RED SPINEL

Deliverable 7.1.

EARLY DETECTION AND RESPONSE TO RULE OF LAW BACKSLIDING: PRACTICAL TOOLS FROM THE EUROPEAN UNION AND MEMBER STATES

PRACTITIONERS' HANDBOOK ON EARLY WARNING MECHANISMS FOR CIVIL SOCIETY ORGANISATIONS

2025

AUTHORS

Chapter I: **Hungarian Helsinki Committee**

Chapter II: **Université Libre de Bruxelles**

Annexes: **Université Libre de Bruxelles**, based on inputs by the **Hungarian Helsinki Committee** (Annex I.), the **Nicolaus Copernicus University in Toruń** (Annex II.), the **Université Libre de Bruxelles** (Annex III.) and the **University of Amsterdam** (Annex IV.)

This project receives funding from the European Union's Horizon Europe research and innovation programme under the Call HORIZON-CL2-2021-DEMOCRACY-01 - Grant agreement no. 101061621. The content of this document represents the views of the author only and is its sole responsibility. The European Commission does not accept any responsibility for use that may be made of the information it contains.

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I. INTRODUCTION

This Handbook explores early warning mechanisms - as a means of fundamental rights protection - that extend beyond classic litigation. The Handbook was prepared in the framework of the RED-SPINEL project, supported by the Horizon Europe programme. For the purposes of the project, early warning mechanisms are understood as instruments that aim to detect, signal and help remedy systemic violations of fundamental rights, especially those protected under the Charter of Fundamental Rights of the European Union (Charter). These mechanisms may exist at both national and European levels, and they can either be specifically designed for this purpose or used for this purpose in practice. They include a range of actors and institutions, including but not limited to human rights advocacy organisations, parliamentary commissions on justice and fundamental rights, Ombudspersons, equality bodies, and national human rights institutions (NHRIs).

This material is intended for practicing lawyers, policymakers, representatives of NHRIs, civil society organisations, and other stakeholders involved in the defense and promotion of EU fundamental rights and the rule of law. By mapping key mechanisms and their normative underpinnings, the handbook aims to foster awareness and strategic engagement with these instruments.

The primary focus of this document is on EU-level early warning mechanisms, which are especially crucial in complementing national frameworks. While domestic mechanisms remain vital for the everyday enforcement and protection of rights, EU-level tools are indispensable in ensuring accountability, consistency, and transnational oversight – particularly in contexts where national mechanisms are weakened, politicized, or captured by governments. In such cases, EU-level intervention may serve as the only reliable safeguard for fundamental rights. In addition, the handbook also provides an overview of the main categories of national-level early warning mechanisms and their functions.

The annex of this handbook complements the main material by presenting national-level examples of early warning mechanisms from four EU Member States: Belgium, Hungary, the Netherlands, and Poland. These case studies, based on inputs provided by RED-SPINEL project partners, help illustrate how domestic structures for detecting and addressing fundamental rights violations operate in different legal and political contexts. The four case studies showcase different types of dissensus over liberal democracy and challenges to the rule of law and human rights. The Hungarian chapter focuses on the rule of law and the system of checks and balances, which have undergone a continuous and deliberate erosion since 2010. Independent institutions have been weakened or captured, undermining the effectiveness of national early warning mechanisms and highlighting the essential role of EU-level oversight. The Polish case study addresses media freedom, which has been under increasing pressure since 2015. Although a

change in government in 2023 brought new commitments to reform, structural issues persist and national early warning mechanisms remain only partially functional. The Belgian example explores equality and non-discrimination, where progressive legal frameworks coexist with persistent systemic inequalities – particularly affecting migrants, ethnic minorities and asylum seekers – posing challenges to national institutions tasked with upholding equality rights. The Netherlands chapter focuses on climate justice, highlighting the innovative use of public interest litigation by civil society organisations.

These case studies reinforce the overall aim of this handbook: to examine how early warning mechanisms – both at the national and the EU level – can safeguard the values and rights enshrined in the Charter and Article 2 of the Treaty on the European Union (TEU). Together, the analysis and the case studies underscore the need for robust and independent early warning systems to ensure effective and resilient protection of fundamental rights across all Member States.

II. EARLY WARNING MECHANISMS AT THE EU LEVEL

Democratic backsliding within the European Union has shifted from being an isolated concern to a central political challenge, testing the EU's ability to safeguard the values enshrined in Article 2 TEU. These values – including respect for human dignity, freedom, democracy, equality, the rule of law and human rights – form the foundation of the EU's identity. Yet recent developments in some EU Member States, such as Hungary, Poland and Slovakia, reveal how rapidly and deliberately democratic checks can be dismantled from within, eroding institutional safeguards and undermining the rule of law.

To address such backsliding, the EU relies on a layered framework of early warning mechanisms, combining political, legal, financial, and monitoring tools to detect risks and intervene before constitutional crises become irreversible. Some such mechanisms preceded the rule of law backsliding in the EU, while others were developed more recently in response to such a situation. These include the provisions of Article 7 TEU, complaints and infringement proceedings, different conditionalities linked to EU funds and recurring monitoring instruments such as the Rule of Law Report, the European Semester and the EU Justice Scoreboard. Complementary oversight by bodies like the European Ombudsman, the Fundamental Rights Agency and the European Parliament's LIBE Committee reinforces this framework. Some of these are textbook early warning mechanisms, but a number of them are built into procedures that have potentially serious financial, legal and political consequences.

While these early warning mechanisms have shown potential, particularly when deployed in combination, they remain fragmented, politically constrained and often slow to respond. At the same time, civil society organisations (CSOs), investigative journalists, legal practitioners and academic experts have emerged as vital partners in identifying risks, supplying evidence and pressing for action.

This paper provides an overview of the EU's early warning mechanisms as understood for the purposes of the RED-SPINEL project, assessing their strengths, weaknesses and practical impact. It also explores how civil society actors can engage with these tools, ensuring that warning signs are recognised, acted upon, and translated into meaningful reforms that protect democratic resilience within the EU, along with the challenges they may face in this endeavour.

Early warning mechanisms take various forms, and some are not explicitly recognised as such. At the EU level they generally operate along three main lines. First, monitoring and assessment mechanisms such as the Annual Rule of Law Report aim to offer structured, evidence-based evaluations that track developments over time. Second, independent oversight bodies such as the European Ombudsman can scrutinise institutional practices and identify systemic risks before they escalate. Collectively, these instruments often serve as the entry point for detecting risks and establishing the factual foundation necessary for further action. Their findings frequently inform the activation of a third category of mechanisms, which are the combination of early warning functions with enforcement powers, such as the Conditionality Regulation. In practice, the evidence generated by the first two categories is often decisive in shaping and substantiating measures taken under the third.

The first chapter will examine these "soft" early warning mechanisms, while the second chapter will turn to the "hard", more decisive instruments. For each category, we will highlight how these tools may be mobilised by those willing to alert the public about potential violations of EU rights and values.

II.1. Monitoring and Oversight-Based Early Warning Mechanisms

II.1.1. Monitoring and Assessment Mechanisms

This chapter introduces key EU-level monitoring and assessment mechanisms that serve as early warning tools. These instruments offer structured, recurring evaluations that decision makers, civil society organisations or legal practitioners can use to identify systemic risks, advocate for change and hold governments accountable. The chapter covers the European Commission's Annual Rule of Law Report, explains its relevance and use, highlights civil society involvement in the reporting process and briefly presents two additional mechanisms: the European Semester and the EU Justice Scoreboard. Together, these tools form a practical framework for evidence-based monitoring and fundamental rights protection.

Table 1.

Summary of the monitoring and assessment mechanisms discussed in this chapter

Mechanism	Main purpose	Contribution to the protection of rights	Limits / weaknesses
Rule of Law Report	Preventive monitoring of compliance with rule of law standards; promote dialogue, accountability and reforms across the EU and enlargement countries.	Identifies risks early; issues country-specific recommendations (since 2022); tracks implementation; serves as an advocacy tool for civil society and a benchmark for both national authorities and other stakeholders.	Does not always capture serious breaches or practical functioning of institutions; recommendations often general and not detailed; impact depends on follow-up by Member States.
European Semester	Ensure coherent EU-level economic governance, resilience and reform; also integrates institutional quality, transparency and rule of law considerations.	Although primarily economic in nature, it increasingly integrates institutional quality and rule of law concerns. It can indirectly safeguard rights by highlighting structural weaknesses that affect governance and social inclusion and by generating recommendations.	CSO involvement varies across countries and often depends on political will; engagement can be superficial; not primarily designed as a rights-protection tool.
The EU Justice Scoreboard	Provide data-based monitoring to detect early warning signs of judicial inefficiency or threats to independence; feed into the Rule of Law Report and European Semester.	Offers harmonised, comparable data; helps detect systemic risks early; supports evidence-based reforms; provides CSOs with data for research and advocacy.	Relies heavily on institutional/ national data, with no direct CSO input; effectiveness depends on whether findings are acted upon.

II.1.1.1. Rule of Law Report

Since 2020, the European Commission has published an annual Rule of Law Report to monitor and support the enforcement of rule of law standards across the EU.[1] It is part of the Annual Rule of Law Cycle, which fosters regular dialogue on rule of law issues among the European Commission, the Council of the European Union (Council), the European Parliament and the Member States. The report was launched in response to ongoing democratic backsliding, especially in Hungary and Poland, and serves as a preventive tool to identify and address risks early.

The report examines four key areas: the justice system, the anti-corruption framework, media pluralism and freedom, and other institutional issues related to checks and balances. The report is composed of a general overview ("communication") and country chapters, one for each EU Member State, offering a snapshot of the rule of law situation. Each chapter is based on both government input and stakeholder consultations. Since 2024 the report also includes chapters on four EU enlargement countries: Albania, Montenegro, North Macedonia, and Serbia. This extension supports their reform processes by applying the same standards as those expected from Member States, helping to ensure democratic progress before accession. The rigid structure of the report allows for comparisons across different member states, as well as tracking development (or backsliding) over time in a given country.

The fact that the Commission has included country-specific recommendations in each edition since 2022 is considered an important milestone. These recommendations are meant to guide the Member States in improving rule of law performance and to encourage concrete reforms. The Commission began systematically monitoring the implementation of its recommendations in the 2023 Rule of Law Report, marking a significant step in ensuring accountability. This follow-up mechanism is not merely symbolic: across all four pillars of the Rule of Law Report, 65% of the 2022 recommendations were found to be fully or partially implemented by Member States. In 2024 this trend continued with 68% of the 2023 recommendations followed up.[2]

Civil society organisations are key contributors to the report's quality and credibility. Alongside government submissions, the Commission gathers evidence from CSOs, journalists, professional associations, legal professionals and academics, among others. This "targeted stakeholder consultation" follows the same scope as that addressed to Member States, ensuring consistency across sources. These submissions can (but do not have to) address developments under the four pillars of the report. Since 2023 the submissions can also include an assessment (at the beginning of each chapter) of how the government followed up on the recommendations it

1 The Rule of Law Reports, inputs from Member States and stakeholder contributions and are available for each year at: https://commission.europa.eu/strategy-and-policy/policies/justice-and-fundamental-rights/upholding-rule-law/rule-law/annual-rule-law-cycle_en#rule-of-law-report.

2 European Commission, "2024 Rule of Law Report: The rule of law situation in the European Union" (Brussels, 2024), 3. https://commission.europa.eu/document/download/27db4143-58b4-4b61-a021-a215940e19d0_en?filename=1_1_58120_communication_rol_en.pdf,

received in the previous year's Rule of Law Report. This structure helps track implementation in a consistent and accessible way and reinforces accountability. In 2025 stakeholders could also contribute to a newly introduced stakeholder survey on the single market dimension of the Rule of Law Report, launched by the Commission for the first time that year.

Each year, the Commission typically opens its consultation in November with a deadline around late January. Contributions are to be submitted through the EU Survey platform, and are made available on the Commission's website the same time as the Rule of Law Report is published, if the contributor agrees to publication. Between January and April the Commission conducts country visits to all Member States and enlargement countries to gather further input. These visits involve meetings with a wide range of actors, including government representatives, independent bodies and civil society organisations. In 2025 more than 650 meetings were held across the EU, making these visits a key component of the evidence-gathering process for the Rule of Law Report.

Despite its relevance, the report has its limitations. For example, its structure does not always allow for capturing and/or for a comprehensive evaluation of a range of serious breaches that undermine the rule of law, including how so-called independent institutions function in practice. The recommendations often lack the necessary detail to drive meaningful reform: they are often general in tone and sometimes disconnected from the severity of the concerns highlighted in the main analysis. Addressing these shortcomings requires transforming the existing report into a more robust tool.[3]

However, the report remains an important tool for strengthening rule of law protections within and beyond the EU. Its expansion to recommendations and the continued inclusion of civil society perspectives signal a broader commitment to democratic standards and accountability. The Rule of Law Report has become a widely used reference in EU-level decision-making, including in discussions on funding conditionality and political accountability. It also serves national actors – such as courts, media, and watchdog institutions –as a benchmark and advocacy tool.

3 See e.g.: L. Pech and P. Bárd (Policy Department for Citizens' Rights and Constitutional Affairs Directorate-General for Internal Policies), "The Commission's Rule of Law Report and the EU Monitoring and Enforcement of Article 2 TEU Values" (PE 727.551, February 2022).
https://www.europarl.europa.eu/RegData/etudes/STUD/2022/727551/IPOL_STU(2022)727551_EN.pdf.

What can practitioners do?

