Commission v Poland **19 November 2024**

Issue

The Court found that Poland violated Article 22 of the TFEU, by prohibiting EU citizens who are not Polish nationals but reside in Poland from becoming members of a political party. This restriction hindered their effective participation in the democratic process, particularly in standing as candidates in municipal and European Parliament elections on equal terms with Polish nationals.

Explanation

Reaction from the government: No legislative initiative to remedy the issue has been initiated by the Polish authorities so far.

Partial compliance (6)

C-204/21 Commission v Poland 5 June 2023

Issue

The CJEU found that Poland's "muzzle law", which restricted judges' ability to question the legitimacy of judicial appointments and the independence of courts, violated EU law. The Court emphasised that national courts must have the authority to assess the legality of judicial appointments and the independence of the judiciary. Furthermore, the CJEU ruled that Poland's actions infringed upon the principles of effective legal protection and the right to a fair trial, as enshrined in the EU Charter of Fundamental Rights.

Explanation

In July 2022, the Polish Parliament introduced a revised law on the Supreme Court, abolishing the Disciplinary Chamber and replacing it with the Professional Liability Chamber, composed of "old" judges, appointed before the reform of the judicial council, and "new" justices. The Professional Liability Chamber assumed the duties of the Disciplinary Chamber with regards to hearing cases concerning disciplinary measures against judges and lawyers. While the composition of the new Chamber remains problematic, as over half of its members are so-called "neo judges" appointed with the participation of the politically compromised National Council of the Judiciary, its activities have not been controversial thus far.

At the same time, the Polish Parliament passed a bill that removed some of the most egregious elements of the "muzzle law", but did not fully eliminate all of them. Notably, the requirement for judges to disclose their membership in associations and NGOs remains in place. In April 2025, the Supreme Administrative Court sided with the commissioner for human rights, and overturned an earlier judgment from Regional Administrative Court and a decision by the previous data protection officer to refuse to investigate the matter.

In April 2025, the Polish Government unveiled plans for a wide-ranging reform of the judiciary and the Supreme Court, with a draft bill aimed at, *inter alia*, removing the remaining elements of the "muzzle law", disbanding the Professional Liability Chamber, and addressing the status of "neo-judges". At the time of writing, the draft law had not yet been passed by the Parliament. There are expectations that its eventual adoption will be highly dependent on the outcome of the upcoming presidential elections.

Case C-791/19 Commission v Poland 15 July 2021

Issue

In this case, the European Commission brought an action against Poland for failing to fulfill its obligations under EU law concerning the disciplinary regime applicable to judges. The CJEU ruled that Poland's disciplinary system for judges violated EU law by undermining judicial independence and failing to provide sufficient guarantees for effective legal protection. The Court emphasised that judges must be protected from external influences and that disciplinary proceedings must respect the rights of the defense and be conducted within a reasonable time.

Explanation

Reaction from the Government: In addition to measures outlined above concerning the implementation of the C-204/21 Commission v Poland, the Polish Government has taken steps to mitigate the activity of the chief disciplinary officer at the Ministry of Justice and his deputies. This has been done by invoking the law that allows the minister of justice to substitute them with *ad hoc* disciplinary officers in specific cases. In doing so, the minister of justice has effectively removed incumbent disciplinary officers in instances where, in the opinion of the minister of justice, the disciplinary officer initiated proceedings against judges based on political grounds. In April 2025, the minister of justice announced the termination of the office of Deputy Disciplinary Officer Przemysław Radzik and, in May 2025, of Chief Disciplinary Officer Piotr Schab, citing in both cases the alleged blatant politicisation and lack of independence in investigating disciplinary infractions by judges. A systemic solution to address the issue of Polish judges facing disciplinary action for their judicial activity or voicing their opinions has not yet been introduced, however, and while the improvised solution outlined above has proven effective, it cannot be viewed as full compliance with CJEU's judgment.

C-718/21 *L.G v Krajowa Rada Sądownictwa* **21 December 2023**

Issue

The Court held that the Chamber of Extraordinary Control and Public Affairs of the Polish Supreme Court does not meet EU law requirements for an independent and impartial tribunal under Article 19(1) TEU and Article 47 of the Charter of Fundamental Rights. The Chamber's composition and its links to the executive branch create legitimate doubts about its independence, including its role in supervising judges and adjudicating matters related to judicial appointments. Consequently, the Court ruled that preliminary ruling requests from this body are inadmissible, because a tribunal lacking the necessary independence cannot properly refer questions to the CJEU under Article 267 of the TFEU. The judgment emphasises that national courts must be genuinely independent and impartial to ensure effective judicial protection and uphold the rule of law, reinforcing the EU's commitment to safeguarding judicial independence in member states.

Explanation

Reaction from the domestic court: On 5 March 2024, the Supreme Court suspended proceedings in the case, pending legislative amendments to the law on the National Council of Judiciary.

Reaction from the Government: In April 2024, the Parliament adopted a revised law on the National Council of the Judiciary, seeking to address key issues identified by CJEU in this and other judgments. The revised law involved removing incumbent judges-members from the Council, and electing new members in their place, through elections among judges of all Polish courts, thereby abandoning the previous system of parliamentary election. The law was referred by the president to the Constitutional Tribunal prior to signature, which has made its entry into force dependent on the judgment of the Tribunal. At the time of writing, the case was still pending before the Tribunal.

Joined Cases C-585/18, C-624/18, C-625/18 (A.K. and Others) 19 November 2019

Issue

The Court held that the Disciplinary Chamber of Poland's Supreme Court – established to hear judges' retirement disputes – is not an independent or impartial tribunal under EU law (Article 19(1) of the TEU, Article 47 of the Charter). It may instill legitimate doubts, due to its formation, membership selection, and ties to the executive. National courts must disapply any national rule granting jurisdiction to such bodies and uphold the primacy of EU law.

Explanation

Reaction from the courts:

The resolution of three joined Chambers of the Supreme Court, issued in January 2020, found that judges appointed following the 2017 reforms to the National Council of the Judiciary should be deemed improperly appointed, and thus disqualified from adjudicating. They ruled that court panels – including judges selected via that reformed Council – were "incorrectly selected" under Articles 439(1)(2) of the Criminal Procedure Code and 379(4) of the Civil Procedure Code, and were therefore unlawful. Additionally, the resolution declared the National Council of the Judiciary itself to lack independence, and asserted that the Disciplinary Chamber does not constitute a lawful court under Polish constitutional or EU law. The Polish Constitutional Tribunal moved against the Supreme Court's 23 January 2020 joint resolution. In its judgment of 20 April 2020 (case Kpt 1/20), it declared the resolution unconstitutional, holding that the Supreme Court had exceeded its powers by questioning the legality of judicial appointments made by the president, and by reviewing the status of judges nominated through the reformed National Council of the Judiciary. The Tribunal stressed that only the president has exclusive constitutional authority to appoint judges, and ruled that the Supreme Court's resolution undermined the principles of judicial stability and separation of powers, thereby invalidating it.

