

Reports and comparative studies on the independence of the European judiciaries 2020

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An overview of significant European-level comparative studies on judicial systems published this year was presented at the meeting of Judicial Council on 11 December.

 [Presentation "Review of the European Union Justice Scoreboard 2020" \(in Latvian\)](#) 

EU Justice Scoreboard

The EU Justice Scoreboard has been comparing justice systems in EU Member States since 2013. As noted by the new European Commissioner for Justice, Didier Reynders, despite the steady increase in the efficiency of justice systems, challenges remain in terms of public confidence in the courts in countries where the status and independence of a judge could be compromised.

The 2020 edition of the EU Justice Scoreboard looks for the first time at indicators such as a child-friendly justice system and the level of machine readability of judgments, which facilitates the search for judgments by making the system more accessible to the user.

This year, in addition to the annual comparison of statistics on length of proceedings, the EU Justice Scoreboard specifically addresses the following issues:

- Authorities responsible for disciplinary proceedings against judges/prosecutors;

- A comparative review of the involvement of the judiciary in the election of judges to the Judicial Council.

The report compares the amount of court fees in commercial cases, as well as the conditions for reimbursing court costs for low-income persons.

The EU Justice Scoreboard has traditionally provided an overview of the number of cases received and examined by the courts of the EU Member States. The number of new cases in civil and commercial disputes received in courts of first instance (in courts of first instance/ per 100 inhabitants) is moderately low. Latvia ranks 17th, receiving statistically less cases than Lithuania, France and Germany.

Latvia ranks second after Denmark in terms of time taken to complete the examination of civil, commercial, administrative and other cases before the courts of first instance (Estonia and Lithuania rank third and fourth respectively). In particular, the length of proceedings in several categories of cases is compared. For example, in the category "Money Laundering", the average duration of court proceedings in Latvia in 2018 was average compared to other EU Member States. The worst situation regarding these cases is in Malta, while in Luxembourg, Estonia and Austria cases in this category are examined the fastest. For several years already, the amount of the court fee for initiating legal proceedings in a specific case of consumer rights protection has been compared. In 2019, similarly as before, Latvia ranks among the countries having one of the highest amounts of court fees.

Latvia ranks in the leading positions regarding the following indicators characterizing the efficiency of judicial systems: availability of electronic means, publicly available information about the justice system; availability of judgments published online to the general public; the availability of ICT for case management and judicial statistics.

At the same time, the number of judges per 100,000 inhabitants in Latvia remains rather high – Latvia takes 6th place in the European Union (it has proportionally higher number of judges than in Germany, Estonia, Lithuania, the Netherlands, Denmark,

etc.).

When looking at the average term of examination of civil and commercial cases in all three court instances in 2018, Latvia shows average indicators. Compared to Lithuania and Estonia, in courts of second instance, cases are examined in Latvia the fastest. However, neighbouring countries are significantly ahead regarding the length of proceedings in courts of first instance. The number of pending civil, commercial, administrative and other cases in 2012–2018 in Latvia is relatively one of the lowest (ranking 3rd in the European Union in courts of first instance per 100 inhabitants).

This year's report, as in previous years, identifies a number of categories of cases in which indicators of speed of examination of cases are compared. These are competition cases, EU trade mark cases, etc. The length of proceedings of cases in Latvian courts mostly varies in all categories at the average level of European countries.

In terms of access to legal aid and the amount of court fees, Latvia has not significantly improved its position since last year. Latvia has the sixth highest court fee for initiating legal proceedings in consumer rights protection cases of a specific amount (6,000 euros) (following Cyprus, Finland, Estonia, Portugal and Germany), as well as in small claims.

This year, the European Commission has compared the qualitative content of the availability of published judgments. Latvia is a leader regarding measures to ensure machine-readable court rulings. By comparison, in Luxembourg and Denmark, for example, the availability of judgments is significantly lower. Whereas, in France, only judgments published by the Court of Cassation are available to the public free of charge.

The results of the Eurobarometer survey on public perceptions of judicial have not significantly changed in recent years. It should be assessed why in 2019 the number of respondents in Latvian society who do not have an opinion on the independence of the judiciary in the country has slightly increased. Moderate trends have been observed in the summaries of entrepreneurs' assessment of the independence of the judiciary (48% of entrepreneurs in Latvia, 65% - in Lithuania, while 44% - in the Czech Republic and 39% - in Estonia have a positive image of the independence of the judiciary).