- Contribute to the Rule of Law Report in writing through the "targeted stakeholder consultation", conducted every year in the form of a survey on the EU Survey Platform.
  - Example of the questionnaire: targeted stakeholder consultation survey for the 2025 Rule of Law Report
  - Contact: rule-of-law-network@ec.europa.eu
- Participate in the country visits by the Commission: provide context, respond to follow-up questions and update the information submitted in the stakeholder consultation survey.
  - Country visit schedules are published annually.
- Use the Rule of Law Report for national and international advocacy: the descriptive part of the report, along with stakeholder contributions, constitutes a unique evidence-base and reference point, while the country-specific recommendations can serve as benchmarks in other contexts as well.
  - Rule of Law Reports, stakeholder contributions and state inputs are published each year here. Documents by year: 2020, 2021, 2022, 2023, 2024, 2025.

II.1.1.2. European Semester

Alongside dedicated rule of law instruments, broader EU-level policy coordination mechanisms can also play a preventive role. One such tool is the European Semester, which, although primarily focused on economic and social policy, offers valuable insights into structural challenges that can affect democratic governance and fundamental rights protection. It was originally developed in response to the financial crisis, but the European Semester has since evolved into a broader governance tool. It offers a structured and comparative overview of Member States' performance and provides early indications of potential risks that may affect the sustainability, inclusiveness and resilience of national systems.

The European Semester is the European Union's central framework for the coordination of economic, fiscal, employment and social policies. Since its launch in 2010 it has become a recurring cycle that allows for the monitoring of national reform efforts in light of jointly agreed EU objectives. The Semester operates on a one-year cycle. It begins each autumn with the publication of the Annual Growth Survey, which sets out the EU's economic and social priorities for the year. This is followed by national submissions of economic plans and reform strategies, most notably the National Reform Programmes. The European Commission assesses these national plans through detailed country reports and issues Country-Specific Recommendations to guide further policy development. These recommendations are then formally adopted by the Council. The consistent, comparative and evidence-based nature of this cycle makes it possible to track developments over time, identify structural weaknesses, and encourage reform before

challenges escalate. Since 2021 the Semester has been closely linked with the Recovery and Resilience Facility (RRF). This integration was intended to ensure coherence between EU-level economic coordination and the implementation of national recovery plans following the COVID-19 crisis. While this shift has changed the internal dynamics of the process and brought in new actors, the European Semester has retained its core role of assessing how public policies contribute to EU-wide goals such as green and digital transitions, fiscal responsibility and social cohesion.

As pinpointed by Capati and Christiansen,[4] since 2016 the Commission has increasingly relied on the European Semester to address rule of law concerns. In both country reports and CSRs addressed to the Member States, it has made systematic reference to the quality of institutions, transparency, media freedom, political pluralism and respect for the primacy of EU law.

For civil society organisations the European Semester can offer important opportunities to engage with national and EU-level decision-making. The process provides access to a broad set of analytical documents, including country reports, Commission communications, and national reform plans, which CSOs can use to better understand government priorities, policy trajectories and areas of concern. These documents can serve not only as a reference point for advocacy, but also as an early warning tool for detecting potential risks to social rights, democratic standards or inclusion. The recurrent timeline of the Semester enables organisations to prepare inputs in advance, follow up on previous recommendations, and promote coherence between socio-economic reforms and rights-based policy objectives.

However, the actual ability of CSOs to engage meaningfully in the Semester process varies widely between Member States and depends above all on the political will of national authorities. Participation by social stakeholders – including civil society – is increasingly recognised as vital for ensuring the legitimacy and effectiveness of policy choices. Over the years, different forms of dialogue have emerged at the national level, with varying degrees of structure and formality. Some countries have developed consultation mechanisms or platforms that allow CSOs to contribute to the drafting of National Reform Programmes or provide feedback on Country-Specific Recommendations. Where these mechanisms are strong and inclusive they help ensure that reform priorities are informed by lived experience and grounded in social realities. But in many Member States engagement remains superficial or ad hoc.

The European Economic and Social Committee has emphasized that a resilient and inclusive Europe requires the systematic involvement of organised civil society. At its June 2023 conference the European Semester Group called for an EU regulation or directive to guarantee CSO participation and proposed a permanent EU investment mechanism to boost crisis preparedness.[5]

4 A. Capati, A. and T. Christiansen, "Enforcing the European Union's Rule of Law Through Economic Governance Mechanisms: The Role of the European Semester," in *EU Rule of Law Procedures at the Test Bench. Palgrave Studies in European Union Politics*, eds. C. Fasone, A. Dirri, A and Y. Guerra (Cham: Palgrave Macmillan, 2024).

5 https://www.eesc.europa.eu/en/news-media/press-releases/reform-european-semester-effective-participation-organised-civil-society-asks-eesc

However, ultimately, political will remains the decisive factor in determining whether civil society is meaningfully included in the Semester. Even where formal mechanisms exist, they are only as effective as the government's willingness to use them. To improve the situation, CSOs should monitor national timelines closely, build early contact with key ministries and Commission representatives and develop rapid-response systems for internal consultation and drafting. In the longer term, institutionalising civil society participation through binding legal frameworks or EU-level standards is essential to ensure inclusive, accountable, and socially responsive policymaking across the European Union.

This is particularly important given that the European Semester does not assess economic performance in isolation. It increasingly integrates a broader understanding of structural reforms – such as those improving justice systems – as essential to achieving sustainable growth, social cohesion and institutional resilience. In cases where shortcomings in national justice systems are found to have macroeconomic significance, Country-Specific Recommendations aimed at strengthening judicial efficiency, quality or independence may result. To support this process, the European Commission relies on a range of evidence sources, among which the EU Justice Scoreboard plays a central role.

What can practitioners do?

- Follow the timeline: track the Annual Growth Survey (autumn), Country Reports (spring), and Country-Specific Recommendations (summer).
  - European Semester timeline
- Engage nationally: connect with ministries drafting National Reform Programmes (NRPs).
  - NRPs – country documents
- Use Commission evidence: Country Reports can back advocacy on justice, governance, or rights.
  - Country Reports

II.1.1.3. The EU Justice Scoreboard

The EU Justice Scoreboard was originally introduced as part of a broader agenda to improve the investment climate in the aftermath of the Eurozone crisis and has steadily gained significance within the EU's rule of law framework. Its findings now feed directly into both the annual Rule of Law Report and the European Semester. When problems identified through the Scoreboard have macroeconomic or systemic relevance, they may result in targeted Country-Specific Recommendations.

Since 2013 the Scoreboard has provided an annual comparative overview of indicators related to the efficiency, quality and independence of national justice systems. The Scoreboard monitors critical aspects of judicial systems that can reveal structural weaknesses before they lead to breakdowns. Indicators on case duration, clearance rates and backlog of cases serve as warnings about declining efficiency. Data on training, digitalisation and access to legal aid reflect the system's quality. Perhaps most crucially, the Scoreboard examines both perceived and actual judicial independence to identify risks to institutional integrity. These include survey-based data on the public's and businesses' trust in judicial independence, as well as structural indicators such as the procedures for appointing and dismissing judges or safeguards against undue influence from the executive or legislative power.

While not legally binding, the Scoreboard plays a growing role in identifying early signs of systemic challenges. It helps EU institutions and Member States recognise where performance is declining or reform is needed to safeguard judicial functioning. In this way, it acts as a soft early warning mechanism – complementing more formal tools such as the Rule of Law Report.

The Scoreboard's early warning function is reinforced by the wide range of sources it draws upon. These include national justice ministries, judicial councils and European networks such as the Council of Europe's European Commission for the Efficiency of Justice (CEPEJ) and the European Judicial Training Network. The consistent use of harmonised indicators and long-term data series makes it possible to track trends over time and detect patterns before problems escalate.

For civil society organisations, the EU Justice Scoreboard can be a valuable resource to support early intervention and reform. Its open, regularly updated data enable international and local actors to identify areas where justice systems are under pressure and to advocate for improvements before access to justice is significantly impaired. CSOs can use the Justice Scoreboard data to monitor their country's performance, compare with peers and strengthen their arguments for reform in national consultations, advocacy campaigns or even litigation. It also provides a shared point of reference in dialogue with public authorities and EU institutions. While civil society does not directly contribute to the Scoreboard's datasets, its role is increasingly important. For civil society, the Scoreboard is not only a source of information, but a strategic tool to raise early concerns, promote transparent justice reforms, and defend the principles of independence, accessibility and fairness in judicial systems across the Union.

In this context, the EU Justice Scoreboard and similar monitoring tools provide valuable data-driven insights into the functioning of justice systems. However, safeguarding the rule of law requires more than monitoring mechanisms – it demands institutions capable of interpreting warning signs, identifying structural weaknesses and holding power to account. Independent oversight bodies fulfil this role within the EU's institutional landscape.

What can practitioners do?

- Draw on EU Justice Scoreboard indicators to monitor national performance, compare with other Member States and strengthen arguments in reports, campaigns or dialogues with authorities.
  - EU Justice Scoreboard – latest edition

II.1.2. Independent oversight bodies

Independent oversight bodies are key components of the European Union's institutional architecture for upholding democratic standards, transparency, human rights and the rule of law. While they do not possess enforcement powers in the traditional legal sense, they play a vital early warning role by monitoring institutional practices, identifying systemic risks and publicly addressing patterns of maladministration or rights-related concerns. These bodies operate across different branches of the EU system and can have an administrative or advisory role, yet they share a common function: to detect and flag problems before they develop into systemic violations or full-scale democratic deterioration. Their work often highlights issues that fall outside the scope of judicial review or formal legal processes but that nonetheless threaten the effective functioning of democracy and the protection of fundamental rights in the EU. This chapter explores the role of three such institutions in the EU's broader early warning landscape and the opportunities they offer for civil society engagement, namely: the European Ombudsman, the EU Agency for Fundamental Rights (FRA), and the European Parliament's Committee on Civil Liberties, Justice and Home Affairs (LIBE Committee or LIBE) together with LIBE Democracy, Rule of Law and Fundamental Rights Monitoring Group (DRFMG).

Table 2.
Summary of independent oversight bodies discussed in this chapter

Mechanism	Main purpose	Contribution to the protection of rights	Limits / weaknesses
European Ombudsman	Serves as an independent watchdog over EU institutions, addressing maladministration while also acting preventively by identifying structural weaknesses and fundamental rights risks before they escalate.	Responds to individual complaints about maladministration in EU institutions. In addition, it launches strategic and proactive inquiries, fast-tracks access-to-documents cases and issues recommendations that enhance fundamental rights safeguards.	Findings and recommendations are non-binding; relies on institutional cooperation and public pressure; mandate limited to EU institutions.

Fundamental Rights Agency	The European Union's principal agency for independent research and expertise on fundamental rights, tasked with collecting data, conducting analysis, and providing evidence-based policy advice.	Collects comparative evidence, monitors trends, issues annual Fundamental Rights Reports, provides opinions and guidance to EU institutions, supports rights integration into legislation and strategies. Works closely with CSOs through the Fundamental Rights Platform.	No enforcement powers; recommendations are advisory only; depends on cooperation of Member States for data and uptake of findings.
European Parliament – LIBE Committee and its working groups	The LIBE Committee is the Parliament's main body for shaping and overseeing legislation and policy on justice, fundamental rights, security, and the rule of law. It also functions as a political early warning mechanism, detecting democratic backsliding and systemic rights violations.	Holds hearings and consultations with civil society, conducts fact-finding missions in Member States, and monitors systemic threats to democracy, rule of law and fundamental rights	No direct enforcement powers; relies on influence over other EU institutions; effectiveness shaped by political will and party divides.

II.1.2.1. The European Ombudsman

The European Ombudsman is a unique independent oversight body that strengthens transparency, accountability and good administration within the EU institutions. Established by the Maastricht Treaty in 1992 and elected by the European Parliament, the Ombudsman's mandate covers all EU institutions, bodies, offices and agencies – with the exception of the CJEU acting in its judicial capacity. Any EU citizen, resident or organisation may submit a complaint to the Ombudsman, but it can also act independently to launch investigations when there are signs of broader, systemic concerns.

While it is often seen as a reactive mechanism responding to individual complaints, the Ombudsman's role has expanded significantly, e.g., into early warning territory. The office increasingly identifies structural weaknesses, transparency deficits and fundamental rights risks before they escalate into legal disputes or political crises. Each year the Ombudsman opens around 350 inquiries, many of which are based on complaints, although a growing number are initiated proactively. These strategic inquiries allow the Ombudsman to highlight problematic practices, seek clarification from institutions and issue recommendations for improvement

without needing to wait for formal complaints. This preventive function is particularly important in areas such as fundamental rights, institutional integrity and democratic accountability. For example, the Ombudsman launched a strategic inquiry into how Frontex ensures compliance with its fundamental rights obligations during search and rescue operations in the Mediterranean – prompted by both civil society concerns and public attention following tragic events like the 2023 Pylos shipwreck.[6] The Ombudsman's role in these cases is not to assign legal responsibility but to uncover gaps in institutional safeguards and initiate early institutional reflection and change. The Ombudsman can also be active in conducting inquiries linked to the management of EU funds, for instance in the context of the EU's migration policy or in the way the Commission monitors EU funds that are used to promote the rights of persons with disabilities.

The Ombudsman also has the ability to act through informal interventions, requesting clarifications, raising public interest concerns and making early recommendations, even without opening formal inquiries. These soft tools can be effective in prompting institutions to adjust problematic practices at an early stage. A notable example is the strategic inquiry into the transparency of Council decision-making, especially regarding legislative documents and Member State positions in preparatory bodies.[7] The Ombudsman found that insufficient transparency in these early law-making phases limits citizens' ability to follow and influence EU decision-making – a risk not only to democratic legitimacy, but to the accountability of national governments acting at the EU level. These findings and recommendations, although not binding, generate public pressure and are often echoed by the European Parliament and civil society actors.