Reaction from the Government:

See above for information on dismantling of the Disciplinary Chamber and attempts to reform the National Council of the Judiciary.

C-824/18 (*A.B. and Others v. Krajowa Rada Sądownictwa*) 2 March 2021

Issue

The Court ruled that national amendments stripping courts of jurisdiction over appeals against judicial appointment decisions, terminating pending appeals by law, and barring new judicial remedies violate the rule of law (Articles 2 and A 19[1] of the TEU) and the principle of effective judicial protection. Such changes impede preliminary-ruling procedures and judicial independence, requiring national courts to disapply non-compliant provisions and uphold their original jurisdiction.

Explanation

Reaction from the courts:

In September 2021, the Polish Supreme Administrative Court annulled resolutions of the National Council of the Judiciary, which had proposed certain judicial appointments to the Supreme Court's Chamber of Extraordinary Control and Public Affairs. The Supreme Administrative Court held that

the National Council of the Judiciary "does not provide sufficient guarantees of independence from the legislative and executive authorities" in the judicial appointment process, and described the degree of dependence as "high," undermining the impartiality required under EU standards. These annulments were ignored in practice by the president, who appointed the judges claiming that his decision validates any possible shortcomings of the process at the National Council of the Judiciary.

Reaction from the Government:
See above for information on attempts to reform the National Council of the Judiciary.

C-192/18 Commission v Poland **5 November 2019**

Issue

The Court found that Poland breached EU obligations by setting different retirement ages for male and female judges and prosecutors (60 for women, 65 for men), and by granting the justice minister power to extend judges' service beyond the new ages, violating principles of gender equality, judicial independence, and the irremovability of judges.

Explanation

Reaction from the Government:

Poland responded to the C-192/18 (*Commission v. Poland*) judgment, which found that the 2017 law setting different retirement ages for male and female judges and granting the justice minister discretion to extend judicial tenure breached EU law, by reversing the discriminatory provisions. By 2018, the Government equalised retirement ages for judges and prosecutors, and transferred extension powers from the minister to the National Council of the Judiciary (KRS), aiming to align with CJEU standards.

While the legal changes addressed the structural breaches identified by the Court, the reforms failed, however, to provide redress mechanisms for judges who had already been forced into early retirement under the prior rules

OTHER HIGHLIGHTS

Joined Cases *C-748/19 to C-754/19* concerning the system of secondment of judges to higher-level courts or central governmental authorities.

Reaction from the national courts: The court in question proceeded to resolve the case without suspending the proceedings to await the judgment from the CJEU. The domestic judgment is now final.

Reaction from the Government: Initially, the previous Polish Government ignored the judgment and refused to introduce legal and policy changes to address the issues identified by the CJEU, particularly the lack of criteria for the minister of justice to terminate secondment and the absence of a requirement for the minister to justify such decisions. Following the change of Government in 2023, work was initiated to revise the rules for delegating judges. In March 2025 the *Sejm* adopted a new law directly addressing the CJEU judgment, by providing requirements to justify secondments and their termination. The law was signed into force by the president of Poland in April 2025 and is now operational.

Case C-487/19 concerning a judge, W.Ż. (later identified as Waldemar Żurek), who was transferred from one department of the court to another

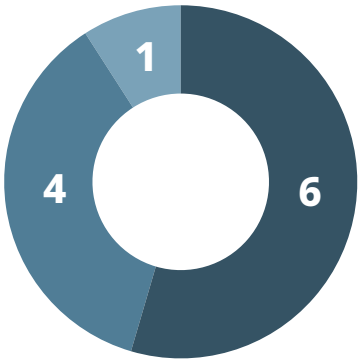
Reaction from the national courts: The Extraordinary Control and Public Affairs Chamber of the Supreme Court, which heard the appeal of Judge Waldemer Żurek against the decision to forcibly move him within the Court, dismissed his case. Judge Żurek was reinstated to his initial department at the Regional Court in Kraków by the order of the president of the Court on 14 May 2024.

Situation as of 1 May 2025

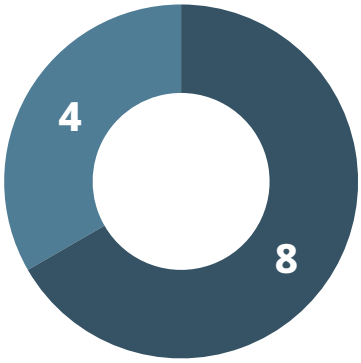
PORTUGAL

Moderate complier

Number of rulings covered by this study **11 (2024)**



Number of rulings covered by this study **12 (2025)**



Number and percentage of rulings pending compliance for two years and more:

2024 (moderate complier)

2 (40.0%)

2025 (moderate complier)

3 (75.0%)

- Full compliance - 2024: 54.5%; 2025: 66.7%
- Partial compliance - 2024: 36.4%; 2025: 33.3%
- Non-compliance - 2024: 9.1%; 2025: 0.0%

EXPLANATION OF THE DATA

According to 2024 data, out of 11 rulings, Portuguese authorities fully complied with six (54.5 per cent) and partially with four (36.4 per cent), with only one ruling not complied with at all. In 2025, the record has improved overall in several ways, with an increase in the share of fully complied with rulings and with no more rulings with no state action. At the same time, there is still a backlog of long-pending rulings, suggesting delays on a smaller, but stubborn subset of cases.

RULINGS PENDING COMPLIANCE

Number of the ruling | Date of issuance

Partial compliance (4)

C-66/22 🔗 **21 December 2023**

Explanation of the compliance status

The referring court correctly applied the ruling, concluding that national law was not clear enough in transposing the obligation to give reasons for decisions adopted by the contracting authority in the context of public procurement procedures; No changes have been made to the law, but the law can be interpreted in a manner consistent with EU law.

C-346/21 ING Luxembourg SA v VX 🔗 Order of **5 May 2022**

Explanation of the compliance status

The failure to change the civil procedure code violating the EU regulation. There is mixed judicial

practice, with courts disagreeing over the interpretation of the order and the regulation, some *refusing*[325] the application of the national provision, and others ignoring the CJEU order.

C-242/22 PPU, TL and de traduction 1 August 2022

Explanation of the compliance status

A case concerning the right to interpretation and translation/failure to translate an essential document, and the right to information in criminal proceedings. There has been a failure to change law and mixed judicial practice, with some courts refusing to apply the national provision, invoking the primacy of EU law, and others accepting the CJEU ruling, but not *refusing*[326] to apply the national provision for other *reasons*.[327]

C-317/18 Correia Moreira 13 June 2019

Explanation of the compliance status

The failure to adopt legislation necessitating a public, competitive selection procedure in the case of transfer. The Supremo Tribunal Administrativo, in a similar case, *followed*[328] the judgement of the CJEU, and refused to apply the national provision, under the principle of primacy.

