



# LIBERTIES

# RULE OF LAW

# REPORT 2026



#ruleoflawreport2026

## GERMANY



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## FOREWORD

This country report is part of the Liberties Rule of Law Report 2025, which is the sixth annual report on the state of rule of law in the European Union (EU) published by the Civil Liberties Union for Europe (Liberties). Liberties is a non-governmental organisation (NGO) promoting the civil liberties of everyone in the EU, and it is built on a network of national civil liberties NGOs from across the EU. Currently, we have member organisations in Belgium, Bulgaria, the Czech Republic, Croatia, Estonia, France, Germany, Hungary, Ireland, Italy, Latvia, Lithuania, Malta, the Netherlands, Poland, Romania, Slovakia, Slovenia, Spain and Sweden, as well as a contributing partner organisation in Greece.

Liberties, together with its members and partner organisations, carries out advocacy, campaigning and public education activities to explain what the rule of law is, what the EU and national governments are doing to protect or harm it, and gathers public support to press leaders at EU and national level to fully respect, promote and protect our basic rights and values.

The 2025 report was drafted by Liberties and its member and partner organizations, and it covers the situation during 2024. It is a ‘shadow report’ to the European Commission’s annual rule of law audit. As such, its purpose is to provide the European Commission with reliable information and analysis from the ground to feed its own rule of law reports, and to provide an independent analysis of the state of the rule of law in the EU in its own right.

Liberties’ report represents the most in-depth reporting exercise carried out to date by an NGO network to map developments in a wide range of areas connected to the rule of law in the EU. The 2025 report includes 21 country reports that follow a common structure, mirroring and expanding on the priority areas and indicators identified by the European Commission for its annual rule of law monitoring cycle. Over forty member and local partner organisations contributed to the compilation of these country reports.

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**[Download the full Liberties Rule of Law Report 2026 here.](#)**

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# GERMANY

## ***ABOUT THE CONTRIBUTING ORGANISATIONS***

**Society for Civil Rights (Gesellschaft für Freiheitsrechte, GFF)**



GFF (Gesellschaft für Freiheitsrechte/Society for Civil Rights) is a donor-funded organisation that defends fundamental rights and human rights by legal means. The organisation works to strengthen democracy and civil society, challenge disproportionate state surveillance and promote equal rights and social participation for all. To that end, the GFF conducts strategic litigation, lodges constitutional complaints against laws that violate fundamental rights and contributes its legal expertise to public debates. The Berlin-based non-profit organisation was founded in 2015 and is funded primarily through individual donations and the contributions of its supporting members.

**We were supported by the following organisation:**

**LobbyControl**



LobbyControl is a non-profit association that educates about power structures and influence strategies in Germany and the EU. LobbyControl advocates for transparency, democratic control and clear limits on influencing politics and the public.

## OVERALL ASSESSMENT: SLIDER

In 2025, rule of law developments in Germany were shaped by political inaction and growing societal pressures. Civil society organisations face increasing constraints due to legal uncertainty in non-profit law and a more restrictive approach to public funding. Public demonstrations, especially those expressing solidarity with Palestine, have been subject to extensive restrictions, prompting questions about proportionality and fundamental rights, even though courts have acted as an effective corrective by upholding constitutional standards in several cases.

The media landscape remains broadly pluralistic, yet structural pressures persist, including declining local journalism and growing political pressure on public service media. The rise of the far-right political party Alternative für Deutschland (AfD) has become a more direct institutional factor, notably where it has sought to obstruct judicial appointments at the state level, thereby affecting the functioning of checks and balances.

Repeated recommendations by the European Commission on non-profit law, access to information for the press, and safeguards for prosecutorial independence, have remained largely unaddressed. Domestically, the new federal government announced ambitious objectives, including the 'Pact for the Rule of Law' to strengthen judicial capacity and digitalisation, but implementation has so far stalled.

### Assessment of the trajectory

The designation of "slider" reflects a situation in Germany in which there is a decline across several rule of law dimensions: far-reaching restrictions on public demonstrations, persistent legal uncertainty for civil society organisations, stagnation in transparency and anti-corruption policies, limited progress on judicial reform, and growing political pressure on media institutions. Early warning signs include the normalisation of restrictive approaches to civic space and the increasing willingness of far-right actors to use institutional levers to block or influence core rule of law functions.

