



## Democracy and the rule of law: Failing partnership?

by Ian Bond and Agata Gostyńska-Jakubowska

20 January 2020

The European Union's tools to ensure member-states uphold the rule of law are inadequate. Without the rule of law, key parts of the EU like the single market and law enforcement co-operation won't function. This is no longer just a problem in Hungary and Poland: respect for the rule of law is deteriorating in other member-states, too. Turning the situation around must be a priority for the European Commission and other EU institutions. That's the crux of a new Centre for European Reform research paper, '[Democracy and the rule of law: Failing partnership?](#)' which takes an in-depth look at this key challenge for the new Commission, and suggests how the EU's approach can be improved.

The rule of law has become a major bone of contention between the Commission and the populist governments of Hungary and Poland. But there is also evidence of deterioration in the rule of law in a number of other member-states in recent years – including Bulgaria, Ireland, Greece and France. The EU has a range of tools to monitor the rule of law and address so-called democratic backsliding, but its response to problems has been inconsistent and too preoccupied with judicial independence. It has also focused too much on punitive measures, and not enough on incentives to respect the rule of law or increasing public understanding of the issue.

The CER paper argues that the Commission needs to treat all member-states equally and openly when addressing rule of law issues. If it goes ahead with a proposed annual report of member-states' performance, it must be based on information from multiple sources, not just countries 'marking their own homework'. Member-states should be given ample opportunity and support to address any democratic backsliding. But if a country continues to flout the rule of law, the Commission should ask the European Court of Justice to step in. Large political groupings in the European Parliament should also do more to hold their component national parties to account, expelling them if necessary. And, where rule of law failings are due to underfunding and personnel shortages, rather than malign actions by governments, the EU should be prepared to help member-states tackle these institutional weaknesses with extra funds and expertise.

*"When we started our research, I was surprised to find that violations of the rule of law were so widespread, and that the situation was getting worse in so many EU member-states. Ursula von der Leyen and her new Commission need to take a much more considered EU-wide approach to stop the rot or it will undermine the Union's most important achievements,"* said Ian Bond, director of foreign policy at the CER and co-author of the report.

*"Disagreements over the rule of law have driven a wedge between the East and West of the EU. The European Commission can help heal this rift by taking a more consistent approach to addressing rule of law issues and treating member-states equally and transparently. By doing so it will counter accusations by populist governments in Central Europe that EU institutions are singling them out, or punishing them for being out of step with the mainstream on other controversial issues such as migration policy,"* said Agata Gostyńska-Jakubowska, a senior research fellow at the CER and co-author of the report.

### Note for editors:

For further information on the new research and to request an interview with Ian Bond or Agata Gostyńska-Jakubowska, please contact Nick Winning in the CER press office on [pressoffice@cer.eu](mailto:pressoffice@cer.eu) or +44 (207) 976 3429 and +44 (0) 7714 256241.

The Centre for European Reform is a think-tank devoted to making the EU work better and strengthening its role in the world. The CER is pro-European but not uncritical. Follow us on Twitter: [@CER\\_EU](#) and the authors on [@CER\\_IanBond](#) and [@AgataGostynska](#).