Contextual information

"Government powers are effectively limited by the Judiciary", *WJP RoL index:*[329]
0.70/1 (regional average: 0.70)

"Justice [system] is free of improper government influence", WJP RoL index:
Civil:[330] **0.67/1** (regional average: 0.73)
Criminal:[331] **0.75/1** (regional average: 0.73)

For more about the Portuguese justice system, see: *Portugal – The Judiciary Map*[332]

Situation as of 1 May 2025

ROMANIA

Problematic complier

Number and percentage of rulings pending compliance for two years and more:

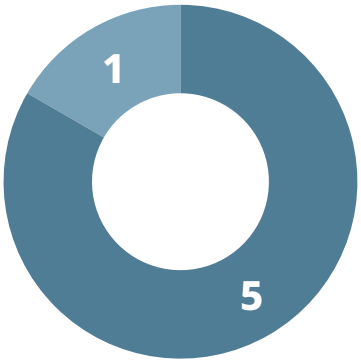
2024 (struggling complier)

3 (50.0%)

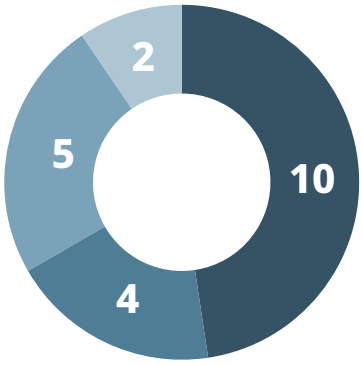
2025 (problematic complier)

7 (77.8%)

Number of rulings covered by this study **6** (2024)



Number of rulings covered by this study **21** (2025)



- Full compliance - 2024: 0.0%; 2025: 47.6%
- Partial compliance - 2024: 83.3%; 2025: 19.0%[39]
- Non-compliance - 2024: 16.7%; 2025: 23.8%[40]
- Impossible to give a conclusive assessment - 2024: 0.0%; 2025: 9.5%

THEMATIC BREAKDOWN OF RULINGS COMPLIED WITH PARTLY OR NOT AT ALL

OVERALL: 21 cases

10
4
5
2

Full compliance
Partial compliance
Non-compliance
Impossible to say

Courts/judicial independence: **13 cases**

4
4
4*
1

Equalityand non-discrimination: **3 cases**

3
0
0
0

Data protection: **2 cases**

1
0
0
1

Other: **3 cases**

2
0
1**
0

* Including 3 still pending
** Still pending

EXPLANATION OF THE DATA

In the 2024 edition of the report, six rulings related to courts and judicial independence were covered. Of the rulings, only five (83.3 per cent) were only partly complied with. The remaining one ruling was not complied with at all. Fifty per cent of the rulings have been pending for two years or longer.

The 2025 dataset covers 21 rulings. This includes 13 rulings related to judicial governance and independence, and eight more rulings, spanning several areas, including equality and non-discrimination (three rulings) and data protection (two rulings). The compliance record is relatively satisfactory regarding rulings other than those implicating courts, with six out of eight rulings fully complied with. Four rulings related to courts, mostly from 2024 and, hence, not part of last year's dataset, have also been fully complied with. No rulings pending compliance last year, however, have since been fully complied with. This is due to a combination of inadequacy of legislative reforms, as well as systemic resistance from top courts and them questioning the primacy of EU law. The Romanian Constitutional Court has clashed with the CJEU. The High Court of Cassation and Justice, blocking compliance with the CJEU ruling of 24 July 2023, case C-107/23 PPU, with its Decision No. 37/2024, is a continuation of this trend. The ruling in the mentioned case called for disapplying national laws if those laws conflicted with EU law, especially if national legal technicalities allowed those involved in corruption and fraud linked to EU funds to escape punishment. This amounted to a clear statement that EU financial obligations trumped national procedural rules.

One ruling, of 7 September 2023 (*case C-216/21*), is hard to classify. The case raised the issue of whether the involvement of court presidents in judicial promotions would undermine judicial independence in view of hierarchical subordination. The CJEU did not see promotion schemes involving court presidents as part of the board of judges as automatically problematic, as long as safeguards for independence were in place. While the CJEU did not exclude that the court presidents could have decisive influence over the process and outcomes, such a concentration of power would not necessarily be incompatible with EU law, as it would not automatically confer the ability to influence judicial decision-making and create a lack of independence on the part of those promoted through the procedure. It is hard to make an assessment about compliance, as the contested regulation has since been repeated and replaced by another one, so the referring court's judgment is devoid of any object.

Contextual information

"Government powers are effectively limited by the Judiciary", *WJP RoL index:*[333]
0.54/1 (regional average: 0.70)

"Justice [system] is free of improper government influence", WJP RoL index:
Civil:[334] **0.59/1** (regional average: 0.73)
Criminal:[335] **0.49/1** (regional average: 0.73

For more about the Romanian justice system, see: *Romania – The Judiciary Map*[336]

RULINGS PENDING COMPLIANCE

Number of the ruling Date of issuance

Non-compliance (4)

C-107/23 PPU 24 July 2023

Issue

The ruling called for the disapplying of national laws if those laws conflicted with EU law, especially, if national legal technicalities allowed those involved in corruption and fraud to escape punishment. The ruling signalled that that the principle of "lex mitior" (i.e., the more lenient criminal law applies retroactively) should not prevent prosecution in serious fraud cases involving EU money.

Explanation

While the referring court, the Court of Appeal in Brașov, properly applied the CJEU ruling, other courts did not.

The Romanian High Court of Cassation and Justice, in its interpretative decision No. 37.2024 that has erga omnes effect (i.e., binds all courts) claimed that compliance with the CJEU ruling would lead to lowering protection below the level guaranteed under Article 7 of the ECHR (no punishment without law), exposing individuals to unforeseeable or retroactive criminal liability. It also noted that judges could not disapply national law or prior constitutional court decisions for being contrary to EU law, as it would cause legal chaos, undermine the separation of powers, and go beyond the judiciary's role.

As *reported*[337] by the European Commission, the Romanian courts have followed the HCCJ approach, exacerbating the systemic risk that a considerable number of criminal cases would escape criminal penalty. During 2024, the courts discontinued criminal proceedings against 307 defendants on the grounds that the statute of limitations had expired (compared to 364 in 2023).

Lin II (C-280/25) is a follow-up to the C-107/23 PPU (Lin), referred to by the HCCJ on 10 April 2025. The case involves discontinued criminal proceedings against M.G.D. for tax evasion, due to the expiry of the statute of limitations under Romanian law. The question it poses is whether EU law would still prevail and require disapplication of national standards of protection related to the retroactive application of more lenient criminal law, where such disapplication conflicts with constitutional principles and reduces the level of rights protection.

C-196/21 2 June 2022

No decision from the referring court is available yet.

C-40/21 4 May 2023

No decision from the referring court is available yet.