At the same time, important stabilising factors remain. Judicial independence is generally respected, courts continue to act as effective safeguards, and public trust in established media remains comparatively high. These elements indicate that the decline is neither uniform nor irreversible. However, without timely implementation of announced reforms and closer alignment with European recommendations, there is a tangible risk that current shortcomings will solidify into a long-term trend.

#### State of play (versus 2025)

-  Justice system
-  Anti-corruption framework
-  Media Environment and Media Freedom
-  Checks and balances

#### Legend

 Regression	 No progress	 Progress
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## JUSTICE SYSTEM -

### **General assessment**

In 2025, Germany initially set ambitious goals by planning a large financial package for expanding the judiciary's personnel and for digitalisation with the 'Pact for the Rule of Law'. However, these projects have so far remained in the planning stage and have not yet been implemented. As a result, there are still many vacant positions in the judiciary. The fact that public prosecutors can currently be subject to interventions by the ministries of justice of the individual states remains problematic, as it creates a risk that political bodies could influence investigations and prosecutions. To counteract this, a solution is being sought in part through transparency regulations, which have only been implemented in isolated cases. An initiative to increase the publication of court decisions is also intended to ensure greater transparency. However, this initiative and parallel draft legislation are still in the early stages of development.

### **Implementation of 2025 Commission recommendations**

**Recommendation: Take measures to increase the resources of the judiciary and address recruitment challenges, taking into account European standards on resources for the justice system (first made in 2022)**

The federal government presented the so-called 'Pact for the Rule of Law'. This included a separate plan for the federal budget, which was intended to enable investments in the justice system (in particular personnel requirements and digitisation). The budget was to be decided in December 2025. No agreement was possible due to the differing interests of the federal states, so it was initially removed from the agenda.

**Commission's 2025 assessment: No progress**

**GFF's current assessment: No progress**

### **Gaps in the Commission's Report**

#### **Independence of the prosecution service**

The right of the Minister of Justice to intervene in the work of public prosecutors under Section 146 of the Court Constitution Act (GVG) remained unchanged in 2025, despite long-standing domestic and

European criticism.<sup>1</sup> The German Judges Association (DRB) has repeatedly called for the abolition of the obligation of German public prosecutors to follow instructions. According to Section 146 of the German Court Constitution Act (*Gerichtsverfassungsgesetz*, GVG), public prosecutors can currently be subject to instructions of the ministries of justice of the individual states, which allows political bodies to influence investigations and prosecutions. The DRB points out that the Court of Justice of the European Union (CJEU) also considers the German ministries of justice's right to intervene to be a potential gateway for political influence. As a result, German public prosecutors are not considered independent at EU level, which means that they are not allowed to issue European arrest warrants according to an CJEU ruling.<sup>2</sup>

### **Transparency of court decisions, obligation to publish**

In the context of the very limited public access to court decisions to date, the 'OffeneUrteile' initiative aims to significantly increase the transparency of case law in Germany.<sup>3</sup> According to current estimates, only 1% to 3% of court rulings are published, with many decisions only accessible via fee-based databases. The initiative initially plans to publish one million additional decisions. To this end, the judgements will be requested from the relevant judicial authorities. In addition, lawyers and citizens can independently upload judgements in order to expand public access.

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1 See Deutscher Richterbund, Stellungnahme Nr. 12/24, 2024, [https://www.drb.de/fileadmin/DRB/pdf/Stellungnahmen/2024/DRB\\_240530\\_Stn\\_Nr\\_12\\_RefE\\_Erhoehung\\_Transparenz\\_Weisungsrecht\\_StA.pdf](https://www.drb.de/fileadmin/DRB/pdf/Stellungnahmen/2024/DRB_240530_Stn_Nr_12_RefE_Erhoehung_Transparenz_Weisungsrecht_StA.pdf); Ministerium der Justiz und für Digitalisierung, Pressemitteilung Nr.: 5/2025, 10 February 2025, [https://mdjd.brandenburg.de/sixcms/media.php/9/5\\_25%20PM%20MdJD%20Einführung%20von%20Transparenz%20im%20Weisungsrecht%20-%20Unabhängigkeit%20der%20Staatsanwaltschaft%20gestärkt.pdf](https://mdjd.brandenburg.de/sixcms/media.php/9/5_25%20PM%20MdJD%20Einführung%20von%20Transparenz%20im%20Weisungsrecht%20-%20Unabhängigkeit%20der%20Staatsanwaltschaft%20gestärkt.pdf); Jürgen Brauer, Politisches Weisungsrecht noch zeitgemäß?, 2025, <https://rsw.beck.de/aktuell/daily/magazin/detail/interview-njw-2025-16-politisches-weisungsrecht-noch-zeitgemaell>; The discussion about reforms to the binding nature of instructions began as early as 2024 with initiatives by the DRB. Brandenburg introduced its first transparency regulations in the law on instructions in 2025. Although these represent a small step in the right direction, they do not eliminate the structural causes of the problem, but are primarily aimed at alleviating the symptoms.