Besides these competencies, in response to the frequent denial of access to EU documents, the Ombudsman also created a fast-track procedure, which allows for the quick resolution of complaints related to document transparency. This reflects the growing demand for timely access to institutional information and the Ombudsman's role in ensuring early and effective redress outside of lengthy judicial channels.

Civil society organisations play a vital role in both supporting and leveraging the work of the European Ombudsman. CSOs can submit individual or collective complaints on behalf of affected communities and they can provide crucial contextual information during ongoing investigations. Importantly, CSOs can also help bring attention to emerging issues by sharing evidence of structural problems – such as gaps in access to information, weaknesses in fundamental rights protections or risks of conflicts of interest – thus contributing to the Ombudsman's early detection efforts. Beyond contributing to investigations, CSOs can also use the Ombudsman's findings and reports as advocacy and accountability tools. Ombudsman inquiries often result in detailed recommendations and public conclusions that are useful for national and EU-level

6 https://www.ombudsman.europa.eu/en/decision/en/182665

7 https://www.ombudsman.europa.eu/en/case/en/49461

advocacy. These can strengthen calls for legislative reform, improved transparency and better institutional practices. A notable example is the 2025 complaint submitted by a coalition of eight NGOs, which challenged the European Commission's handling of the "Omnibus" simplification package. This package proposed reducing administrative burdens related to sustainability and investment rules, particularly for small and medium-sized enterprises. The groups argued that the Commission had failed to conduct proper public consultations and impact assessments. Their complaint prompted the European Ombudsman to launch an inquiry into potential maladministration, demonstrating how CSOs can activate institutional oversight mechanisms.[8]

While the European Ombudsman focuses on investigating and remedying maladministration within EU institutions, the European Union Agency for Fundamental Rights plays a different early warning role.

What can practitioners do?

- Submit complaints: CSOs and individuals can file complaints about maladministration in EU institutions (e.g., lack of transparency, access to documents, fundamental rights concerns).
  - Submit a complaint
- Follow ongoing inquiries and provide evidence: share contextual information, reports or case studies to support ongoing or strategic Ombudsman investigations.
  - Current inquires
- Use findings in advocacy: leverage Ombudsman reports, recommendations and inquiry conclusions to strengthen calls for reform, accountability or transparency.
  - Decisions and recommendations

II.1.2.2. Fundamental Rights Agency

The FRA is the Union's principal source of independent expertise on the state of fundamental rights in Europe. Created in 2007 and grounded in the Charter of Fundamental Rights of the European Union, FRA's role is to collect and analyse law and data, identify trends and offer practical, timely guidance to EU institutions and national governments. Thus, it works through systematic data collection, research, and advisory work to detect risks to fundamental rights across the EU before they escalate. Although it has no enforcement mandate, FRA functions as a structural early warning mechanism, providing insight into where and how rights are being strained – potentially even before those concerns become visible through litigation, political debate or media scrutiny.

8 https://corporatejustice.org/news/joint-press-release-scrutiny-over-omnibus-proposal-grows-as-eu-ombudsman-opens-inquiry-after-ngos-complaint/

FRA's early warning capacity stems from its broad research remit and its ability to generate comparable, longitudinal data across all Member States. Its work covers core areas of fundamental rights protection such as non-discrimination, access to justice, data protection, asylum and migration, children's rights and hate crime. Through large-scale surveys, legal mapping and socio-legal studies, FRA identifies gaps between legal commitments and lived realities. These findings are not just descriptive – they are geared toward supporting rights-compliant, forward-looking policy responses at both EU and national levels.

The agency's flagship Fundamental Rights Report, published annually, serves as an authoritative snapshot of the fundamental rights situation in the EU and is a key reference point in wider rule of law and policy debates. The report outlines key developments and emerging risks, often offering targeted opinions and recommendations to EU and national actors. These signals, while not binding, carry institutional weight and are frequently cited in European Parliament resolutions, national debates and CSO campaigns.

Beyond its research output, FRA plays a proactive role in ensuring that rights protection is integrated into EU policy development. It works directly with the European Commission, the Council and the European Parliament to advise on legislation, assess implementation gaps, and support the development of EU strategies such as the LGBTIQ Equality Strategy, the Roma Framework or the EU Strategy on the Rights of the Child. In doing so, it helps to ensure that risks to fundamental rights are addressed early and that policy solutions are grounded in empirical evidence rather than political rhetoric.

Crucially, civil society is not only a beneficiary of FRA's work, but an integral part of its early warning function. Through the Fundamental Rights Platform (FRP) – a formal network of CSOs – FRA maintains structured cooperation with hundreds of organisations working on fundamental rights-related issues across the EU. The platform allows FRA to gather information from the ground, test its findings against the lived experience of affected communities and refine its priorities based on real-world developments. It also allows CSOs to provide thematic input, propose areas for further research and share trends. For CSOs, engaging with FRA provides a strategic opportunity to elevate early signs of rights deterioration and ensure they are reflected in EU-level debates. Organisations can contribute to consultations, participate in surveys and thematic meetings and draw on FRA's data and tools to support their own national or regional advocacy. The agency's reports, legal opinions and comparative studies often strengthen shadow reporting, strategic litigation and awareness campaigns by providing robust, comparative evidence that is difficult for governments to dismiss.

In addition to its research and advisory work, FRA actively promotes the use of the Charter. For example, the CharterXchange initiative, launched in 2023, sees the agency organise an annual forum dedicated to the Charter, aimed at increasing exchange of knowledge and experience and fostering collaboration among experts, policymakers and stakeholders. FRA also develops

training resources and practical guidance for legal professionals, public authorities and rights defenders, helping to bridge the gap between the Charter's legal framework and its effective implementation across Member States.

What can practitioners do?

- Engage through the Fundamental Rights Platform (FRP): join FRA's network of civil society organisations to share information from the ground, contribute to consultations and influence FRA's priorities.
  - Fundamental Rights Platform (FRP)
- Use FRA's evidence in advocacy: draw on annual and thematic reports to support shadow reporting, litigation or campaigns.
  - FRA publications
- Leverage Charter-related tools: use FRA's resources on the Charter of Fundamental Rights of the European Union to support rights-based advocacy and training.
  - Charterpedia
  - CharterXchange forum

II.1.2.3. European Parliament – LIBE Committee and its working groups

In addition to expert-based mechanisms, the European Parliament plays a critical role in the EU's rule of law architecture as well. With regard to the detection of potential violations, the Parliament can raise awareness regarding systemic issues, notably through the adoption of resolutions on the protection of fundamental rights in the EU and abroad. It can also focus on specific concerns. Several committees - e.g., the Committee on Human Rights (DROI) and the Committee on Women's Rights and Gender Equality (FEMM) - monitor respect for fundamental rights. The European Parliament can also decide to establish temporary committees of inquiry that investigate "alleged contraventions or maladministration in the implementation of Union law, that may be linked to fundamental rights" protection. For example, following revelations that several EU governments used Pegasus spyware software against journalists, politicians, officials and other public figures, the European Parliament set up a Committee of Inquiry to investigate the use of Pegasus and equivalent surveillance spyware (PEGA).

Within the Parliament, the Committee on Civil Liberties, Justice and Home Affairs (LIBE) serves as the primary body responsible for shaping and overseeing legislation and policy in areas related to justice, fundamental rights, security and the rule of law. Through its legislative, fact-finding and monitoring functions, the LIBE Committee acts not only as a policymaker but also as a political early warning mechanism, capable of identifying democratic backsliding, calling out systemic rights violations and mobilizing the EU's political institutions in response. The following section focuses on its work and role.

LIBE Committee

LIBE's work is supported by several thematic working groups that oversee politically sensitive policy areas with rights implications. Currently, these include working groups on the Artificial Intelligence Act, the implementation of the Pact on Migration and Asylum, and Schengen and border governance. These working groups help the committee carry out ongoing scrutiny of complex policy fields where fundamental rights are often at stake. LIBE also plays a central role in legislative development. As the lead committee on key files affecting rights and freedoms – such as the European Media Freedom Act or the reform of the Common European Asylum System – LIBE participates in shaping the Union's legal frameworks on such sensitive topics and negotiates with the Council and the Commission.

Beyond its working groups, the broader LIBE Committee also serves as a key forum for ongoing dialogue with civil society. LIBE frequently organizes public hearings, stakeholder consultations and thematic debates that include the participation of CSOs from across the EU. These events give voice to rights defenders, legal experts, and affected communities, offering them a direct channel to influence EU-level policymaking. Whether debating asylum reform, digital surveillance or anti-discrimination law, LIBE integrates civil society expertise into its legislative deliberations, helping to ensure that EU rules reflect real-world needs and risks.

Fact-finding missions are another important component of LIBE's early warning function. These missions involve sending cross-party delegations of MEPs to Member States to assess the implementation of EU law and observe firsthand the state of the rule of law and fundamental rights. Meetings with civil society are an essential part of these missions. They provide MEPs with insights that go beyond official narratives and help them detect systemic patterns – such as pressure on independent institutions, misuse of public funds or shrinking civic space – that might not be visible at the EU institutional level yet.

While LIBE and its monitoring groups do not possess enforcement powers, their influence is significant. Their reports, resolutions, and public hearings shape the European Parliament's official stance and can trigger institutional responses from the Commission and the Council. In contexts where legal tools move slowly or where political will is fragmented, this parliamentary scrutiny serves as an essential pressure point, helping to spotlight urgent issues and keep them on the EU's agenda.

For civil society organisations, LIBE is both a venue and a partner. It provides a rare opportunity to speak directly to legislators, influence EU decision-making and contribute to a more accountable and fundamental rights-respecting European Union. By participating in hearings, briefing MEPs, submitting written evidence and engaging with fact-finding missions, CSOs help ensure that warning signs are detected early, understood in context and acted upon.

Democracy, Rule of Law and Fundamental Rights Monitoring Group

LIBE's early warning role is most clearly embodied in its Democracy, Rule of Law and Fundamental Rights Monitoring Group (DRFMG). This working group, established within the committee, was designed specifically to track and assess potential breaches of EU values within the EU Member States. It evolved from the Rule of Law Monitoring Group (ROLMG), which was set up in June 2018 following the murders of investigative journalists in Malta and Slovakia who were writing about corruption and threats to press freedom. In 2019 its mandate was expanded and formalized under the new name DRFMG, reflecting a broader focus on the interlinked dimensions of democracy, the rule of law and fundamental rights.

Building on its predecessor's work, the DRFMG has developed a toolkit of early warning actions and recommends targeted actions for the LIBE Committee. These include stakeholder meetings, public hearings and fact-finding missions as well as proposals for resolutions and reports. While the DRFMG does not directly carry out these actions, its recommendations guide the LIBE Committee's institutional responses to emerging threats to democracy, the rule of law,and fundamental rights in EU Member States. DRFMG can take action on specific situations if deemed necessary by a majority of its members, weighted according to the number of full members of their political group within the LIBE Committee. Its work in ensuring compliance with EU democratic principles and in maintaining the European Parliament's active role as an early warning actor within the Union's rule of law architecture remains crucial.

What can practitioners do?

- Engage with the LIBE Committee: CSOs can participate in public hearings, submit written contributions and contact LIBE coordinators on rights-related issues.
  - LIBE Committee webpage
  - DRFMG webpage

II.2. Political and Legal Enforcement Mechanisms

Table 3.

Summary of political and legal enforcement mechanisms discussed in this chapter

Mechanism	Main purpose	Contribution to the protection of rights	Limits / weaknesses
Article 7 procedure	Enables the EU to address the risk of a serious breach or to address and ultimately sanction the existence of a serious and persistent breach by a Member State of the EU's fundamental values, such as democracy, rule of law and human rights.	Allows the EU to address systemic or non-legislative threats to fundamental values of the EU, including human rights, by creating leverage for dialogue, preventive action through recommendations and potential sanctions, thereby filling gaps left by purely legal tools.	High voting thresholds that cause political deadlock; heavy dependence on political will, which allows Member States to shield each other and stall outcomes; a lack of intermediate sanctions; opaque and closed hearings; no formal role for civil society or experts.
Complaints, the EU Pilot and Infringement Procedures	Ensure that Member States comply with their obligations under EU law: complaints allow citizens and organisations to alert the Commission to potential breaches; the EU Pilot serves as a pre-infringement mechanism to facilitate swift resolution, e.g., of technical issues; and infringement procedures are formal legal actions that can compel Member States to align national laws and practices with EU law.	Allow early detection and reporting of breaches of EU law, including violations of provisions ensuring respect for fundamental rights; facilitate dialogue and fact-finding to resolve issues before escalation and provide the Commission with legal mechanisms to compel Member States to comply with EU law.	Discretionary follow-up of complaints; no direct redress for complainants; EU Pilot criticised for inefficiency and a chilling effect on enforcement; decline in the number of infringement procedures; challenges in addressing systemic breaches.

Conditionality and Financial Tools	Protect the EU budget and the EU's financial interests and ensure that EU Member States comply with human rights standards and anti-corruption requirements by linking access to EU funds to compliance.	Facilitate the effective application and implementation of the Charter of Fundamental Rights of the European Union; create incentives for Member States to address systemic violations.	Narrow focus of the Conditionality Regulation on financial interests; lack of transparency and dedicated "access points" for civil society; administrative complexity; milestones/remedial measures completed can be undermined by subsequent changes.

II.2.1. Article 7 Procedure

Article 7 of the Treaty on European Union provides for a procedure that the EU can use to address breaches or the risk of breaches by a Member State of the EU's fundamental values. These values are spelled out in Article 2 TEU:

The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail.