C-792/22 26 September 2024

No decision from the referring court is available yet.

Partial compliance

Joined Cases C-83/19, C-127/19, C-195/19, C-291/19, C-355/19 and C-397/19 18 May 2021

Issue

The CJEU ruling touched upon national legislation governing various aspects of disciplinary, criminal, and other forms of liability of judges and prosecutors.

Explanation

Judicial associations and expert bodies have (1) questioned the sufficiency of the 2022 legislation meant to remedy the lack of accountability of Judicial Inspectorate and concentration of powers in the hands of the Chief Inspector; and (2) *transferred*[338] the power to non-specialised prosecutors, following the dismantlement of the Special Section for the Investigation of Offences in the Judiciary.

Notably, in its decision No. 390/2021, the Romanian Constitutional Court (RCC) disagreed with the CJEU, asserting the SIIJ's constitutionality.[41] The RCC insisted that national courts do not have the power to disapply national law provisions that are contrary to EU law if the has RCC declared those provisions constitutional. Because non-compliance with RCC decisions constituted a disciplinary offence, judges seeking to follow the CJEU guidance were in a precarious position. They had to refuse to give priority to the CJEU judgment of 18 May 2021, due to the RCC reasoning in decision No. 390/2021, or be subject to disciplinary sanctions for RCC decisions.

The CJEU reiterated in subsequent rulings (the ruling of 21 *December*[339] 2021 in cases C-357/19, C-379/19, C-547/19, C-811/19, and C-840/19, as well as that of 22 *February*[340] 2022, in case C-430/21) that national courts cannot be bound by the decisions of the Constitutional Court that are contrary to EU law, and should not be subject to disciplinary liability for the failure to comply with such decisions and for application of EU law as interpreted by the CJEU. A *press release*[341] signed by the Constitutional Court's president on 23 December 2021 emphasised that the CJEU's conclusions, according to which national courts are bound not to apply any national rule or practice contrary to a disposition of EU law, would require the revision of the current Constitution. This press release was seen as a way for the Constitutional Court to flex its muscles for the national judges. The RCC already indicated, in *November*[342] 2021, that it would not *change*[343] its Decision 390/2021.

Notably, in December 2022, Romania abolished the disciplinary offence of non-compliance with RCC decisions but, according to the RCC's interpretation in the decision No. 520/2022, disciplinary liability remains if bad faith or gross negligence is demonstrated.

C-817/21 11 May 2023

Issue

Flaws in the legislation regarding the powers of the director of a body conducting investigations and bringing disciplinary proceedings against judges and prosecutors, and having a disciplinary investigation against the director conducted by someone whose career, to a large extent, depends

on that director; legislation not designed in a way as to exclude reasonable doubt that the powers and functions of that body will not be used as instruments to exert pressure on, or political control over, the activity of those judges and prosecutors.

Explanation

The legislation lacked necessary precision as regards the type of conduct falling under the disciplinary offence, and enabled arbitrary behaviour. Despite legislative reform that repealed problematic provisions, the abuse of the disciplinary regime against activist judges by the Judicial Inspectorate remains a challenge. The Judicial Inspectorate uses Article 104 of the Law No. 161/2003 and current Article 271(a) form Law No. 303/2022 with the same effect as the repealed provisions in order to build disciplinary cases against judges and prosecutors involving the freedom of expression.

There is no provision in the new laws on the judiciary to stop the *harassment*[344] of 'inconvenient' judges and prosecutors (i.e., prosecutor Laura Codruța Kovesi has faced 45 disciplinary investigations and four disciplinary actions, which were dismissed; prosecutor Bogdan Pîrlog, co-president of the Initiative for Justice Association, has faced 20 disciplinary investigations, of which 19 were disciplinary actions).

C-357/19, Euro Box *Promotion*[345] and Others **21 December 2021**

Issue

The CJEU ruling making national law or practice problematic, as under these judges are bound by the decisions of the national Constitutional Court and cannot, by virtue of that fact, and without committing a disciplinary offence, disapply the case-law established in those decisions, even if they are of the view, in light of the CJEU judgment, that that case-law is contrary to EU law.

Explanation

In a press release on 23 December 2021, the Constitutional Court rejected the authority of rulings from the Court of Justice of the European Union (CJEU). The Constitutional Court argued that the CJEU's insistence on the primacy of EU law over national law would require changes to Romania's Constitution.

This press release was widely seen as an attempt to intimidate judges from the High Court of Cassation and Justice, especially those handling high-level corruption cases or protecting the EU's financial interests. It warned that applying the CJEU ruling from 21 December 2021, could lead to disciplinary action – effectively discouraging judges from following EU law.

Despite this, on 10 May 2022, the High Court of Cassation and Justice (Panel of five Judges) gave priority to the CJEU ruling in case No. 105/1/2019. The Court noted that following the Constitutional Court's earlier decision (No. 417/2019) would mean restarting the trial. This would delay the case, weaken anti-corruption efforts, and increase the risk of cases being dropped due to time limits, potentially allowing serious crimes to go unpunished.

Although the Constitutional Court had ruled that

the High Court's system for assigning corruption cases wasn't aligned with national law, the High Court found no major violation of judicial rules. Therefore, the court panels were still considered legally valid.

Relying on the CJEU's guidance from cases C-357/19, C-379/19, C-547/19, C-811/19, and C-840/19, the High Court decided not to apply Decision No. 417/2019. It reasoned that using that decision's interpretation of "lawfully constituted courts" could lead to widespread impunity for serious corruption and fraud against the EU, violating EU standards requiring effective penalties, especially since the issue did not undermine the right to a fair trial.

A similar ruling was issued earlier, on 7 April 2022 (decision No. 41/7, in case No. 3089/1/2018), but it has not yet been published.

C-430/21 **22 February 2022**

Explanation

Until today, the Constitutional Court has abstained from opposing the solution of the Court of Justice in the case C-430/21, RS, but indicated, on 9 November 2021, that it will not change its Decision No. 390/2021. *Decision No. 390/2021*[346] is still in force.

The CJEU judgment was extremely useful for the delayed dismissal of the disciplinary action brought against the judge of the Pitesti Court of Appeal, who applied the judgment delivered on 18 May 2021 in the first set of cases. Also, the disciplinary proceedings opened against the judges who proposed or referred to the CJEU in the first set of cases lasted approximately 2 years, despite all the concerns in the CVM reports and the protests of approximately 1,000 Romanian magistrates. At the time these disciplinary actions were dismissed, the body of magistrates found itself in difficulty, being frightened, *weakened*[347], and humiliated.