2 Uta Georgi, MDR AKTUELL, Weisungsrecht der Justizministerien ist Einfallstor politischer Einflussnahme, 2025, <https://www.mdr.de/nachrichten/deutschland/gesellschaft/staatsanwaelte-nicht-unabhaengig-weisungsrecht-justizminister-100.html>

3 LTO, Die juristische Presseschau, Initiative für offene Urteile gestartet, 6 November 2025, <https://www.lto.de/recht/presseschau/p/presseschau-2025-11-06-initiative-offene-urteile-buerokratie-entlastungspaket-beschlossen-ver einsverbot-muslim-interaktiv>

At the same time, the Federal Ministry of Justice is preparing a draft law that would provide a fundamental obligation to publish court decisions.<sup>4</sup> The aim is to make case law more transparent in the long term, strengthen public confidence in the judiciary and improve the traceability of judicial decisions.

## **New Issues that Emerged in 2025**

### ***Remuneration of civil servants and implications for the remuneration of judges***

In its ruling of November 2025, the Federal Constitutional Court (BVerfG) found that civil servant remuneration in the period 2008–2020 was largely incompatible with Article 33(5) of the German Basic Law (GG), as it was consistently too low. The decision specifies and expands on previous constitutional court rulings on remuneration appropriate to the position and sets new standards for reviewing the remuneration systems of the federal states and the federal government. The central criterion remains the principle of remuneration as a constitutional standard for ensuring the independence and functionality of the professional civil service.<sup>5</sup> It primarily affects civil servants, but is also likely to have an indirect impact on the remuneration of judges and public prosecutors.<sup>6</sup>

### ***Budgetary resources of the judiciary, filling vacant positions***

Based on the current federal budget planning and the structural challenges facing the German justice system, there's a big need for action in terms of organisation, staffing, and finances.<sup>7</sup> The federal government has announced the conclusion of the 'Pact for the Rule of Law' (*Pakt für den Rechtsstaat*), aimed at strengthening the judiciary in terms of personnel, material, and organisational resources, as

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4 See Referentenentwurf des Bundesministeriums der Justiz und für Verbraucherschutz Entwurf eines Gesetzes zur Umsetzung der Richtlinie (EU) 2024/1069, 2025, [https://www.bmjjv.de/SharedDocs/Downloads/DE/Gesetzgebung/RefE/RefE\\_Anti\\_SLAPP.pdf?\\_\\_blob=publicationFile&v=4](https://www.bmjjv.de/SharedDocs/Downloads/DE/Gesetzgebung/RefE/RefE_Anti_SLAPP.pdf?__blob=publicationFile&v=4)

5 Marcel Schneider, LTO, Verfassungsgericht macht neue Vorgaben zur Beamtenbesoldung, 19 November 2025, <https://www.lto.de/recht/hintergruende/h/2bvl518-bverfg-berlin-besoldung-beamte-verfassungswidrig-pruefung-alimentationsprinzip>

6 Marcel Schneider, LTO, Verfassungsgericht macht neue Vorgaben zur Beamtenbesoldung, 19 November 2025, <https://www.lto.de/recht/hintergruende/h/2bvl518-bverfg-berlin-besoldung-beamte-verfassungswidrig-pruefung-alimentationsprinzip>

7 The 2025 federal budget shows expenditures of €1.16 billion, exceeding the previous year's volume of €1.03 billion. Nevertheless, according to a recent study, the financial resources available to the judiciary are declining in real terms, as the nominal increases in funding are largely offset by persistently high inflation.