The Article 7 procedure has often been called the "nuclear option" and is considered a last resort, because it can ultimately result in the suspension of EU membership rights, including voting rights in the Council in cases in which a country seriously and persistently breaches the principles on which the EU is founded. However, its deployment in practice has shown that the procedure can easily fall victim to political deadlocks.

Article 7 TEU includes two procedures: one procedure that is considered preventive and another that can result in sanctions (the triggering of the latter not being conditional on the former).

As far as the preventive measures are concerned, Article 7(1) TEU can be triggered if there is "a clear risk of a serious breach by a Member State of the values referred to in Article 2". This starts off a dialogue between the EU institutions and the Member State to address concerns before the matter escalates. The procedure begins with a reasoned proposal made by one third of EU Member States, by the European Parliament or by the European Commission. The Council then obtains the European Parliament's consent. If four fifths of the Council's members vote in favour, the Council may then determine that there is a clear risk of a serious breach of the fundamental principles by a Member State. Before making such a determination, the Council shall hear the Member State in question and may address recommendations to it, acting in accordance with the same procedure.

Article 7(2) TEU comes into play in case of the "existence of a serious and persistent breach by a Member State of the values referred to in Article 2". In such an instance, Article 7(2) allows for stronger action than Article 7(1), including sanctions. This can involve suspending a Member State's voting rights in the Council, which can of course significantly weaken its influence within the EU. The procedure can be triggered by a proposal made by one third of EU Member States or by the Commission. The European Council then obtains the European Parliament's consent. Provided its members agree unanimously, the European Council may then determine that a Member State is seriously and persistently breaching the values of the EU. Should that happen, under Article 7(3) TEU the Council can decide to suspend some of the rights that derive from application of the treaties to the Member State in question, including its voting rights. That decision is taken by a qualified majority.

So far, only the Article 7(1) procedure has been deployed, against Poland and then against Hungary, but it has not led to a determination of a clear risk or recommendations in either of the two cases, due to factors such as the high thresholds set for decision-making.

Case Study – Hungary:

In September 2018 the European Parliament adopted a reasoned proposal that become known as the "Sargentini Report", calling on the Council to determine the existence of a clear risk of a serious breach by Hungary of the values on which the Union is founded.[9] The reasoned proposal listed a long variety of issues, ranging from the undermining of judicial independence to minority rights. In the past seven years the Council has held several hearings on the matter, yet it has not heeded the numerous calls to address recommendations to the Hungarian government, let alone determine the existence of a clear risk of a serious breach of EU founding values. Currently, the situation in Hungary in most of the areas covered by the Article 7(1) procedure has further deteriorated, and new rule of law and human rights challenges have emerged. That said, the procedure still being open is an important leverage point for civil society working on human rights, rule of law and anti-corruption.

9 European Parliament, "Resolution of 12 September 2018 on a proposal calling on the Council to determine, pursuant to Article 7(1) of the Treaty on European Union, the existence of a clear risk of a serious breach by Hungary of the values on which the Union is founded" (2017/2131(INL), Strasbourg, 12 September 2018) https://www.europarl.europa.eu/doceo/document/TA-8-2018-0340_EN.html

Case Study – Poland:

In the case of Poland, the procedure was triggered by the Commission in September 2017.[10] This procedure had a more targeted focus than the one regarding Hungary: the concerns raised related specifically to the lack of an independent and legitimate constitutional review and judicial independence, with the Commission highlighting that the legislative steps taken by the Polish authorities have shown a common pattern of systematically enabling the executive and legislative branches to politically interfere in the composition, powers, administration and functioning of the judicial branch. After several discussions on the state of play and six hearings at the General Affairs Council (the responsible Council configuration), the procedure ended in May 2024, after the change of government in Poland, when the Commission withdrew its reasoned proposal.[11] The Commission's decision was based on Poland's adoption of a clear programme in the form of an Action Plan to address concerns, the fact that Poland had taken the first concrete steps to implement the Action Plan and an acknowledgement by Poland that rule of law deficiencies need to be addressed.

The merit of the Article 7 procedure is that it has the potential to address systemic or non-legislative breaches of EU values – even those that other, more legally focused tools such as infringement procedures are less able or unable to address. However, problems with the procedure's design, for example the lack of nuanced sanctioning possibilities and the lack of transparency, undermine its effectiveness. Procedural rules are missing, the General Affairs Council meetings are closed (so much so that even a representative of the European Parliament, which triggered the procedure in relation to Hungary, cannot attend) and no comprehensive minutes or conclusions are published after the hearings. Experts, professional associations and civil society have no possibility to formally engage with the process, and so hearings cannot benefit from input from the ground, contextual information or expert opinions. However, given the formulation of Article 7 TEU, many of these shortcomings could be addressed without Treaty change. Moreover, despite these obstacles, Hungarian CSOs have repeatedly engaged with the process, e.g., in the form of publishing specific recommendations that ministers of other Member States should address to the Hungarian government at the Article 7 hearings.[12]

10 https://ec.europa.eu/commission/presscorner/detail/en/ip_17_5367

11 https://ec.europa.eu/commission/presscorner/detail/nl/ip_24_2461

12 See e.g.: https://helsinki.hu/wp-content/uploads/Hungary_potential_amendments_improving_RoL_30112020.pdf, https://helsinki.hu/en/wp-content/uploads/sites/2/2023/05/HU_Article7_CSO_recs_May2023.pdf.

What can practitioners do?

- Follow developments in Article 7 procedures concerning other Member States to inform and strengthen your own monitoring and advocacy efforts.
- If your country is subject to an Article 7 procedure, engage actively: collect evidence and report systematically on the developments in the areas covered by the procedure, supply contextual information and propose concrete recommendations that can help inform deliberations by Member States, in alignment with the timing of the General Affairs Council meetings.
  - Next meetings of the General Affairs Council
  - European Parliament resolution of 12 September 2018 on a proposal calling on the Council to determine, pursuant to Article 7(1) of the Treaty on European Union, the existence of a clear risk of a serious breach by Hungary of the values on which the Union is founded
  - European Parliament resolution of 15 September 2022 on the proposal for a Council decision determining, pursuant to Article 7(1) of the Treaty on European Union, the existence of a clear risk of a serious breach by Hungary of the values on which the Union is founded

II.2.2. Complaints, the EU Pilot and Infringement Procedures

If the Commission deems that a particular EU Member State has not fulfilled its obligations under EU law, it may launch an infringement procedure with the objective of aligning national laws and practices with EU law. Infringement procedures are legal actions taken by the Commission against EU countries that fail to implement EU law, i.e., they are launched due to specific violations of EU law, including when the country concerned fails to communicate measures that fully transpose the provisions of directives. Ultimately, the Commission may refer the issue to the Court of Justice of the European Union (CJEU), which can impose financial sanctions.[13]

Infringement procedures can also be triggered by complaints, which can be submitted by individual citizens acting autonomously and also on behalf of organisations, including professional associations, trade unions or CSOs.[14] Complaints can be a valuable source of information for the Commission to detect potential breaches of EU law by Member States, whether the breach be a failure to transpose a directive into national law in time or correctly, a failure to comply with a judgment of the CJEU or a failure to provide a redress procedure for breaches of EU law. Complaints do not lead to granting redress or compensation directly to the individual or the organisation concerned, but the information shared in the complaint can help the Commission rectify a general situation where EU law is applied incorrectly, benefiting many people and businesses in the country concerned.

13 See a summary of the steps of the procedure and its potential outcomes here: https://commission.europa.eu/law/application-eu-law/implementing-eu-law/infringement-procedure_en.

14 https://commission.europa.eu/about/contact/problems-and-complaints/complaints-about-breaches-eu-law-member-states/report-breach-eu-law-eu-country_en

Not all complaints are followed up though: the Commission enjoys a very wide discretionary power in deciding whether or not, and when, to start an infringement procedure, and reserves the right to pursue a strategic approach to enforcement[15] and focus on complaints with the largest potential impact on the interests of people and businesses generally.

The Commission follows a structured process for handling complaints.[16] First, submissions are screened to determine if they meet the criteria for a complaint. If they do not (because the matter is outside the Commission's competence, or the submission is a request for information) an explanation may be provided, or no reply given if the content is insulting or senseless. If the complaint concerns a potential breach of EU law by a national authority, it is registered and the complainant receives an acknowledgement with a registration number alongside details on the assessment process and personal data handling. The assessment is based mainly on the information provided in the complaint form, so clarity and completeness are essential. Additional information is requested only if the case shows sufficient signs of a serious breach. The Commission decides whether to investigate further or close the case in line with its enforcement strategy. Following assessment, the Commission may launch an infringement procedure, close the complaint or engage in an informal dialogue with the Member State concerned - a process known as the EU Pilot - instead of immediately opening an infringement procedure. Decisions are generally reached within a year. If closure is proposed, the complainant has four weeks to submit new evidence. Closure decisions are final and cannot be appealed.

For the purposes of this handbook, the role of the EU Pilot as a pre-infringement process shall be highlighted. According to the Commission, this tool "can be used where it is likely to lead to swifter compliance than a formal infringement procedure. It allows the Commission to resolve a number of cases without the need to move to an infringement procedure. This may be the case, for example, if the issues at stake are of a technical nature. It can also prove useful in cases where the Commission wishes to collect factual or legal information needed to carry out its assessment. It is not used where the breach of EU law is well-evidenced, obvious or self-acknowledged, nor is it used for more sensitive issues where discussions at technical level are less likely to lead to a successful outcome."[17] Thus, it can be argued that the EU Pilot functions as an early warning mechanism. However, "[p]olicies like EU Pilot generated widespread opposition amongst Commission officials who lamented their inefficiencies, the political interference they enabled, and their chilling effect on enforcement."[18]

15 European Commission, "Communication from the Commission – EU law: Better results through better application" (2017/C 18/02, Brussels, 19 January 2017).
https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.C_.2017.018.01.0010.01.ENG

16 For details, see the Annex ("Administrative procedures for the handling of relations with the complainant regarding the application of European Union law") to the policy paper *EU law: Better results through better application*.

17 https://commission.europa.eu/law/application-eu-law/implementing-eu-law_en#commission-investigates

18 R. D. Kelemen and T. Pavone, "Where Have the Guardians Gone? Law Enforcement and the Politics of Supranational Forbearance in the European Union," World Politics no. 4. (October 2023), 8.
https://ssrn.com/abstract=3994918

A few years ago it was reported that "the number of infringements launched by the Commission plummeted. Between 2004 and 2018, infringements opened by the Commission dropped by 67%, and infringements referred to the [CJEU] dropped by 87%."[19] Nevertheless, in the past years several infringement procedures have resulted in judgments by the CJEU that were crucial in the efforts to counter democratic backsliding, such as judgments concerning judicial independence or freedom of association. Enumerating these clearly exceeds the limits of this handbook, but a new approach by the Commission deserves to be highlighted. This concerns asking the CJEU to establish a self-standing infringement by a Member State of Article 2 TEU, as it did in the case of Hungary's infamous "Propaganda Law", which prohibits or restricts access to content that portrays or promotes "gender identities that do not correspond to the sex assigned at birth, sex reassignment or homosexuality". In her opinion delivered in the case in June 2025, Advocate General Ćapeta argued that LGBTI persons deserving equal respect is not open to contestation through dialogue, and by calling into question the equality of LGBTI persons Hungary is not demonstrating a disagreement or a divergence about the content of the values of the EU but instead has negated several of those fundamental values and, thus, has significantly deviated from the model of a constitutional democracy, reflected in Article 2 TEU. Therefore, the Advocate General agreed with the Commission that the Propaganda Law constitutes a self-standing infringement of Article 2.[20]

Thus, infringement procedures and complaints can play a vital role in safeguarding EU values, and civil society stakeholders can play an important role in this regard by flagging rule of law and fundamental problems early on in well-documented complaints submitted to the Commission.

What can practitioners do?

- Submit well-documented and strategic complaints to the Commission when you identify breaches of EU law: ensure that your submissions are clear, complete and supported by evidence; flag systemic issues early; focus on broader impact.
  - Submit a complaint
- Monitor the complaint process closely and respond promptly if asked for additional information.
- Use complaints strategically as part of wider advocacy; follow the infringement procedures once they have been launched.
  - Commission database on infringement decisions
  - Annual reports on monitoring the application of EU law

19 Ibid., p. 2.

20 See the press release of the CJEU at: https://curia.europa.eu/jcms/upload/docs/application/pdf/2025-06/cp250064en.pdf.

II.2.3. Conditionality and Financial Tools

As part of the reconsideration of the EU's role in addressing dissensus and in safeguarding rule of law in Member States, a new legal framework has been put in place, attached to the Union's multiannual financial framework, linking EU funds to compliance with EU values. As a result, the logic of conditionality is now a constitutive element of the upgraded legal framework governing the implementation of the 2021–2027 Multiannual Financial Framework. Member States only enjoy the benefits of receiving EU financial support if they meet certain rule of law and human rights conditions. These include the capability of national authorities to prevent, detect and prosecute corruption affecting the Union budget and the effective application and implementation of the Charter of Fundamental Rights while implementing projects under EU Cohesion Funds.

The upgraded conditionality regime is incorporated into three regulations:

(a) The Conditionality Regulation[21] is designed to protect the EU's financial interest in the event of breaches of the principles of the rule of law in a Member State that "affect or seriously risk affecting the sound financial management of the Union budget or the protection of the financial interests of the Union in a sufficiently direct way." It contains a definition of the rule of law for the purposes of the regulation and a non-exhaustive list of examples of breaches of the rule of law principles.