Situation as of 1 May 2025

SLOVAKIA

Poor complier

Number and percentage of rulings pending compliance for two years and more:

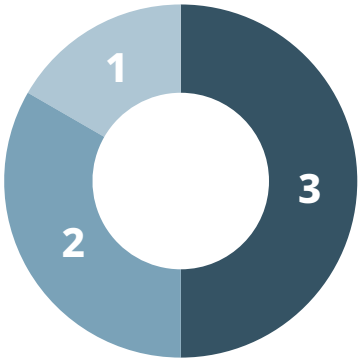
2024 (moderate complier)

1 (50.0%)

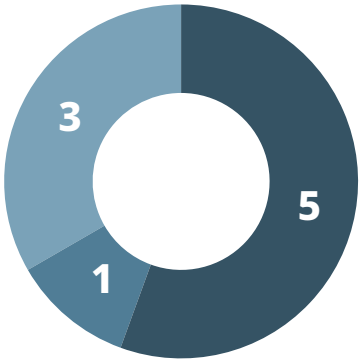
2025 (poor complier)

1 (25.0%)

Number of rulings covered by this study **6** **(2024)**



Number of rulings covered by this study **9** **(2025)**



- Full compliance - 2024: 50.0%; 2025: 55.55%[42]
- Partial compliance - 2024: 0.0%; 2025: 11.11%
- Non-compliance - 2024: 33.3%; 2025: 33.33%
- Impossible to give a conclusive assessment - 2024: 16.7%; 2025: 0.0%

EXPLANATION OF THE DATA

Last year's dataset consisted of six rulings fitting the definition of the rule of law related ruling. Half (three) were fully complied with, and two not at all. It was impossible to establish compliance in one case.

The 2025 dataset that was expanded to cover 2024 rulings has nine rulings, including five instances of full compliance. Out of two rulings that were not complied with last year, one (*C-447/18*, implicating a change of the law containing discrimination against migrant workers based on nationality) has moved to partial compliance, and the other, *C-598/21*, to full compliance.[43] This signals improvement in the compliance record. Three new rulings issued in 2024 have not yet been complied with, since no referring court rulings had come down at the time of assessment.

Contextual information

"Government powers are effectively limited by the Judiciary", *WJP RoL index:*[348]
0.56/1 (regional average: 0.70)

"Justice [system] is free of improper government influence", WJP RoL index:
Civil:[349] **0.63/1** (regional average: 0.73)
Criminal:[350] **0.70/1** (regional average: 0.73)

For more about the Slovak justice system, see: *Slovakia – The Judiciary Map*[351]

RULINGS PENDING COMPLIANCE

Number of the ruling Date of issuance

Non-compliance (3)

Case C-185/23 29 July 2024

Issue

A person or company had their national security clearance withdrawn, where clearance let them access classified information.

The CJEU indicated that classified information can be kept secret, for example, to protect national security, but Article 47 of the Charter of Fundamental Rights requires letting the court reviewing the decision see that information, limiting secrecy to what is strictly necessary, and telling the affected person the main reasons for the withdrawal in a way that respects the need for confidentiality.

Explanation

The judgment of the CJEU does not require adaptation of law, the guidelines provided by the CJEU should be followed by a judicial practice.

The referring court ruling is not available, and the case is still ongoing.

The current Slovak practice is that the lawyer for the appellant can access that information only after receiving consent from the authority that identified the classified information at issue; the validity of a refusal to grant such authorisation is not open to review by a court. In case the reasons were not disclosed by the authority of the state after the authority was requested to do so by the court, the court itself currently does not have the right to review the reasons and decide whether to disclose them, or part of them, to the party.

Case C-547/22 6 June 2024

Issue

Article 2(1)(c) of Directive 89/665 precludes the current Slovak legislation and Slovak practice, which excludes the possibility, as a matter of principle, for a tenderer unlawfully excluded from the public procurement process, of being compensated for the damage suffered as a result of the loss of the opportunity to participate in that procedure, with a view to obtaining the contract concerned.

Explanation

The referring court ruling is not available, and the case is still ongoing.

Legislative implementation — Amendment is required – Law No. 514/2003 on liability for damage caused in the exercise of public authority.

C-28/23 17 October 2024

Explanation

The referring court ruling is not available, and the case is still ongoing.

Number of the ruling Date of issuance

The referring court must assess whether the relevant Slovak legislation (such as Law No. 40/1964, establishing the Civil Code, of 26 February 1964, or Law No. 343/2015, on public procurement, amending and supplementing certain laws of 18 November 2015) transpose Directive 89/665 and Directive 2014/24 in relation to a plea of nullity raised by the contracting authority; and in case they do, whether they do it in line with EU law, as interpreted by the CJEU in this judgment.

Partial compliance (1)

C-447/18 **18 December 2019**

Issue

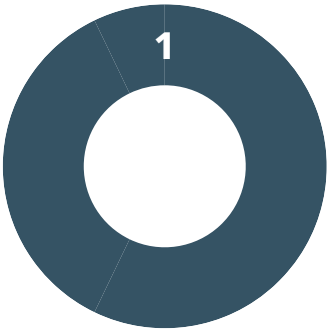
The change of the provision of Act. 112/2015 Coll. containing discrimination of migrating workers based on nationality.

Explanation

Full judicial compliance: The Supreme Court followed the CJEU ruling, annulled the decision of Circuit Court of Kosice, and instructed it to follow the CJEU direction when deciding on the matter anew.

Legislative failure to comply: No legislative action has been taken to change the provisions found to be discriminatory towards migrant workers based on nationality. The legislative draft implementing the CJEU ruling was prepared after 2023 parliamentary elections but did not even enter the legislative process. This was due to the lack of sufficient political support on both sides of the political spectrum (the previous and current Governments).

SLOVENIA



Number of rulings covered by this study: 1

Full compliance (100%)

Number and percentage of rulings pending compliance for 2 years and more:

2025 | **0** (0.0%)

The dataset includes only one ruling fitting the definition of a rule-of-law-related ruling – the ruling of 15 October 2024, in case C-144/23.

This case (**KUBERA**) concerns Slovenia's leave-to-appeal system, introduced in 2008 to address excessive trial delays after *Lukenda v. Slovenia*. Under the Civil Procedure Act (ZPP), the Supreme Court only hears cases raising important legal questions, and may otherwise reject appeals without explanation. While this system was found constitutional and Convention-compliant, problems arose when parties requested a **preliminary ruling** from the CJEU under Article 267(3) of the TFEU.[44]

In **Decision Up-1133/18 (2022)**, the Constitutional Court annulled a Supreme Court decision for failing to justify such a refusal, relying on the CJEU's Consorzio ruling. It held that the Supreme Court must explain why a case falls under a **CILFIT** exception to the duty to refer.[45] To clarify how this duty applies within a national filtering system, the Supreme Court referred the **KUBERA** case to the CJEU, asking whether it can deny leave to appeal without reasoning when a party requests a preliminary ruling.