The study provides an in-depth analysis of the main reasons for the view that there is a lack of independence of courts and judges as stated by respondents. 42% of respondents (entrepreneurs) who indicated the lack of independence considered that the lack of independence was influenced by government or political interference or pressure, 39% believed that there was an interference or pressure due to economic or other specific interests, but 32% considered that the status and position of judges did not sufficiently guarantee their independence. Slovenian entrepreneurs have expressed a very similar view of their country. In particular, in Estonia only 5% of entrepreneurs indicated the existence of specific influencing factors (which is similar to situation in Finland, the Netherlands, Denmark and Austria).

Certain issues in the Report concern the functioning of the institutions of the justice system. The mechanism of establishing the composition of the Judicial Councils is considered, as well as the model of the independence of the Prosecutor's Office is analysed. Latvia, for example, is one of the countries where prosecutors are not allowed to give instructions in certain cases (contrary to the situation, for example, in Poland). Such a formal possibility exists in several countries, but has not been applied for several decades (Luxembourg, the Netherlands).

European Commission's report on the rule of law in Latvia

The European Commission's first country-by-country report on the rule of law was published on 30 September. The "Country Chapter - the Situation of the Rule of Law in Latvia" includes four areas: the justice system, anti-corruption regulation, media pluralism and media freedom, and other institutional issues. The content of the part on justice system of the report was presented to the Judicial Council.

As a first novelty in the sub-section "Independence" of the justice system, the European Commission has provided an overview of the procedure for selecting candidates for the position of a judge, which was developed and approved by the Judicial Council in April 2020. The report states that "the role of the judiciary in the selection procedure of a candidate for the position of Prosecutor General has been strengthened". It is noted that in response to GRECO's recommendations, the laws were amended

in June 2020 in order to waive the so-called immunity of judges and prosecutors in administrative offense cases.

In the subsection "Quality" the report includes the following topicalities:

Introduction of a single register of complaints managed by the Court Administration;

The limited resources of the Judicial Council in contrast to the new powers regarding the career of judges and the management of the judiciary. The report emphasizes that the Latvian Judicial Council has one of the most insufficient funding in the EU. In addition, the Court Administration "still remains under the authority and control of the Ministry of Justice" and it "is not obliged to respond to other requests from the Judicial Council, such as regarding the data on the consequences of judicial territorial reform";

The reform of the creation of a new specialized court, which proved controversial, as the Judicial Council issued two opinions against the creation of a separate "economic affairs court", stating that there was no evidence that it would improve quality and efficiency of justice system. In the report, the European Commission added that the analysis of the situation regarding the handling of financial and economic crime cases is performed by both the Judicial Council and the State Audit Office.

In the subsection "Quality" the report includes the following topicalities:

In 2019, legal aid in civil cases was expanded in cases where the income of persons does not exceed the amount of the minimum monthly salary set in Latvia;

In its report, the European Commission welcomed the high level of information and communication systems of courts and prosecutors' offices, as well as the planned introduction of an e-case management system in 2023.

In the opinion of the European Commission, the sub-section "Efficiency" was assessed positively, stating that "in civil and commercial cases there are no significant problems related to efficiency of the justice system", but "there are still some struggles regarding economic and finance crime cases".

The overall conclusion is that the European Commission is following the development of the rule of law in each EU Member State very scrupulously, obtaining comprehensive data and information on the views of all three branches of state power on the progress and evolution of reforms.

The summary of this year's report not only highlights progress in innovation of regulatory framework (e.g., streamlining anti-corruption regulation, protection of whistleblowers, and ensuring transparency in lobbying), but also identified a lack of resources of the Judicial Council and controversial judicial reforms.

Council of Europe summary "Independence and Impartiality of the Judicial System"

In December 2020, the Council of Europe published a summary of "Independence and Impartiality of the Judicial System", which summarizes, through 48 judgments of the European Court of Human Rights, the measures taken and reported by States in relation to the enforcement of ECHR judgments to protect and strengthen the independence and impartiality of EU national judicial systems (including prosecutors). The summary is drawn up in tabular format, specifically mentioning the reforms carried out in the countries, the need for which has been pointed out in the judgments of the European Court of Human Rights. The summary includes judgments against several countries (21 in total, such as Ukraine, Turkey, Italy, France, etc.).

The Council of Europe summary "[Independence and Impartiality of the Judicial System](#)" is available in English on the website of the Supreme Court in the section "Judicial Council/ [Studies and summaries](#)

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