Should the European Commission establish that such a situation exists in a Member State, and should other procedures set out in Union law not allow it to protect the EU budget more effectively, it notifies the Member State, indicating the list of identified problems. The Member State may propose remedial measures in response to the "notification letter". If the Commission deems that the proposed measures do not adequately address the situation, it proposes proportionate measures to the Council in order to protect the EU budget, which can include the suspension of payments, a prohibition on entering into new commitments or the suspension of the approval of programmes, among others. The Council decides on the proposal by qualified majority. Thus, governments have the opportunity to remedy the problems identified before EU funds are "frozen".

(b) The Common Provisions Regulation (CPR)[22] lays down common financial rules applicable for eight EU funds under the Multiannual Financial Framework. It provides for the following four horizontal enabling conditions and associated fulfilment criteria that Member States shall meet when implementing their thematic national operational programmes: 1) Effective monitoring mechanisms of the public procurement market; 2) Tools and capacity for effective application of State aid rules; 3) Effective application and implementation of the Charter; 4) Implementation and application of the United Nations Convention on the rights of persons with disabilities (UNCRPD). With regard to three structural funds covered by the CPR, there are additional thematic enabling conditions which set out policy requirements.

21 Regulation (EU, Euratom) 2020/2092 on a general regime of conditionality for the protection of the Union budget

22 Regulation (EU) 2021/1060 laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the Just Transition Fund and the European Maritime, Fisheries and Aquaculture Fund and financial rules for those and for the Asylum, Migration and Integration Fund, the Internal Security Fund and the Instrument for Financial Support for Border Management and Visa Policy

National operational programmes are composed of a series of specific objectives. The Commission assesses compliance with the horizontal and thematic enabling conditions per specific objective and shall only execute payment requests where the horizontal and thematic enabling conditions for the specific objective concerned have been fully met.

(c) The Recovery and Resilience Facility Regulation (RRFR)[23] is the core element of the Next Generation EU plan, which aims to put the EU on a recovery track after the economic crisis induced by the COVID-19 pandemic. In order to access Recovery and Resilience Facility funds, Member States had to prepare national recovery and resilience plans, setting out milestones, targets and an indicative agenda for reforms and investments to be achieved pursuant to the main policy objectives prescribed by the RRFR. The regulation also prescribes that the Member States shall take all the appropriate measures to protect the financial interests of the EU and to ensure that the use of funds complies with applicable Union and national law, in particular regarding the prevention, detection and correction of fraud, corruption and conflicts of interests. Another requirement was that national recovery and resilience plans effectively address a "significant subset" of relevant country-specific challenges identified in the context of the European Semester.

Member States may submit requests for payments from the RRF to the Commission following the achievement of a set of milestones and targets set out in their national plan. The Commission examines whether these have indeed been met in a satisfactory manner.[24]

The three Regulations bring different assets to the EU's rule of law toolbox. The Conditionality Regulation provides one of the most powerful elements in the toolbox, as it is designed to initiate comprehensive corrective measures to protect the EU's financial interests from corruption and mismanagement. Notably, the European Commission also introduced a dedicated complaint form, with which anyone can notify the Commission of breaches of the principles of the rule of law falling under the Conditionality Regulation.[25] The CPR, by introducing the effective application and implementation of the Charter as a general criterion for eligibility to use a spectrum of EU funds, brings the Charter to the center of the rule of law conditionality regime. Furthermore, CSOs participating in EU fund monitoring committees on a national level now have the opportunity to propose and, in some cases, to test measures to strengthen newly established reporting systems for Charter violations in EU-funded projects. Finally, the RRFR opened new horizons in the implementation of rule of law-related country-specific recommendations under the European Semester.

23 European Parliament and the Council of the European Union, "Regulation 2021/241 establishing the Recovery and Resilience Facility" (L 57/17, 18 February 2021).

24 For more details on the RRF and rule of law, see: Pauline Thinus and Paul Dermine, 2024. "Financial oversight: internal and external control authorities," in eds. Federico Fabbrini and Christy A. Petit, *Research Handbook on Post-Pandemic EU Economic Governance and NGEU Law* (Cheltenham: Edward Elgar Publishing, 2024) 237-253.

25 https://commission.europa.eu/strategy-and-policy/eu-budget/protection-eu-budget/rule-law-conditionality-regulation_en#send-a-complaint

At the same time, structural and procedural weaknesses undermine the effectiveness of these mechanisms. The Conditionality Regulation's self-constraining focus on rule of law deficiencies in relation to the sound financial management of the EU's budget and financial interests limits its ability to address broader democratic backsliding. All three conditionality regimes suffer from a lack of transparency, limiting opportunities for engagement by key stakeholders, including citizens, academia, professional associations and civil society. This issue stems from gaps in the Regulations themselves and differing interpretations of sincere cooperation between EU institutions and Member States. There is a lack of accessible, country-specific information explaining the procedures, decisions, and consequences of conditionality measures. Further, the horizontal enabling condition requiring the effective implementation of the Charter is undermined by a lack of public awareness regarding their rights and available complaint mechanisms. Finally, the broad scope of policy areas covered by conditionality mechanisms and the involvement of multiple Commissioners and Directorates-General create administrative complexity. This fragmentation can lead to confusion over political and professional responsibility for enforcement and oversight.

These shortcomings and the lack of dedicated "access points" for civil society input severely hinder the channeling of experiences and evidence from the ground. Also, the opaque nature of decision-making increases the risk of political manipulation of related public discourse. However, despite the above concerns, conditionality mechanisms have proven to be one of the most effective tools to counter rule of law backsliding. The conditions and milestones prescribed in the framework of these mechanisms serve as important reference points and advocacy tools for domestic anti-corruption and human rights watchdogs.

Case Study – Hungary:

Hungary serves as a key case study in this regard, as to date it is the only Member State where all conditionality tools linked to EU funds have been activated to address persistent issues, including systemic corruption, the erosion of the independence of the judiciary and violations of various fundamental rights.[26] In the case of Hungary, all three conditionality mechanisms were deployed in parallel in 2022, mutually reinforcing each other's effects. Strengthening the independence of the judiciary was one of the main (super)milestones appearing across the mechanisms. The "freezing" of EU funds led to the most significant judicial reform of recent years, which, according to the Commission's assessment, led to the release of the (significant) respective funds in 2023. However, since then, new amendments have been adopted that undermine the positive results of the reform and cause regression in the area of judicial independence, showing the limitations of the mechanisms. Regarding anti-corruption measures, the implementation of the commitments undertaken under the mechanisms is far from being carried out at the right pace and lacks the ambition to achieve real results in the fight against corruption, undermining the effectiveness and long-term sustainability of the remedial measures. Finally, the concerns identified in relation to certain fundamental rights (academic freedom, the right to asylum and the principle of non-refoulement and the rights of LGBTQI+ persons) as obstacles to accessing certain EU funds have not been resolved. Accordingly, related funds remain frozen. Thus, even the joint deployment of the conditionality mechanisms has led to mixed results so far, showing the limitations of these mechanisms in politically hostile environments.

Case Study – Poland:

Another example to be cited is Poland, where access to RRF funding was also delayed due to rule of law concerns. The Polish national recovery and resilience plan also included "super milestones" which had to be completed before any payment following a payment request could take place. Two milestones were aimed at strengthening important aspects of the independence of the Polish judiciary, requiring the entry into force of a reform of the disciplinary regime for judges in accordance with EU law requirements. A third milestone committed Poland to use an IT tool that supports Member States' audit and control systems and which therefore ensures the necessary safeguards against fraud. In February 2024 the Commission found that Poland had satisfactorily reached these milestones.[27] A further example from Poland is the case of the infamous "LGBT-free zones": after a number of municipalities in Poland declared themselves "free of LGBT ideology" in 2019, the European Commission began withholding funds from them. The last "LGBT-free" zone was abolished in 2025.[28]

26 For an overview in this regard, see: Hungarian Helsinki Committee, "Strengths & Weaknesses of EU Conditionality Regimes – The Case of Hungary" (Budapest, 2024). https://redspinel.iee-ulb.eu/wp-content/uploads/sites/2/HHC-Policy-Brief-2.pdf.

27 For more details, see: https://ec.europa.eu/commission/presscorner/detail/en/qanda_24_1223.

28 See e.g.: https://www.euronews.com/2020/07/29/eu-funding-withheld-from-six-polish-towns-over-lgbtq-free-zones, https://www.hrw.org/news/2025/05/16/poland-ends-lgbt-free-zones.

What can practitioners do?

- Submit well-documented complaints through the dedicated conditionality mechanism form when breaches of rule of law or fundamental rights affecting EU funds are identified.
  - Complaint form (available in all EU languages)
  - Forms should be sent to: BUDG-CONDITIONALITY-REGIME-COMPLAINTS@ec.europa.eu
  - Guidelines on the application of the Conditionality Regulation
- Engage with monitoring committees overseeing the use of EU funds nationally: where possible, participate in the monitoring committees; or support their civil society members with input and information from the ground.
- Monitor EU-funded projects: actively track how your Member State implements national operational programmes and its Recovery and Resilience Plan to ensure compliance with the respective conditions.
- Leverage conditions: use the prescribed milestones, super milestones, targets and enabling conditions as reference points for advocacy, highlighting gaps between Member States' commitments and actual implementation.

II.3. Weaknesses and strengths of EU early warning mechanisms

Democratic backsliding within the European Union has moved beyond potential threat and become a defining political challenge. The erosion of liberal democratic standards, most notably in Hungary, subsequently in Poland and lately in Slovakia has placed significant pressure on the EU to operationalise its political, legal, financial and monitoring tools to protect its core values under Article 2 TEU. Among these, early warning mechanisms represent a structured attempt to identify and respond to backsliding at its early stages. The layered architecture has strengths but also contains important weaknesses, particularly when confronted with systematic efforts to dismantle the rule of law. Such developments demand not only principled but also swift and coordinated responses – both from domestic actors and from the EU institutions. This need becomes especially urgent in cases where national "guardians of democracy" have been neutralised or eliminated, leaving EU-level legal and institutional protection as the only remaining safeguard against rule of law blacksliding.

II.3.1. Weaknesses

Despite their broad scope, EU early warning mechanisms often fail to stop democratic backsliding in time. One of the main problems is that the EU usually reacts too slowly. These tools are meant to flag risks early, but in practice, they often respond only after serious damage has already been done. This is especially dangerous in countries where governments move quickly and deliberately to weaken the rule of law and dismantle democratic checks, as seen in Hungary, Poland, and more recently in Slovakia.

The structural weakness lies in the lack of coordination among existing EU-level monitoring and enforcement processes. As presented above, the EU and its institutions have developed a broad set of instruments and mechanisms related to democracy, rule of law and fundamental rights. However, these mechanisms are largely fragmented. Each major EU institution has developed its own approach to safeguarding Article 2 TEU values, with little overall coordination or institutional effort to produce a comprehensive assessment of compliance.

Another major weakness is political blockage. Article 7 TEU, the EU's core political mechanism for addressing serious breaches of EU values, has proven ineffective. Article 7(1) allows the Council to respond to a "clear risk of a serious breach" of EU values, and Article 7(2) allows for the determination of the "existence of a serious and persistent breach", after which sanctions may be introduced (including the infamous nuclear option to suspend the voting rights of a Member State) under Article 7(3). However, the procedure has never led to actual sanctions or even recommendations. This is due to several factors, including the extremely high thresholds set for decision-making, requiring a four-fifths majority in the Council under Article 7(1), and unanimity in the European Council under Article 7(2). This has raised serious doubts about the EU's capacity to deal with deliberate strategies to erode democracy and the rule of law.

Even when the EU does act, governments often respond with superficial reforms that formally meet EU conditions but do not lead to real change. Hungary is a clear example, where after adopting limited judicial reforms in 2023, the Commission found that Hungary met the respective horizontal enabling condition under the Charter and released €10.2 billion in cohesion funds, previously blocked due to deficiencies around judicial independence. Yet €6.3 billion remain frozen under the Conditionality Regulation, and many of the core concerns about judicial independence remain unresolved. In fact, since the decision to release the funds, new legislative amendments that undermine the positive results of the reform and cause regression have been adopted (with further amendments proposed). This cycle of minimal compliance to unlock EU resources – without meaningful systemic change – shows the limits of relying on technocratic conditionality in politically hostile environments.

The current enforcement framework is not only slow and politically constrained but also lacks coherence and a systemic approach. For example, while the European Commission's Rule of Law Report pinpoints rule of law concerns in Member States, the consequences of its findings and recommendations in terms of the triggering of other elements in the EU's rule of law toolbox remain opaque. Similarly, calls for so-called "systemic infringement actions" (that would bundle "a set of specific violations into a single general infringement action to show how a pattern of unlawful activity rises to the level of being a systemic violation"[29]) remain unanswered. A more

29 Kim Lane Scheppele, Dimitry Vladimirovich Kochenov and Barbara Grabowska-Moroz, "EU Values Are Law, after All: Enforcing EU Values through Systemic Infringement Actions by the European Commission and the Member States of the European Union," *Yearbook of European Law* Volume 39 (2020), 3–121. https://doi.org/10.1093/yel/yeaa012

principled approach to upholding the values set out in Article 2 TEU is needed – one that respects national identity and subsidiarity as required by Article 4(2) TEU, but does not allow these principles to be instrumentalised to justify democratic erosion.[30]

Crucially, the possibility of involvement for civil society remains fragmented as well. While certain mechanisms, such as the European Commission's Annual Rule of Law Report, ensure structured engagement with civil society, other mechanisms remain completely non-transparent and inaccessible for civil society actors.