The CJEU ruled that Article 267 (3) of the TFEU must be interpreted as precluding national courts and tribunals of final instance from refusing to grant leave to appeal without first considering whether a question concerning the interpretation or validity of EU law should be submitted for a preliminary ruling. The CJEU emphasised that national courts must provide clear reasons when refusing to refer such questions. According to the CJEU's settled case-law, a court of final instance may refuse to refer questions if they are irrelevant to resolving the dispute if the provision of EU law in question has already been interpreted by the Court (acte éclairé), or if the correct interpretation is so clear that there is no room for reasonable doubt (acte clair).

Following the CJEU's KUBERA judgment, the Slovenian Supreme Court aligned its approach with EU law in **Order X DoR 380/2022-30 (29 January 2025)**. It provided reasons for non-referral, invoking the acte clair exception to deny leave to appeal. This was treated as **full compliance** with the CJEU's ruling.

However, potential tensions remain:

1. The Supreme Court limited Article 267(3) duty to cases where a party explicitly requests a preliminary ruling, contrary to the CJEU's KUBERA finding that the duty may also arise ex officio.
2. The Court stressed that leave to appeal must first meet strict procedural criteria under Article 367b (4) ZPP. An overly strict reading could undermine the duty to refer.
3. Finally, the Court implied that Article 47 of the Charter may require lower courts to justify non-referral when a party proposes it. Though protective of rights, this goes beyond Article 267 of the TFEU, which obliges only last-instance courts.

In sum, while the Supreme Court followed the CJEU's guidance in form, certain interpretations – especially regarding when the duty to refer arises and procedural thresholds – may signal future friction between national discretion and EU obligations.

Contextual information

"Government powers are effectively limited by the Judiciary", *WJP RoL index:*[352]
0.60/1 (regional average: 0.70)

"Justice [system] is free of improper government influence", WJP RoL index:
Civil:[353] **0.62/1** (regional average: 0.73)
Criminal:[354] **0.51/1** (regional average: 0.73)

For more about the Slovenia justice system, see: *Slovenia – The Judiciary Map*[355]

SPAIN

Moderate complier

Number and percentage of rulings pending compliance for two years and more:

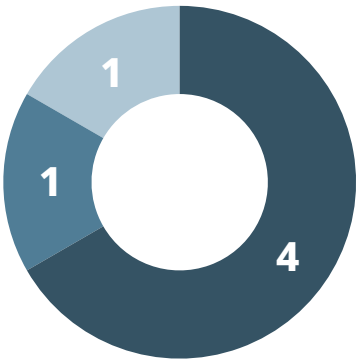
2024 (moderate complier)

0 (0.0%)

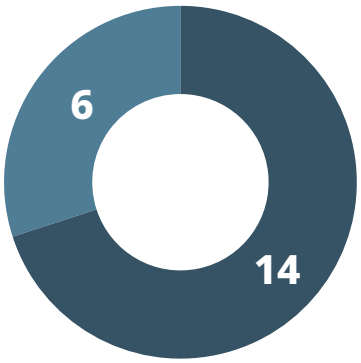
2025 (moderate complier)

4 (66.7%)

Number of rulings covered by this study **6 (2024)**



Number of rulings covered by this study **20 (2025)**



- Full compliance - **2024:** 66.7%; **2025:** 70.0%
- Partial compliance - **2024:** 16.7%; **2025:** 30.0%
- Impossible to give a conclusive assessment - **2024:** 16.7%; **2025:** 0.0%

EXPLANATION OF THE DATA

2025 data covers 20 rulings, including nine rulings concerning justice, and six concerning equality and non-discrimination. This signals that a significant portion of rulings are complied with only partly.

Contextual information

"Government powers are effectively limited by the Judiciary", *WJP RoL index:*[356]
0.62/1 (regional average: 0.70)

"Justice [system] is free of improper government influence", WJP RoL index:
Civil:[357] **0.62/1** (regional average: 0.73)
Criminal:[358] **0.58/1** (regional average: 0.73)

For more about the Spain justice system, see: *Spain – The Judiciary Map*[359]

Situation as of 1 May 2025

RULINGS PENDING COMPLIANCE

Number of the ruling Date of issuance

Partial compliance (6)

C-335/21 22 September 2022

Issue

The takeaway from the CJEU ruling in Case C-335/21 is that Spanish procedural law, by excluding judicial review – also ex officio – of potentially unfair contract terms in summary proceedings for lawyers' fees, violates Article 47 of the Charter and, therefore, is incompatible with EU law.

Explanation

The civil procedure code has been amended by means of Royal Decree, Law 6-2023 of 19 December, providing for the power of the judge to control, even ex officio, unfair clauses in the contract. Commentators, however, have *indicated*[360] deficiencies in the legislation.

C-63/23 12 September 2024

Issue

In the context of a domestic dispute concerning the refusal to renew a residence permit for family reunification where there were minor children.

The CJEU concluded that it is necessary for national legislation to guarantee, beforehand, the right to be heard, as well as an individual examination of the situation. When minors are affected, the standard of protection is even higher.

Explanation

Contributing experts referred to the Supreme Court's pronouncement that the automatic rejection of a residence permit by the authorities is not permissible. Instead, all circumstances, including not only economic, but also personal and family aspects, must be considered in the assessment; the public administration has to be proactive when evaluating the personal circumstances surrounding a residence permit application.

While relevant national regulations governing rights and freedoms of foreigners and their social integration have been improved, experts do not report any significant progress in the issue identified in the ruling and, hence, the right to family reunification exercised by the resident alien is not sufficiently protected.

C-598/19 6 October 2021

Explanation

Following the CJEU ruling, the High Court of Justice of the Basque Country found that the regulation disproportionately violated contracting principles, such as equal treatment and free competition, and annulled the 15 May 2018 Agreement reserving contracts for Special Employment Centres or integration enterprises. This judgment has been appealed and is pending before the Constitutional Court. Meanwhile, other courts, including those of Castilla y León and another Superior Court, have upheld the regulation as proportionate and compliant with EU law.

As courts have reached differing conclusions, a Spanish Supreme Court ruling is needed to clarify the application of the proportionality principle, though the CJEU decision remains a key reference.

Number of the ruling Date of issuance

C-443/19 6 October 2020

Explanation

The Spanish Supreme Court has taken inconsistent positions on the application of the proportionality principle in public domain charges.

In **Ruling 51/2022**, it found that requiring both a transfer tax and a public domain reservation fee for radio frequencies violated EU law, as the combined burden was excessive and disproportionate.

In Ruling 555/2021, however, the Court upheld local charges on telecom companies for using public infrastructure, without applying the proportionality test. It relied on its interpretation of CJEU case C-764/18, allowing such fees, regardless of their financial impact.

These contrasting decisions highlight uncertainty in how proportionality is applied, suggesting a need for further clarification from higher courts or the CJEU.

C-764/18 27 January 2021

Issue

According to the CJEU, the directives allow national laws to impose charges on companies that own and use telecoms infrastructure to provide fixed phone and internet services, even if the charge is based only on the company's yearly income in that country.