well as to promote digitalisation and accelerate procedural processes.<sup>8</sup> However, due to disagreement between the federal level and the states the pact could not be adopted as planned on 3 December 2025, and was therefore removed from the agenda and it remains therefore unclear when the pact can be debated again in parliament.<sup>9</sup>

### ***Admission rules for trainee lawyers (neutrality concerns)***

Recently, there has been an increase in court decisions regarding loyalty to the constitution in the civil service, with the standards for assessment varying from one federal state to another.<sup>10</sup> On 26 November 2025 the Constitutional Court (VerfGH) of Thuringia ruled that extremists may be excluded from legal training if applicants “act against the free democratic basic order within the meaning of the Basic Law”.<sup>11</sup> A 2022 decision of the Higher Administrative Court of Saxony adopted a more permissive approach, raising concerns about unequal treatment of applicants across states.

Against this backdrop, the responsible minister has announced an intention to challenge the Saxony decision as well as to initiate an abstract judicial review of the relevant provisions, with particular reference to Articles 101 and 103 of the German Basic Law.<sup>12</sup> In this context, individual federal states

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8 See BMJV, Pakt für den Rechtsstaat, [https://www.bmjjv.de/SharedDocs/FAQ/DE/FAQ\\_Database/Pakt\\_fuer\\_den\\_Rechtsstaat/FAQ\\_03.html](https://www.bmjjv.de/SharedDocs/FAQ/DE/FAQ_Database/Pakt_fuer_den_Rechtsstaat/FAQ_03.html); A total of €240 million in federal funding has been allocated for strengthening judiciary personnel during the current legislative period. In addition, up to €210 million is to be provided to support the digitalisation of the judiciary between 2027 and 2029.

9 Markus Sehl, LTO, Einigung über 450 Millionen “Pakt für den Rechtsstaat” geplatzt, 3 December 2025, <https://www.lto.de/recht/nachrichten/n/pakt-fuer-den-rechtsstaat-450-millionen-euro-justiz-stellen-richter-staatsanwaltschaft-bund-laender-treffen-mp>

10 Sarah Geiger, Verfassungsfeinde auch im Vorbereitungsdienst: Ungerechtfertigte Sonderbehandlung von Rechtsreferendar\*innen bei der hamburgischen Regelanfrage, 04.12.2025, <https://verfassungsblog.de/hamburg-referendariat-regelanfrage/>

11 LTO, Land darf Extremisten vom Referendariat ausschließen, 26 November 2025, <https://www.lto.de/karriere/jura-referendariat/stories/detail/verfgh925-thueringer-verfassungsgerichtshof-afd-normenkontrolle-referendariat-extremisten-ausschluss>, Administrative courts in other federal states have also made similar rulings based on comparable standards. For example, in a decision dated 9 May 2025, the Administrative Court of Koblenz refused to admit a law graduate to the legal traineeship because he had been a member of the AfD youth organisation and had published texts that were contemptuous of human dignity. The state of Rhineland-Palatinate based its decision on the relevant provision of its Legal Training Act.

12 Markus Sehl, LTO, Sachsen wehrt sich gegen Jura Extremisten Tourismus, 5 December 2025, <https://www.lto.de/recht/justiz/j/sachsen-justizministerin-landesverfassungsgerichts-klagen-bundesverfassungsgericht-extremisten-referendariat>.

are planning further measures to ensure loyalty to the constitution in the civil service. Hamburg, for example, intends to introduce a standard check with the State Office for the Protection of the Constitution (*Verfassungsschutz*) before hiring civil servants.<sup>13</sup>

These developments have sparked criticism from trade unions and civil society actors,<sup>14</sup> who warn against preventive surveillance and ideological vetting reminiscent of the ‘Radical Decree’ era in the 1970s, when nearly half a million civil service applicants were screened by the domestic intelligence service.<sup>15</sup> While the historical context differs, contemporary criticism remains relevant: measures to enforce constitutional loyalty must be carefully balanced to avoid overburdening other fundamental freedoms.