Hungary may have been the first Member State to follow this path, but similar tactics have since been taken up by Poland and, more recently, by Slovakia. These are not isolated cases. They reflect a broader pattern where elected governments systematically hollow out democratic checks and balances from within. The challenge the EU faces is no longer limited to isolated breaches of values, but to sustained, strategic democratic backsliding. That is why it is just as important to think about prevention and early response mechanisms at the EU level as at the national level. Democratic resilience requires that civil society organisations, legal practitioners, journalists and active citizens know the warning signs and be aware of the tools they can use, whether at the domestic or EU level. Coordinated action and awareness, before institutional breakdown becomes irreversible, are essential in any serious strategy to protect democracy in the EU.

II.3.2. Strengths

The EU's response to democratic backsliding has been following a multi-layered approach; its early warning mechanisms do have notable strengths – especially when multiple instruments are used together. Legal, political and financial and conditionality mechanisms, together with monitoring and assessment mechanisms, can operate in parallel, offering various points of pressure.

One major improvement in recent years has been the growing use of financial conditionality. Through both the Conditionality Regulation, the Common Provisions Regulation and the RRF, the EU now links access to funds with respect for core values. These tools have added real leverage to what were previously mostly political or reputational processes. In Hungary, billions in cohesion funds remain frozen due to persistent rule of law concerns, and Poland's access to RRF funding was also delayed until concrete steps were taken on judicial reform. These financial tools have made the costs of democratic decline more tangible. Importantly, civil society organisations and legal practitioners have played a key role in operationalising these mechanisms. They contribute by submitting complaints, providing legal analysis, and engaging in advocacy to ensure that rule

30 C. Hillion, "Overseeing the Rule of Law in the European Union: Legal Mandate and Means" in *Reinforcing Rule of Law Oversight in the European Union*, eds. C. Closa and D. Kochenov (Cambridge: Cambridge University Press, 2016) 59-75.

of law deficiencies are documented and trigger EU action. In Hungary and Poland such inputs have helped to bring attention to systemic problems in areas like judicial independence, public procurement and anti-corruption safeguards – ensuring that financial conditionality tools are not only available visibly, but effectively used.

Another important development is the evolving role of the European Commission's Annual Rule of Law Report, with its stakeholder consultation open for a variety of actors to provide input. Although initially criticised for being too descriptive, since 2022 the Commission has issued specific country-by-country recommendations as part of the Rule of Law Report, giving the mechanism more practical weight. In several Member States, including Poland, these recommendations have become important reference points in public debates and reform processes.

Infringement procedures initiated by the European Commission have proven effective as well. Unlike Article 7 TEU, infringement proceedings do not require political consensus among Member States. They can be deployed as a top-down mechanism in even highly politicised contexts and have the advantage that they allow Member States to resolve the disputes without the issue necessarily reaching the CJEU. Crucially, civil society stakeholders can play an important role in this process by flagging systemic problems early on and submitting well-documented complaints to the Commission, even before certain issues gain political or institutional traction.

The EU's early warning framework was originally designed to function as a complement to national-level checks and balances, assuming that domestic institutions would remain the primary guardians of democracy and the rule of law. But in cases of systemic backsliding, these national mechanisms have been weakened or captured, making EU-level intervention not just supportive but essential. Yet the EU is still not fully equipped – politically, legally or institutionally – to act as the last line of defence when domestic safeguards fail. Early warning tools often activate too late, remain overly fragmented and lack the enforcement power needed in entrenched autocratising contexts. If the EU is to meet the challenge of sustained democratic erosion within its own borders it must move beyond a reactive and complementary approach toward a more autonomous, coordinated and assertive early warning system – one that is capable of identifying threats early and responding effectively even when national institutions no longer can.

II.4. Conclusions on civil society involvement

Civil society plays a pivotal role in the EU's early warning framework for safeguarding democracy, the rule of law and fundamental rights. While the EU's mechanisms – ranging from recurring monitoring tools to Article 7 TEU and infringement procedures to financial conditionality – provide structured avenues for identifying and responding to risks, their effectiveness often hinges on timely, credible and context-specific information from actors on the ground. Civil society organisations, grassroot movements, journalists and legal practitioners are uniquely positioned to detect early signs of backsliding and document violations and channel this evidence into EU-level processes.

Engagement can take many forms, including: submitting well-documented complaints to the European Commission to trigger infringement action; contributing data and analysis to the European Commission's Annual Rule of Law Report; briefing members of the European Parliament, for example through LIBE hearings or fact-finding missions; using conditionality complaint mechanisms to flag breaches affecting EU funds; and submitting complaints in case the horizontal enabling condition of the effective implementation of the Charter is not met in relation to EU-funded programmes. By framing national developments within the broader language of EU values and obligations CSOs can help ensure that local issues are recognised as systemic risks.

However, several challenges persist. Some mechanisms, like the Article 7 procedure, remain opaque and closed to direct civil society participation. Others demand significant technical expertise and sustained engagement that smaller organisations may struggle to maintain. Political resistance at the national level can create risks for those providing evidence, while at the EU level slow responses or fragmented follow-up can diminish trust in the utility of engagement. The lack of transparency in certain procedures further limits the ability of CSOs to monitor progress or hold institutions accountable.

To overcome these barriers civil society actors must invest in coalition-building, strategic communication and long-term advocacy, all while pressing for more open, coordinated and responsive EU mechanisms. When institutional tools and civic vigilance work in tandem, early warning can become early action – preserving democratic resilience before it is too late.

III. EARLY WARNING MECHANISMS AT THE NATIONAL LEVEL

III.1. General Overview of National Early Warning Mechanisms

III.1.1. What are Early Warning Mechanisms?

Early warning mechanisms are institutional or informal systems designed to identify emerging threats to fundamental rights, democracy and the rule of law before they escalate into systemic violations. In the context of protecting the Charter, national early warning mechanisms play a preventive and corrective role by enabling timely responses to emerging risks of systemic fundamental rights violations, such as discrimination, erosion of judicial independence and misinformation through the media.

Early warning mechanisms typically:

- Monitor developments in law, policy making and its implementation;
- Allow rights-holders or intermediaries to raise alerts;
- Generate credible, evidence-based reports or complaints;
- Channel information to authorities empowered to act, and;
- Encourage reform through pressure or dialogue.

Early warning mechanisms refer to non-judicial processes that can be activated before or parallel to litigation. The effectiveness of these mechanisms depends on institutional independence, public trust and structured cooperation between state and non-state actors.

The EU's early warning framework was originally designed to operate in complementarity with national-level safeguards, reflecting the assumption that domestic institutions would remain the primary guardians of democracy and the rule of law. In addition, while EU-level mechanisms are tasked with providing supranational oversight, national mechanisms are often better positioned to identify and address violations that fall outside the scope of EU law. In practice, however, this division of roles is increasingly strained. Finally, it should be stressed, as noted in the general introduction, that this section does not offer a comprehensive mapping of all mechanisms existing across Member States.

III.1.2. Categories and Functions of National Early Warning Mechanisms

III.1.2.1. State Actors

a. Government Bodies and Administrative Agencies

Government bodies and administrative agencies are public institutions established by the state to carry out specific functions of governance, policy implementation, regulation, oversight or public service delivery. They operate at various levels (national, regional or local) and are typically part of the executive branch of government, though they may have varying degrees of independence.

These actors may not always be designed for fundamental rights oversight but can act as early warning mechanisms when they monitor threats, issue alerts or influence policy. For example, in Poland the Ministry of Digital Affairs promotes media literacy and counter-disinformation, enhancing societal resilience. The Government Centre for Security (RCB) monitors hybrid threats to media security, including disinformation, while the Internal Security Agency (ABW) investigates foreign information warfare and influence operations.

b. Independent Oversight Bodies

Independent oversight bodies are public institutions established by law to monitor, evaluate and enforce compliance with legal standards in specific areas of governance, operating autonomously from political or executive control. Their core function is to hold government bodies and private actors accountable, particularly in areas affecting fundamental rights, the rule of law and public interest. Specialized administrative bodies such as advertising standards agencies and anti-corruption task forces can identify rights-related risks within specific sectors (e.g., media, procurement, AI systems). Independence and a clear mandate are essential for their effectiveness. These bodies may issue binding decisions (e.g., fines, injunctions) or

provide expert recommendations and reports. An example of independent oversight bodies is the Dutch Advertising Code Committee (ACC), which flags misleading environmental claims and greenwashing.

c. National Human Rights Institutions

NHRIs are independent public bodies established by law or even the constitution in a given country to promote and protect human rights at the national level. They operate as non-judicial oversight institutions, bridging the gap between the state and civil society, and between national and international human rights systems.

NHRIs have a variety of functions. One of their primary responsibilities is monitoring, which involves reviewing legislation, policies and practices to ensure compliance with human rights standards. In addition, NHRIs serve an advisory role by providing recommendations to parliament and government on how to improve laws and policies. They may also submit opinions on draft legislation or proposed legal reforms, helping shape the legal landscape in favor of human rights. Another essential function of NHRIs is handling complaints. They receive and investigate allegations of rights violations. Depending on their mandate, they may mediate disputes or refer cases for legal action. NHRIs also engage in human rights education, actively raising awareness through campaigns, training and public outreach efforts that aim to inform the community about their rights and how to advocate for them. Finally, NHRIs maintain engagement with international bodies by contributing to the monitoring processes of the various bodies of the United Nations, the Council of Europe and the European Union.

The Paris Principles adopted by the UN General Assembly in 1993 establish the essential standards for NHRIs. These principles stipulate that NHRIs must (i) function independently from government, both in terms of legal framework and practical operations, (ii) have a comprehensive mandate to safeguard all human rights, (iii) be adequately resourced and embody pluralism, (iv) be accessible to the public and have the authority to investigate complaints, and (v) operate upon a clearly defined legal foundation, typically outlined in a constitution or statute.

When adequately funded and politically independent, NHRIs can provide a valuable contribution to the early detection and prevention of systemic fundamental rights violations.

d. Consultative Bodies

Consultative bodies are formal or informal institutional mechanisms that allow stakeholders – especially civil society, experts or community representatives – to participate in policymaking, oversight or implementation processes by providing input, feedback or monitoring. Their decisions or recommendations are generally advisory and not enforceable, but they carry moral and political weight. These forums are most effective when participants have agenda-setting power,

access to data and procedural rights. These bodies can detect and raise awareness of systemic risks before they escalate (e.g., discrimination, regulatory gaps, civic space restrictions). An example of such consultative bodies is the Polish Forum Against Disinformation, which fosters coordinated responses to online misinformation.

III.1.2.2. Non-State Mechanisms

a. Media and Fact-Checking Organisations

Media outlets and fact-checkers can play a critical role as early warning mechanisms by detecting and exposing emerging threats to democracy, the rule of law and fundamental rights, often well before formal institutions respond. They are often the first to identify coordinated disinformation campaigns that target vulnerable communities and challenge democratic processes. Moreover, independent journalism uncovers systemic issues such as misuse of public funds, human rights abuses and undue political influence that might otherwise go unnoticed. These indicators of democratic backsliding can mobilize civil society and attract international attention, pushing for accountability and corrective action.

The capacity of these organisations to monitor public discourse, investigate abuses and inform the public makes them key non-state actors in safeguarding the values enshrined in the Charter. However, for media and fact-checkers to remain effective, they require editorial independence, access to information and financial sustainability, which cannot be taken for granted in many EU Member States. Good examples of such early warning mechanisms from Poland are the CEDMO (Central European Digital Media Observatory), which monitors disinformation using AI tools, and fact-checking platforms like Demagog and OKO.press that expose misinformation and alert the public and EU institutions.

b. Civil Society Organisations and their Networks

CSOs have a significant role as early warning mechanisms in the realms of human rights, democracy and the rule of law. Serving as watchdogs, advocates and community representatives, CSOs are uniquely positioned to identify and respond to threats to the Charter at both national and EU levels.

CSOs encompass diverse entities, including human rights NGOs, advocacy groups, trade unions, community-based organisations and academic institutions. They are often the first to monitor and document systemic rights violations, leveraging direct contact with affected individuals to gather evidence of issues like discrimination, police misconduct and barriers to essential services. Through shadow reporting CSOs provide alternative assessments of government actions to EU institutions and international bodies, highlighting risks before they escalate. This approach allows them to raise alerts faster than state institutions.

Coalition-building further enhances their effectiveness: by coordinating across networks, CSOs can amplify their reach and share resources for fact-finding and advocacy. They can quickly respond to dangerous legislative proposals or attacks on journalists and activists, organizing public protests or engaging with EU representatives to push for action.

Despite their critical role, CSOs face significant challenges, including legal harassment, political stigmatization, funding cuts and exclusion from decision-making processes. Overcoming these barriers is essential for maintaining their ability to function as effective early warning mechanisms in the protection of fundamental rights and democratic values.

III.2. Conclusions: shortcomings and recommendations

National early warning mechanisms, whether operated by state or non-state actors, form an essential part of the preventive framework for safeguarding fundamental rights and the rule of law. Their value lies in the ability to detect early signs of risk, mobilize timely responses and channel credible information to those with the authority and capacity to act.

However, as shown by the inputs provided by project partners (see annex), in practice, these mechanisms often face structural and operational shortcomings that limit their effectiveness. Many operate in isolation, with mandates that are too narrow or insufficiently used. Coordination between state and non-state actors is often weak or ad hoc, resulting in duplication of effort or gaps in coverage. Institutional independence is sometimes compromised by political interference, while resource constraints undermine sustained monitoring and rapid response capacity. Complex institutional landscapes, overlapping competences and unclear points of contact make it harder for rights-holders to access help, while thematic areas such as disinformation or climate-related risks are often addressed in a reactive rather than proactive manner.