Explanation

National courts applied the ruling. For example, in ruling 555-2021 of 26 April, the Supreme Court established as doctrine the non-application of the limits of Articles 12 and 13 of Directive 2002/20/EC, as interpreted in this ruling of the CJEU, to the charges for private use or special exploitation of the local public domain demanded of companies operating in the fixed telephone and internet services sector, whether they are the owners of the networks or infrastructures used or they are the holders of a right of use, access, or interconnection to them.

The Spanish Court understands in its ruling that the fact the CJEU establishes articles 12 and 13 do not preclude such charges, not ruling the calculation of the quantity to be paid, is explained by the fact that the charge not opposing European Law makes it unnecessary to examine the quantification itself from an EU law perspective. The quantification would only need to adjust to national law. This interpretation, despite being legally correct in terms of the validity of the arguments, does not seem to take into account that the application of the Directive itself implies that the limits of its articles 12 and 13 should apply and, therefore, could be considered to go against the spirit of the ruling.

C-631/22 18 January 2024

Issue

The CJEU found that EU law precludes national law, which allows for termination of the employment contract due to the permanent disability to perform tasks, occurring during the employment relationship, without the employer first being required to make or maintain reasonable accommodation to enable the worker to keep their job.

Explanation

National courts accepted the CJEU ruling and are not applying the law, ruling against dismissal caused by permanent inability to perform tasks.

The provision of the Law on the Right of Persons with Disabilities, which covers dismissal due to permanent disability, required modification. On 21 May 2024, the Council of Ministers approved the draft bill modifying the Law on Rights of Persons with Disabilities. The text has been discussed in the Congress, where it has been accepted, and has been passed to the Senate for review and subsequent vote for approval.

SWEDEN

Number and percentage of rulings pending compliance for two years and more:

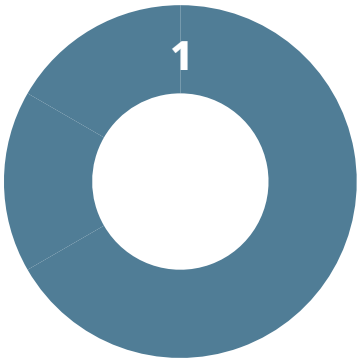
2024

1 (100.0%)

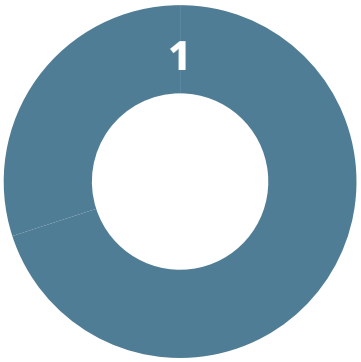
2025

1 (100.0%)

Number of rulings covered by this study **1 (2024)**



Number of rulings covered by this study **1 (2025)**



Partial compliance - **2024:** 100.0%; **2025:** 100.0%

EXPLANATION OF THE DATA

In *C-30/19*, 15 April 2021, with respect to Sweden, the CJEU ruled that national courts must disapply national law that prevents courts from examining a claim seeking a declaration of the existence of discrimination prohibited by EU law. In the follow-up, the Swedish Supreme Court used its discretion under national procedural law, and dismissed the applicant's claim seeking a declaration that discrimination had taken place, because the defendant had agreed to pay compensation and, hence, there was no longer a need for the court to hear the case. As reported by the expert, however, in a short quote published by the Supreme Court as guidance for future cases, "an allegation that discrimination has taken place must be able to be tried in a case where discrimination compensation is requested, even when the defendant agrees to pay the requested compensation but does not certify that discrimination has taken place." This likely means that the courts will comply with the answer given by the CJEU in future cases, and set aside Swedish procedural law under similar circumstances.

The expert reported no new developments on the case for the 2025 report but warned that this issue can resurface again. The problem is the age-old discussion of to the extent "effect utile" and the principle of effectiveness of EU law take precedence over black letter national procedural law. So far, Swedish courts tend to follow procedural law, even where there is a sound EU-law argument and, hence, by doing so limit the useful effect of rights derived from EU law.

Contextual information

"Government powers are effectively limited by the Judiciary", *WJP RoL index:*[361]
0.81/1 (regional average: 0.70)

"Justice [system] is free of improper government influence", WJP RoL index:
Civil:[362] **0.88/1** (regional average: 0.73)
Criminal:[363] **0.90/1** (regional average: 0.73)

For more about the Swedish justice system, see: *Sweden – The Judiciary Map*[364]

SOURCES

1. This figure does not include judgments that became final in 2024, but were classified as leading cases after 1 January 2025. These judgments will be reflected in next year's report.
2. As the ECtHR's environmental case-law expands, we use the term "triple planetary crisis" to describe the interconnected environmental challenges affecting Convention rights. It refers to the overlapping crises of climate change, biodiversity loss, and pollution and waste, which threaten global prosperity, peace, and security. Elements of this crisis already feature in the Court's case-law, especially in climate and waste-pollution cases.
3. Alan Charlish and Pawel Florkiewicz, *In sea change for Poland, new government is sworn in*, article published on Reuters, on 13 December 2023.
4. European Commission, *Rule of Law: Commission launches infringement procedure against Poland for violations of EU law by its Constitutional Tribunal*, press release of 22 December 2021.
5. Michał Stambulski, *Schrödinger's Judges: Challenges to the Rule of Law Restoration in Poland*, VerfBlog, article published on 19 December 2024, with further references to the research work of the Helsinki Foundation for Human Rights.
6. This does not necessarily mean an individual approach, but could also involve considering grouped categories ("cohorts") of similar appointments, in any event on the basis of pre-established criteria.
7. See, in particular, the Committee of Ministers' decisions adopted at their 1507th meeting (17-19 September 2024) (DH) (*CM/Del/Dec(2024)1507/H46-22*).
8. Marcin Szwed, *To Void or Not To Void: On the Legal Effect of the Constitutional Tribunal's Rulings*, VerfBlog, article published on 23 October 2023; see, also, the Rule 9.2 Communication submitted by the Helsinki Foundation for Human Rights in the context of the Committee of Ministers' 1507th meeting (September 2024) (DH) (*DH-DD(2024)939-rev*, paras. 17-23).
9. Michał Stambulski, op.cit.
10. In April 2010, the governing alliance of Fidesz – Hungarian Civic Union ("Fidesz") and the Christian Democratic People's Party ("KDNP") obtained a two-thirds parliamentary majority and undertook a programme of comprehensive constitutional and legislative reforms In Hungary. This resulted, among others, in a fundamental reform of the judiciary, in 2011: notably, a new name was given to the Supreme Court – *Kúria* –, and new powers were attributed to the *Kúria* in the field of ensuring consistency in the case-law, the management of the judiciary and the functioning of the National Council of Justice.
11. Rule 9.2 Communication submitted by MABIE (the Hungarian Association of Judges), in the context of the Committee of Ministers' 1521st meeting (March 2025) (DH) (*DH-DD(2025)113*).
12. Rule 9.2 Communication submitted by the Bulgarian Helsinki Committee, in the context of the Committee of Ministers' 1501st meeting (June 2024) (DH) meeting (*DH-DD(2024)488-rev*).
13. A case concerning the inability of the Chief Prosecutor of the National Anticorruption Directorate to effectively challenge the undue, premature termination of her mandate.
14. A case concerning the impossibility to challenge the suspension of a judge's mandate pending the outcome of judicial proceedings.
15. European Commission, *2024 Rule of Law Report – Country Chapter Romania*.