### ***Politicisation/Polarisation of the judiciary***

Isolated but significant incidents in 2025 pointed to an increasing politicisation of judicial decisions. Following a ruling of the Berlin Administrative Court on border rejections in July 2025, the presiding judge was subjected to political accusations questioning personal neutrality and alleging partisan motivation. Although such cases remain exceptional, they risk undermining public trust in judicial independence and may exert a chilling effect on judges.<sup>16</sup> Another example is the successful right-wing conservative smear campaign against Prof. Frauke Brosius-Gersdorf that prevented her election as a judge at the Federal Constitutional Court.<sup>17</sup> Comparative experiences from countries such as the United States, Hungary and Poland show that this polarisation weakens the judiciary in the

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13 Sarah Geiger, Verfassungsfeinde auch im Vorbereitungsdienst: Ungerechtfertigte Sonderbehandlung von Rechtsreferendar\*innen bei der hamburgischen Regelanfrage, 4 December 2025, <https://verfassungsblog.de/hamburg-referendariat-regelanfrage/>.

14 NDR, Hamburg will Bewerber für den öffentlichen Dienst durchleuchten, 21 October 2025, <https://www.ndr.de/nachrichten/hamburg/hamburg-will-bewerber-fuer-oeffentlichen-dienst-durchleuchten,regelanfrage-100.html>.

15 Johannes Maurer, Drum prüfe, wer sich ewig bindet: 50 Jahre Radikalenbeschluss des Bundesverfassungsgerichts, 22 May 2025, <https://verfassungsblog.de/drum-prufe-wer-sich-ewig-bindet/>, bpb, Vor 50 Jahren Radikalenerlass, 26 January 2022, <https://www.bpb.de/kurz-knapp/hintergrund-aktuell/346271/vor-50-jahren-radikalenerlass/>.

16 Joschka Buchholz, LTO, Wo liegen die Schwachstellen der deutschen justiz, 2 December 2025, <https://www.lto.de/recht/nachrichten/n/verfassungsblog-justiz-projekt-rechtsstaat-verfassungsgerichte-resilienz>

17 See Susanne Beck/Stefan Huster/Alexander Thiele et al., Stellungnahme zur Causa “Frauke Brosius-Gersdorf”, 14 July 2025, available at: <https://verfassungsblog.de/stellungnahme-zur-causa-frauke-brosius-gersdorf/>; Felix Wessel, So beeinflussen Online-Kampagnen Politik, deutschlandfunk.de, 13 October 2025, available at: <https://www.deutschlandfunk.de/brosius-gersdorf-verfassungsrichterin-kontroverse-skandal-100.html>.

long term.<sup>18</sup> This is already becoming more apparent in the federal state of Thuringia, where, as in other federal states, the appointment of new judges requires the approval of a committee elected by a majority of the state parliament. Since the most recent elections in 2024, the far-right AfD has been blocking the planned re-election of the members of the Judicial Selection Committee in order to extract political concessions on unrelated issues. As a result, the committee was unable for more than a year to decide on new judicial appointments, jeopardising the functioning of the judiciary.

### **Implications and Recommendations for 2026**

The gaps identified above result in limited access to case law which hampers legal certainty, undermines equal access to justice, and restricts public scrutiny of judicial practice.

**Suggested recommendation:** Creation of an obligation and establishment of a uniform system for the publication of judgments. Ensuring that the obligation to publish is consistently enforced.

### **Implementation of Judgments**

Recent cases highlight significant challenges in the implementation of national judicial rulings. In some instances, the executive has disregarded court decisions or provided insufficient justification for failing to enforce them.

The Berlin Administrative Court, 6th Chamber on 2 June 2025 (VG 6 L 191/25 et al.) ruled that rejections at border controls are unlawful.<sup>19</sup> The decision is based primarily on the Dublin Regulation and Article 72 TFEU, as interpreted by the CJEU. Despite the decision's applicability to nearly all cases of rejection at the border, the governing coalition maintains that it constitutes a decision limited to individual cases.<sup>20</sup>

Afghan local staff who had been granted admission were not issued the necessary visas to enter the country. Several chambers of the Berlin Administrative Court had already ruled that the Federal Foreign Office had to issue the visas. Furthermore, the Berlin Administrative Court issued preliminary

18 See Christoph Möllers, Der gefährliche Angriff auf den Rechtsstaat, <https://www.spiegel.de/politik/deutschland/gewaltenteilung-in-deutschland-wie-politiker-den-rechtsstaat-herausfordern-a-1ab8e540-e92e-422c-bd21-ee873679b9d1>.