To address these gaps, various reforms are needed. Institutional independence and predictable, adequate funding should be safeguarded to ensure credibility and operational capacity. Clear legal mandates, transparent protocols and defined escalation pathways must be established to guide how alerts are identified, verified and acted upon. Cooperation between state and non-state actors should be formalized through structured information-sharing and joint action platforms. Accessibility for rights-holders should be improved by simplifying institutional landscapes, clarifying competences and providing user-friendly points of entry. Finally, thematic expertise, whether on digital rights, anti-corruption, climate risks or equality, should be integrated into existing structures to strengthen preventive capacity without creating unnecessary fragmentation.

A national early warning framework built on these principles – independent, well-resourced, coordinated, accessible and thematically informed – can move from reactive crisis response to proactive prevention, ensuring that early signs of systemic threats translate into timely, credible and rights-based action.

ANNEXES

ANNEX I. Early warning mechanisms on rule of law violations in Hungary

In Hungary there are several mechanisms that address specific aspects of the rule of law. These include long-established institutions and also bodies that have emerged in recent years in response to EU pressure, including new anti-corruption bodies and restructured EU funds monitoring committees. While these can theoretically flag risks, their effectiveness is limited by institutional capture and dysfunction. Due to the systemic deficiencies of state bodies, non-state actors, especially independent civil society organisations and their coalitions, play a crucial role in identifying risks, documenting abuses and advocating for accountability.

State actors

Monitoring committees

One institutional structure in Hungary with potential early warning capacity consists of the monitoring committees overseeing EU funds under the 2021–2027 Multiannual Financial Framework (MFF). In 2023, in response to criticism regarding civil society's non-transparent involvement, the Hungarian government restructured these committees to include at least one independent non-governmental actor per committee, selected through an open call. This reform aimed to enhance participatory oversight, allowing independent organisations to raise concerns about compliance and misuse of funds.

However, serious structural deficiencies hinder these committees from serving as effective early warning mechanisms. Civil society members receive limited materials and the effectiveness of their participation varies by committee. Operational opacity remains a significant issue: complaint mechanisms are unclear and follow-ups on civil society contributions are often absent. Additionally, limited resources impede monitoring activities, as compensation for independent members is symbolic, affecting participation and scrutiny levels. Despite these challenges, the committees represent one of the few avenues for independent actors to address rule of law risks, relying on the integrity of civil society organisations and continued EU pressure to uphold oversight roles.

Civil society participation in monitoring committees demonstrates promising practices despite structural challenges. Civil actors can contribute to agenda-setting, receive timely information and sometimes vote on issues, fostering visibility and a modest influence that can halt problematic projects. Their role provides an important oversight function, as their presence encourages caution among decision-makers and highlights accountability deficits. While major breakthroughs are rare, tangible results are possible under favorable conditions, especially regarding technical issues or documented Charter violations. On-site monitoring visits enhance oversight quality by allowing committee members to evaluate EU-funded projects in their real-world contexts.

Furthermore, civil society actors have increasingly coordinated responses, as seen in 2024 when they united against politically motivated investigations by the Sovereignty Protection Office into critical CSOs. This collective action underscores their active role in defending democratic standards and positions them as engaged watchdogs within the EU funding framework.

Ombudsperson

Once seen as a crucial safeguard for fundamental rights, the Ombudsperson, i.e., the Commissioner for Fundamental Rights, has the potential to highlight systemic issues and respond to individual complaints. However, in recent years the Ombudsperson has been failing to address serious concerns such as rights violations affecting vulnerable groups and threats to media pluralism, civil society and judicial independence. This inaction has led to the office's downgrade to a "B" status as Hungary's national human rights institution by the Global Alliance of National Human Rights Institutions (GANHRI) in 2022, indicating a failure to meet international standards. The Ombudsperson's failure to fulfill its mandate to effectively promote and protect all human rights has severely diminished the level of human rights protection in Hungary and has created a significant gap in the ability to counter rule of law backsliding.

Human Rights Working Group and its Human Rights Roundtable

The establishment of the Human Rights Working Group by the Hungarian government in 2012 was a significant step towards engaging civil society in human rights dialogue. This body, composed of government representatives, was tasked with monitoring the enforcement of human rights in Hungary, including following up on UN Universal Periodic Review recommendations, while consulting with CSOs, interest groups, professional organisations and state bodies. The Working Group had the potential to serve as an early warning mechanism for human rights issues. A key element of the Working Group is the Human Rights Roundtable, where civil society members and professional organisations convene to discuss human rights developments and formulate recommendations. Civil society members are selected via an open call; members collaborate in thematic subgroups to address current issues and draft proposals for decision makers.

However, the effectiveness of both the Working Group and the Roundtable has been compromised. Initial cooperation was hindered by tension between government representatives and CSOs, unrealistic consultation timelines and inadequate engagement of CSOs on legislative matters. These challenges, combined with a hostile environment for civil society, led to the withdrawal of various CSOs from the Human Rights Roundtable. In an effective rule of law protection system, such a forum could be essential for integrating civil society input into policymaking, but the realisation of its potential requires genuine political will.

Anti-Corruption Task Force

The Anti-Corruption Task Force (ACTF) was established in 2022 to guarantee Hungary's compliance with the EU's Conditionality Regulation and RRF milestones. It comprises representatives from ten state bodies and ten CSOs, with the Integrity Authority's president as chair (with the latter authority also created to comply with EU requirements). Civil society members, including Transparency International Hungary and Átlátszó, were selected through an independent vetting process. Their involvement brings expertise but also risks for them, as seen in 2024 when both organisations faced politically motivated investigations by the Sovereignty Protection Office, which monitors "foreign influence" without legal safeguards.

The ACTF's primary role is to produce an annual report by March each year, assessing anti-corruption measures and proposing reforms to reduce risks and sanction misconduct. However, in 2025 the ACTF failed to approve its annual report by the deadline due to significant disagreements between civil society and governmental members, leaving it without an officially adopted report for the year 2024. The ACTF's effectiveness is limited: it lacks enforcement power and depends on the cooperation of state actors who often lack the political will to combat corruption. Several involved bodies, such as the Public Procurement Authority, have faced criticism for selective enforcement and political bias.

Non-state actors

Civil society organisations

In Hungary CSOs play a crucial role in upholding the rule of law and act as informal early warning mechanisms in the face of democratic backsliding. As institutional checks and balances have weakened and governmental oversight bodies have been politicized or stripped of independence, CSOs have increasingly filled the void by monitoring, documenting, and publicly reporting on legal and political developments that threaten fundamental rights and democratic standards. Their activities go beyond classic litigation: they produce independent legal analyses, submit shadow reports to international bodies and conduct data-driven monitoring of public authorities.

Since 2020 several Hungarian CSOs have been submitting joint contributions to the European Commission's annual Rule of Law Report. These reports aim to provide a detailed, independent assessment of the rule of law situation in Hungary, focusing on judicial independence, corruption, media freedom and civic space. By drawing on direct monitoring and legal analysis, these CSO submissions offer a comprehensive overview of legal and institutional changes, demonstrating a unified civil society response to democratic backsliding and acting as an early warning tool for EU institutions and international stakeholders.

Network of civil society organisations

Civilizáció was established in 2017 as an informal network of over 30 Hungarian civil society organisations in response to shrinking civic space and the government's anti-NGO rhetoric, exemplified by the law that stigmatised certain CSOs as "foreign-funded". The coalition emerged through joint protests, press conferences and public advocacy, including research on public perceptions of CSOs in Hungary. Its primary aims are to strengthen civil society via joint advocacy, promote resilience through shared strategies and enhance public support for civil society. Civilizáció acts as a grassroots mechanism to alert the public and international community about threats to fundamental freedoms through coordinated campaigns and policy recommendations. Despite challenges like limited institutional power and a politically hostile environment, the coalition remains essential in defending democratic norms and advocating for the protection and strengthening of civil society in Hungary.

In 2021 Civilizáció and its member organisations developed "Civil Minimum 2022", a strategic proposal outlining the conditions necessary for a healthy, strong and diverse civil sector. The proposal was created in response to the opposition parties' program, which lacked attention to civil society issues. "Civil Minimum 2022" includes recommendations such as establishing donor foundations to support CSOs, ensuring meaningful civil society participation in EU funding monitoring committees and promoting open governance.

Shortcomings and recommendations

Restoring institutional independence and ensuring effective coordination are crucial to strengthening Hungary's early warning mechanisms, especially those involving state actors. The independence of the Commissioner for Human Rights should be restored such that it can effectively serve as a reliable advocate for fundamental rights. Institutions such as the Integrity Authority and the Anti-Corruption Task Force – created in response to EU obligations – should not merely operate to fulfill basic compliance with EU standards. Instead, they need to be equipped and empowered to function as genuinely effective and independent safeguards against corruption.

Civil society's involvement in monitoring committees for EU funding should be expanded to guarantee consistent oversight. Furthermore, the Sovereignty Protection Office should be dismantled, as its politically motivated actions against civil society discourage non-state actors from participating effectively in early warning mechanisms. These reforms are essential to ensure that alerts regarding rights violations or democratic backsliding result in meaningful institutional responses.

ANNEX II. Early warning mechanisms on media disinformation in Poland

Poland's legal strategy for combating disinformation is primarily integrated into its broader cybersecurity and national security frameworks. The Act on the National Cybersecurity System, adopted in 2018, lays the groundwork for protecting the country's digital infrastructure and includes provisions that can be utilized to tackle certain aspects of disinformation, particularly those that threaten national security. However, this act does not specifically establish or mandate an early warning system to address media misinformation.

Furthermore, Poland has aligned itself with European Union initiatives such as the EU's Code of Practice on Disinformation and the Digital Services Act. These initiatives aim to enhance transparency and accountability among digital platforms by encouraging monitoring and reporting of disinformation. However, they do not create a national early warning mechanism.

State actors

Several state institutions play roles in monitoring and responding to disinformation:

Ministry of Digital Affairs

Responsible for overseeing digital policy, this ministry has been involved in initiatives to enhance media literacy and promote responsible online behavior. The Ministry of Digital Affairs has supported digital literacy and "safe internet" campaigns targeting young users and educators. Although not framed explicitly as early warning systems, these efforts build long-term societal resilience by equipping citizens with the skills to detect and resist misinformation, contributing to bottom-up early identification and prevention.

Government Centre for Security (RCB)

While primarily focused on crisis management, the RCB monitors threats that may include disinformation campaigns, especially those that could impact public safety. One notable practice is the monitoring of hybrid threats, especially in periods of heightened risk, such as elections or geopolitical crises. The RCB has issued alerts regarding disinformation campaigns and has participated in cross-ministerial coordination to identify vulnerabilities in Poland's information space. This contributes indirectly to an early warning function, particularly regarding threats from foreign actors such as Russia.

Internal Security Agency (ABW)

Tasked with protecting Poland's internal security, the ABW investigates and counters foreign influence operations, including disinformation efforts by hostile state actors.

Non-state actors

Non-state actors, including civil society organisations, academic institutions and media outlets, have taken proactive steps to address misinformation:

Forum Against Disinformation

This coalition of experts and organisations has developed recommendations for systemic approaches to counter disinformation, emphasizing the need for coordinated strategies involving both state and non-state actors.

Central European Digital Media Observatory (CEDMO)

CEDMO, co-led by Polish academic institutions and funded by the EU, conducts research on disinformation dynamics and tests early detection methodologies, such as AI-supported content monitoring. It also fosters dialogue between media, regulators and tech platforms. Its work enables evidence-based policymaking and links Polish practices to a broader European context.

Fact-checking organisations

Entities like Demagog and OKO.press actively debunk false information circulating in the media, contributing to public awareness and resilience against misinformation. These organisations often collaborate with international partners and participate in EU-funded projects aimed at enhancing media literacy and countering disinformation.

Demagog, Poland's first and largest fact-checking organisation, plays a crucial role in identifying misinformation circulating in traditional and social media. It uses a structured verification methodology and publicly explains its ratings, enabling journalists and citizens to better understand misinformation techniques. Demagog's partnerships with Facebook and other platforms also allow for timely corrections of viral disinformation.

OKO.press combines watchdog journalism with real-time analysis of disinformation trends, particularly those targeting marginalized communities or undermining democratic institutions. Through its multilingual reporting and use of data visualization, OKO.press helps expose coordinated media narratives, thus indirectly contributing to an early warning function for civil society and EU observers.

Shortcomings and recommendations

While there are practices in place to monitor and respond to disinformation, they are not part of a formal early warning system. For instance, during election periods the government has launched information campaigns to educate the public about recognizing and reporting fake news. However, these efforts are typically ad hoc and lack the permanence and structure of an institutionalized early warning mechanism.

The absence of a dedicated early warning system means that responses to media misinformation are often reactive rather than proactive. This gap underscores the need for a comprehensive strategy that integrates the efforts of state and non-state actors, establishes clear protocols for identifying and addressing misinformation and ensures the protection of democratic processes and fundamental rights.

In conclusion, while Poland has recognized the threats posed by media misinformation and has taken steps to address them, the current measures fall short of constituting a dedicated early warning system. Developing such a system would require legislative action, inter-agency coordination and sustained collaboration with civil society to effectively safeguard the information environment.

While several partial mechanisms for identifying and mitigating misinformation exist in Poland, they lack coherence, institutionalization and preventive orientation. To enhance the existing system, the following steps should be taken:

- Establish a national coordination hub for misinformation monitoring: A dedicated interagency unit, possibly housed within the RCB or a newly created Office for Strategic Communications, should be established to centralize and coordinate early warning efforts related to media misinformation. This body should include representatives from ministries, civil society, academia and media regulators.
- Legal mandate and infrastructure for rapid response: Poland should develop a legal framework that explicitly includes early warning mechanisms for disinformation under its national cybersecurity and information safety laws. This framework should provide guidelines for how misinformation is identified, who acts on alerts and how actions are communicated to the public.
- Formalized collaboration with civil society and academia: Early warning systems should be expanded to include structured input from fact-checkers, watchdog NGOs and research institutions. Establishing public grants or national registries for fact-checking organisations with clear independence safeguards would support sustainability and credibility while integrating their work into national early warning efforts.