16. Also acknowledged by the *Recommendation CM/Rec(2024)2 of the Committee of Ministers to member States on countering the use of strategic lawsuits against public participation (SLAPPs)*, adopted in April 2024.
17. See, in this respect, the informative Rule 9.2 Communication submitted by Article 19, in the context of the Committee of Ministers' 1514th meeting (December 2024) (DH) (*DH-DD(2024)1061*).
18. In a *study commissioned by the European Parliament (LIBE*), Greece accounted for 12.8 % of the identified SLAPP cases in Europe between 2022 and 2023, with only Italy (25.5 %) and Spain (17 %) being ahead of Greece in this respect (p. 8).
19. Permanent Representation of Greece to the Council of Europe, '*Reply by the Greek Authorities to Alert No. 280/2023 Uploaded on the Platform for the Safety of Journalists and Protection of Journalism of the Council of Europe*' (28 March 2024).
20. Including by introducing the possibility of early dismissals of abusive lawsuits and reasonable limits on damage awards in defamation cases, and by ensuring complete transparency and publicity for such cases.
21. *Directive (EU) 2024/1069* of the European Parliament and of the Council of 11 April 2024 on protecting persons who engage in public participation from manifestly unfounded claims or abusive court proceedings ('Strategic lawsuits against public participation').
22. APADOR-CH requested, in particular, to include in the draft transposition law a provision to the effect that the procedure and safeguards provided for in the Directive (essentially, cases where the purpose of legal action is to intimidate those who raise issues of public interest) should also apply to national civil litigation, not just cross-border civil litigation, which is the actual scope of the EU Directive.
23. European Commission, *2023 Rule of Law Report – Country Chapter Croatia, p. 24; and 2024 Rule of Law Report – Country Chapter Croatia*, p. 1.
24. Media Freedom Rapid Response, *Reforms without protection: The shrinking space for journalism in Croatia*, report published in June 2025, p. 8.
25. Belgium, Bulgaria, Croatia, Cyprus, Estonia, France, Greece, Hungary, Italy, Latvia, Lithuania, Malta, Netherlands, Portugal and Romania
26. See the Rule 9.2 Communication submitted by the Observatoire International des prisons (OIB) — section française, in the context of the Committee of Ministers' 1531st meeting (2025) (DH) (*DH-DD(2025)551*).
27. The Guardian, *Swiss lawmakers reject climate ruling in favour of female climate elders*, article published on 12 June 2024.
28. Action Report submitted by Switzerland in the context of the examination of the case at the Committee of Ministers' 1514th meeting (December 2024) (DH) (*DH-DD(2024)1123*).
29. The supervision of the implementation of this case was partly closed by the Committee of Ministers in March 2024, with the transfer of the supervision of the issue of availability of domestic remedies in environmental matters under the *Cordella and Others v. Italy* group of cases.
30. *HUDOC-EXEC (coe.int)*
31. The assessments of compliance are valid as of 1 May 2025.
32. See, in particular, pp. 2 and 28 of the European Commission's 2024 Rule of Law Report, Country Chapter in the rule of law situation in Belgium.

33. C-8/19, C-25/18, C-377/18, C-688/18, C-845/19, C-319/19, C569/20, C-347/21, C-203/21, C-348/21, C-752/21, C-608/21, C-205/21, C-97/21 (overall 14 rulings).
34. C-752/22 (concerning the immigration policy) and C-740/22 (protection of personal data).
35. Sakari Melander, "*How a Boat Trip to Estonia Challenged the Foundations of the Finnish Sentencing System*", Verfassungsblog 23 August 2023.
36. Two of the recent rulings, namely in cases C-633/22 (ruling of 4 October 2024) and C-664/23 (19 December 2024), the referring courts have not decided yet. Experts did not locate follow up rulings.
37. These are rulings in cases C-313/22 and C-134/23, the rulings of 13 July 2023 and 4 October 2024.
38. The rulings in cases C-206/19, ruling of 11 June 2020, C-439/19, ruling of 22 June 2021, C-175/20, ruling of 24 February 2022, C-345/17, ruling of 14 February 2019.
39. Partial compliance: (*Joined Cases C-83/19, C-127/19, C-195/19, C-291/19, C-355/19 and C-397/19, 18 May 2021, C-357/19*, Euro Box Promotion and Others, ruling of 21 December 2021, *C-430/21*, ruling of 22 February 2022. C 817/21 (11 May 2023)
40. Non-complied rulings: Ruling of 2 June 2022 in case C-196/21, the ruling of 4 May 2023 in case C-40/21, the ruling of 26 September 2024 in case C-792/22 + C-107/23 PPU (24 July 2023) + one ruling from another category, Case C-4/23 [Mirin], 4 October 2024.
41. The CCR decision was adopted with a majority of 7 to 2. Two judges wrote a dissenting opinion, in which they drew attention to the fact that the CJEU judgment of 18th May 2021 could have become an additional argument for the Constitutional Court of Romania to achieve a change of approach in its case-law. To the majority's opinion that "only the political authorities have the duty to respect and apply this judgment and not the courts", the distinguishing judges reminded that Article 148(4) of the Constitution binds all public authorities, expressly mentioned as such — Parliament, President, Government and the judicial authority — to guarantee the implementation of the obligations resulting from the act of accession and from the Primacy of EU law over national law.
42. The ruling of 28 May 2020, in case C-709/18; the ruling of 16 December C-203/20, the ruling of 25 February 2021 in C-857/19, ruling of 21 April 2021 in case C-485/19. The ruling of 9 November 2023 in case C-598/21.
43. The CJEU ruling in case C-598/21 resulted in legislative change, with the Slovak Parliament adopting the amendment to the Civil Code (Act 40/1964) on 17 September 2024, which entered into force on 1 November 2024. *https://www.nrsr.sk/web/Default.aspx?sid=zakony/zakon&ZakZborID=13&CisObdobia=9&CPT=306*
44. *https://www.nsud.sk/rozhodnutia/1szsk332017/*
45. The CILFIT exception refers to the conditions under which a national court of last instance is not required to make a preliminary reference to the *Court of Justice of the European Union (CJEU)*. These conditions are met when either the EU law in question is not relevant, or the meaning and scope of the EU provision is so obvious that there is no reasonable doubt that it does not apply.