19 Press release in English available here: <https://www.berlin.de/gerichte/verwaltungsgericht/presse/pressemitteilungen/2025/pressemitteilung.1565917.php>

20 See here for example: <https://www.bundestag.de/dokumente/textarchiv/2025/kw23-de-binnengrenzen-1076006>, <https://verfassungsblog.de/zuruckweisungen-gericht-migration-asy/>

injunctions in several cases to enforce the issuance of visas.<sup>21</sup> Shortly after these decisions, the admission of local staff was assured, but ultimately many visas were rejected by the Federal Government without further justification.<sup>22</sup>

On 17 October 2025, the UN Committee on Economic, Social and Cultural Rights, in the context of an individual communications procedure (communication no. 384/2025), requested Germany in an interim measure “to ensure that the author is provided with basic housing, healthcare and access to minimum subsistence support.”<sup>23</sup> The case concerns an alleged violation of the International Covenant on Economic, Social and Cultural Rights, which Germany has ratified and relates to the exclusion of a Dublin asylum seeker from social benefits, who has been homeless since February. The Federal Ministry of Labour and Social Affairs is responsible for implementation and according to the Committee, the request is legally binding. Nevertheless, the interim measure was not implemented.<sup>24</sup>

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21 Tagesschau.de, Auswärtiges Amt droht gerichtliches Zwangsgeld, 20 August 2025, <https://www.tagesschau.de/inland/innenpolitik/afghanen-aufnahmeprogramm-zwangsgeld-100.html>

22 Tagesschau.de, Dobrindts Versprechen – gebrochen, 9 December 2025, <https://www.tagesschau.de/inland/innenpolitik/afghanistan-ortskraefte-dobrindt-100.html>

23 Document available at <https://freiheitsrechte.org/uploads/documents/Gleiche-Rechte/Leistungsausschluss/10-2025-Anordnung-vorlaeufige-Massnahmen-UN-Sozialausschuss-Deutschland-Individualbeschwerde.pdf>

24 See Lena Frerichs, GFF, <https://freiheitsrechte.org/en/existenzielle-not>

## ANTI-CORRUPTION FRAMEWORK -

### **General assessment**

With regard to both the substantive issues and the regulatory framework, there has been little to no change over the last year. The current government has not put forward any concrete initiatives or policy measures in the areas of transparency, integrity, or corruption prevention.

### **Implementation of 2025 Commission recommendations**

**Recommendation: Step up efforts to strengthen the 'legislative footprint' to provide a comprehensive public record to register lobbying input and to extend the scope to the parliamentary phase of the legislative procedure (first made in 2022)**

The current government has not put forward any concrete measures to implement the recommendation, nor has it presented other initiatives in the areas of transparency, integrity, or corruption prevention more broadly.

**Commission's 2025 assessment: No further progress**

**GFF's current assessment: No progress**

### **Gaps in the Commission's Report**

#### **Revolving doors**

Although the rules governing post-office employment for certain public officials have been amended, the regulations for top-level decision-makers in the executive branch remain insufficient. The system relies heavily on compliance. No sanctions are possible in cases of non-compliance or non-disclosure of relevant new activities. Currently, the government decides cases of post-office employment after an expert recommendation, which is published. This however only applies to the employment of ministers and parliamentary state secretaries and is lacking regarding other high-ranking officials, such as heads of departments and permanent state secretaries (Abteilungsleiter, verbeamtete Staatssekretäre). Decisions regarding their employment are reached internally within the ministry itself and therefore lack corrective measures.

#### **Lobby transparency**

The reform of the lobby register law (Gesetz zur Einführung eines Lobbyregisters für die Interessenvertretung gegenüber dem Deutschen Bundestag und der Bundesregierung/ Lobbyregistergesetz)

has been implemented and has already contributed to greater transparency. The legislative footprint, initially intended to complement the lobby register, was introduced in July 2024 as an amendment to the rules of procedure of the federal government (Gemeinsame Geschäftsordnung der Bundesministerien). However, the scope of the regulation is much narrower than proposed during the last legislative period. There is no obligation for ministries to disclose all lobby meetings, nor must written statements by lobbyists be made public. Instead, ministries are only required to provide information on those interest representations that they deem to have had a significant impact on the legislation in question. This leaves considerable room for interpretation.