Annex III. Early warning mechanisms on racism and xenophobia in Belgium

The particularity of Belgium lies in its constitutional organisation and the impact it has on the available early warning mechanisms. Belgium is a federal state with a complex allocation of competences across federal entities, the communities and the regions. Additionally, despite attempts to reduce fragmentation, many actors with potentially overlapping mandates may have the competence to receive complaints and examine possible violations.

State actors

A first key step is thus to identify which public actors may be competent in the field of equality and may be mobilised as early warning mechanisms in the context of possible violations of the Charter. Among the relevant actors, we can list the following:

Unia (Interfederal Centre for Equal Opportunities)

Unia is an equality body whose mandate was defined in 2013 in a cooperation agreement between the federal government, the regions and the communities. Unia is particularly mandated for monitoring compliance with the UN Convention on the Rights of Persons with Disabilities and the International Convention on the Elimination of All Forms of Racial Discrimination in Belgium. Unia is competent at the federal level and in some regions and communities (all except Flanders) to examine and, if necessary, investigate all instances of discrimination, negationism and hate speech. It can also bring cases to court and/or intervene as a third party.

Unia has implemented several effective practices to combat racism and promote equality, notably through advocacy, training and collaboration.

One of its key initiatives is Project AI. In partnership with the European Commission and the Council of Europe, Project AI is aimed at preventing algorithmic discrimination in public administration. This project seeks to enhance the capacity of equality bodies to adapt to the challenges posed by AI, addressing discrimination proactively.

In anticipation of an election year, Unia developed an electoral memorandum outlining recommendations for political leaders and stakeholders, emphasizing the need for robust policies to combat discrimination and support human rights.

In the realm of international advocacy, Unia, alongside seven other human rights institutions, has drawn attention to Belgium's failure to provide adequate reception conditions for asylum seekers, which violates internationally recognized human rights. This initiative involves urging international actors to hold Belgium accountable and seek onsite evaluations of the situation.

Unia also offers extensive training programs, reaching 7.676 participants in 2023. It also operates the eDiv platform to promote workplace diversity through free online courses and resources. Additionally, Unia trains police personnel on anti-discrimination and anti-racism laws, fostering an inclusive approach within law enforcement. Collaborative efforts with the newly established Flemish Human Rights Institute aim to maintain high-quality support for victims of discrimination. Through these practices, Unia actively works towards combating racism and fostering an equitable society.

Myria (Federal Migration Centre)

Myria is one of the two independent public bodies that inherited the competences of the former Centre for Equal Opportunities and Opposition to Racism, along with Unia. Its mandate includes tasks relating to migration analysis (information on the nature and scale of migratory flows), monitoring respect for the fundamental rights of foreign nationals and encouraging the fight against human trafficking and smuggling. It is responsible for ensuring that the fundamental rights of foreign nationals are respected within the limits of federal jurisdiction. It closely monitors developments in legislation and case law. It is also an active observer of administrative and police practices relating to foreign nationals, notably through visits to administrative detention centres (closed centres). Such a role can be exercised either in individual cases or in structural cases. In individual cases Myria offers direct support to foreign nationals and those accompanying them on all issues relating to their fundamental rights and residence status, whereas in structural cases Myria analyses the information it gathers from individual cases or on its initiative and enters into dialogue on this basis with all the actors involved. It looks for possible structural solutions and issues opinions and recommendations to the authorities. It can also bring cases to court and/or intervene as a third party.

Institute for the Equality between Men and Women (IEFH)

IEFH is an independent inter-federal equality body, which also fulfils tasks in the context of federal equal opportunities policy. Through its actions, the IEFH opposes all forms of discrimination and inequality based on sex or gender. To this end, the IEFH helps develop an appropriate legal framework, strategies and instruments. The IEFH's tasks include advising citizens, conducting research, making recommendations to public authorities, providing training and conducting public awareness campaigns. The IEFH can receive reports of gender discrimination and sexism from members of the public, offer conciliation services to remedy such violations and intervene in procedures (on its own, or in support of victims).

Service Combating Poverty, Precariousness and Social Exclusion

The Service is an inter-federal public institution, created in 1999 by the Co-operation Agreement between the Federal State, the Regions and the Communities on continuity policy on poverty. Its mandate to protect human rights is based on the observation that poverty "undermines the equal and inalienable dignity and rights of all human beings" and further on the common objective set by the legislators of "restoring the conditions for human dignity and the exercise of human rights". The Service is explicitly mandated to produce a "report on precariousness, poverty, social exclusion and inequalities in access to rights, containing in particular an assessment of the effective exercise of social, economic, cultural, political and civil rights, as well as the inequalities in access to rights, as well as concrete recommendations and proposals to improve the situation". The Service does not, however, provide individual assistance.

Federal Institute for the Protection and Promotion of Human Rights (FIRM/IFDH)

This Institute was established by a law of 12 May 2019 to become a national human rights institution with "A" status according to the Paris Principles (independence and broad human rights mandate). The Institute's mission is to provide opinions, recommendations and reports on respect for human rights in Belgium. It also seeks to promote the alignment of legislation, regulations and practices with international instruments related to human rights. Since 2024 it has been designated as the Preventive Mechanism against Torture and Other Inhuman Treatments, whose competence is limited to places of deprivation of liberty falling under federal competence (prisons, closed centres and police holding cells). The IFDH works together with other entities, namely the Central Prison Monitoring Council (CTRG-CCSP), the Federal Migration Centre (Myria) and the Standing Police Monitoring Committee (Committee P), to monitor places of deprivation of liberty falling under federal competence. It cannot visit places of deprivation of liberty within the (mixed) competences of the regions and communities, such as closed youth detention centres or forensic psychiatric centres.

Federal Ombudsman

The Federal Ombudsman is an independent institution, linked to the House of Representatives (Belgium's main legislative chamber at the federal level). It pursues several missions all linked to the operation of federal public services, such as examining citizens' complaints about federal public services and seeking solutions through dialogue or conducting independent investigations into the operation of federal administrative services based on complaints or at the request of the House of Representatives. It can, for instance, intervene in situations in which the Foreigners' Office rejects applications for family reunification or student visas.

Flemish Human Rights Institute

The Flemish Human Rights Institute is an autonomous public institute, funded by the Flemish Parliament, which carries out its mission completely independently. It has a broad human rights mandate and can address all target groups and all human rights themes in situations that fall under Flemish competences. This new Institute was created after the decision of the Flemish government in 2023 to withdraw from the agreement setting up Unia. Victims of discrimination can file a discrimination complaint and the Institute can offer first-line assistance and initiate mediation. If mediation does not lead to a result the Dispute Resolution Chamber can pass judgment. For other human rights violations the Institute provides first-line assistance, e.g., information and advice on what human rights entail and the means that can be used to enforce these rights. If possible, the institute will refer the complainant to another human rights institution or a general body that can provide legal assistance.

Non-state actors

The Belgian landscape is also marked by an abundance of actors, with many generalist and specialised CSOs. As an example of a generalist CSO, we can refer to the Human Rights League (Ligue des droits humains, LDH) that was established more than 100 years ago and seeks to protect, in complete independence, against violations of fundamental rights in Belgium. As a counterweight, the LDH observes, informs and calls on public authorities and citizens to remedy situations that infringe upon fundamental rights. To achieve this, it engages in various actions (demonstrations, legal action, etc.), activities (conferences, debates, training, events, etc.) and the publication of human rights awareness documents (leaflets, studies, analyses, etc.). A Flemish counterpart, the Liga voor Mensenrechten, has existed since 1979. In contrast, other specialised organisations work in both languages and with a country-wide scope of action. This is, for instance, the case of the Belgian General Work Federation (Fédération Générale du Travail de Belgique, FGTB / Algemeen Belgisch Vakverbond, ABVV), a trade union addressing matters related to employment in Belgium and allowing victims of discrimination in the workplace or during the recruitment process to denounce discriminatory acts.

Belgian civil society organisations have developed several good practices to combat racism and advocate for equality through various initiatives. Recent examples particularly relevant to racism include:

- In My Name – National Platform: This initiative brings together stakeholders from different sectors to address the challenges faced by undocumented migrants. It focuses on advocating for their access to legal work, even in labor-shortage sectors. By facilitating discussions and political actions, the platform aims to challenge and change repressive migration policies.

- Domestic Workers' League Actions: Undocumented workers, organized within this league, have actively targeted local lawmakers to highlight the harsh conditions stemming from their lack of access to legal employment. Their advocacy efforts have garnered support from political figures who are beginning to consider measures to allow undocumented individuals to enter the labor market.

- ADDE Training Sessions: The Association for the Defense of Foreigners (ADDE) conducts educational programs for professionals dealing with immigration law and family law. These trainings, led by experts, provide participants with essential knowledge and resources to effectively assist individuals facing immigration-related challenges.

- Support for Palestinian Children by ASBL Nansen: This independent organisation focuses on providing legal aid to those seeking international protection. It addresses specific issues such as the potential withdrawal of Belgian nationality for children born in Belgium to Palestinian parents, equipping lawyers with legal arguments and resources to advocate for these families.

In addition, CSOs active in the field of human rights protection are often consulted by parliamentary actors at federal, regional or community levels, and they often participate in international or European review processes through the preparation of alternative reports, nuancing the official reports prepared by the government. However, discussions with more modest organisations refer to the difficulty of reporting all instances of violations and/or difficulties encountered by the persons with whom they work.

Shortcomings and recommendations

A recurring issue lies in fragmentation and the difficulty in identifying the actor competent to assist victims of violations. The idea of a one-stop shop - which is partially materialised with the creation of an institute like Unia with a competence spanning across the federal state, the regions and the communities - regularly resurfaces in public debates and political decisions.

This was, for instance, the case at the occasion of the creation of the Flemish Human Rights Institute, which removed discrimination in fields covered by Flemish competences from the mandate of Unia. In a joint statement, fourteen organisations regretted that the process would become "unnecessarily complex" for victims of discrimination, and that the possibility of going to court has been reduced. However, for the Flemish Minister for Equal Opportunities, Bart Somers, the Institute would be the one point of contact to which citizens can turn for all the human rights concerned and all forms of discrimination, whereas Unia is not responsible for discrimination based on gender.

The government's agreement[31] partially tackles the issue, as it envisages a simplification of the landscape and supports the maximization of collaboration between the country's human rights institutions. Through a cooperation agreement, they announced their aim for an "A" NHRI status based on a clearer definition of the remit of each institution (at present, only Unia and FIRM have been reviewed and ranked "B"). On a more "hostile" note, the government's agreement also announced that the Court of Audit will audit the Institute for the Equality between Men and Women, and that Unia's funding would be reduced by 25%.

31 https://www.liguedh.be/wp-content/uploads/2025/02/Accord-de-majorite%CC%81-ARIZONA-FR-DEFINITIVE.pdf

ANNEX IV. Early warning mechanism on climate-related issues in the Netherlands

The Netherlands does not have a formal early warning system dedicated exclusively to climate-related cases. Nevertheless, several established mechanisms have the potential to identify and respond to emerging climate risks within existing institutional frameworks.

State actors

Netherlands Institute for Human Rights

The Netherlands Institute for Human Rights functions under national legislation aligned with international human rights treaties, including environmental rights provisions. Its mandate includes monitoring compliance, addressing discrimination complaints and advising government bodies to ensure that human rights are guaranteed in policy and legislation. As an independent institution, it plays a crucial role in flagging human rights implications of environmental and climate issues. State actors, including government agencies and the parliament, engage with the Institute's findings, while civil society organisations and individuals participate by submitting complaints and collaborating on advocacy efforts. The Institute's ongoing monitoring and reporting can constitute a practice of raising early warnings related to climate impacts on human rights.

Dutch Advertising Code Committee (ACC)

The Dutch Advertising Code Committee (ACC) addresses misleading advertising, including unsubstantiated environmental claims or greenwashing. The ACC operates within a self-regulatory framework established by the Dutch Advertising Code, which aligns with consumer protection laws. The ACC operates independently and its recommendations are non-binding. However, non-compliance is publicly noted on the Advertising Code Foundation's website. In such cases, the matter may be referred to the Authority for Consumers and Markets (ACM), which has the authority to take formal enforcement action if voluntary compliance fails. CSOs, consumer groups and individuals submit complaints, contributing to the potential practice of using the ACC as an early warning mechanism against deceptive sustainability claims. This layered oversight approach enables early detection and resolution of misleading or harmful advertisements, including greenwashing, without immediate resort to litigation.

National Ombudsman

The administrative complaints system and the National Ombudsman also provide citizens with channels to report maladministration, including governance failures related to climate policy. These mechanisms are governed by the General Administrative Law Act and the National Ombudsman Act. Ministries initially handle complaints, with unresolved cases referred to the

independent Ombudsman, who investigates and advises on institutional improvements. Civil society and individuals play a key role by submitting complaints, thereby alerting authorities to potential governance risks. Though the Ombudsman's decisions are not legally enforceable, they encourage corrective action.

Shortcomings and recommendations

Enhancing coordination among existing mechanisms and incorporating climate-specific indicators could significantly strengthen their preventive function. This approach would improve the early identification of climate-related risks and support more effective and inclusive climate governance in the Netherlands – without the need for establishing a separate, dedicated climate authority.