### **Political party financing**

The enhanced transparency regulations described in the previous reports are a positive development. On the other hand, the practical application and enforcement of law is still not satisfactory. Currently, there are no mandatory asset disclosure requirements for senior public officials, making it challenging to address potential conflicts of interest effectively.

### **New Issues that Emerged in 2025**

#### ***Limited scope and effectiveness of the offence of 'undue interest representation'***

In 2024 Parliament passed a new criminal legislation aimed at enabling the prosecution of Members of Parliament who use their influence in government institutions for private gain. The law against 'undue interest representation', Section 108f of the German Criminal Code (*Strafgesetzbuch*, StGB), complements the existing Section 108e, which criminalises corruption only in the parliamentary sphere. Parliament did not use the opportunity to also change the existing Section 108e German Criminal Code, although many critics see it as too narrow. The new Section 108f German Criminal Code only applies where paid lobbying is already prohibited by the rules of the respective parliament. While such a prohibition exists for the German Bundestag, this is not the case for most of the parliaments of the Länder. As of the end of 2025, there was no known case where the new criminal law was applied.

### ***Implications and Recommendations for 2026***

With regard to both the substantive issues and the regulatory framework, there has been little to no change. The current government has not put forward any concrete initiatives or policy measures in the areas of transparency, integrity, or corruption prevention.

**Suggested recommendation:** The federal government should follow the EU Commission in its recent decision to disclose all meetings that officials with management roles have with interest representatives

and further strengthen the ‘legislative footprint’ by disclosing all interest representatives’ inputs to legislation and by extending the scope to the parliamentary phase of the legislative procedure.

**Suggested recommendation:** There should be a limit for how much political parties can receive in the form of donations or sponsoring income from a single source, e.g., a ceiling of € 50.000 per year, party, and donor/sponsor.

**Suggested recommendation:** The cooling-off period for members of the federal government and parliamentary state secretaries should be doubled from the current 18 months to three years, and enforcement of these regulations by the federal government should be improved.

**Suggested recommendation:** Mandatory asset disclosure requirements for senior public officials, especially for members of government, should be introduced and an appropriate oversight should be established to manage conflicts of interest.

## MEDIA ENVIRONMENT AND MEDIA FREEDOM -

### General assessment

In terms of the media landscape and media freedom, no substantial progress has been made in Germany since the previous reporting period. On the one hand, media diversity remains high by international standards and courts have rejected recent government restrictions on media freedoms as unlawful. On the other hand, there has been no progress in implementing the EU's recommendation for a legal basis for press information claims against federal authorities. In rural areas, the continued decline of local newspapers is further weakening media diversity, while in the digital sphere, large foreign social media platforms retain de facto monopolistic positions. A long-awaited reform of public broadcasting has been successfully implemented. Digital text services provided by public service broadcasters are being restricted. Nevertheless, public trust in public service and other established media outlets in Germany remains comparatively high. At the same time, the increasing number of attacks on journalists over the past year constitutes a negative trend and raises concerns for the effective exercise of media freedom.

### Implementation of 2025 Commission recommendations

#### **Recommendation: Advance with creating a legal basis for a right to information of the press as regards federal authorities, taking into account European standards on access to official documents (first made in 2022)**

The former coalition, consisting of SPD (Sozialdemokratische Partei Deutschlands), B90/Grünen (The Greens) and FDP (Freiheitliche Demokratische Partei Deutschlands) included the goal of creating a legal basis for a right to information of the press as regards federal authorities in their coalition agreement. Due to the premature end of the coalition, this measure was not implemented. The new coalition of CDU (Christlich Demokratische Union), CSU (Christlich Soziale Union) and SPD, in office since 6 May 2025, did not include this goal in its coalition agreement.

**Commission's 2025 assessment: Limited progress**

**GFF's current assessment: Backsliding**

### Gaps in the Commission's Report

The Commission's report covered the main rule of law concerns in this area, and there were no noteworthy gaps.

## New Issues that Emerged in 2025

### **Non-profit journalism**

The governing coalition of the CDU (Christian Democratic Union), CSU (Christian Social Union), and SPD (Social Democratic Party of Germany), in office since May 2025, has committed in its coalition agreement to creating legal certainty for non-profit journalism, with the aim of ensuring comprehensive access to journalistic content.<sup>25</sup> At present, journalism that is not oriented towards commercial objectives is not clearly recognised as non-profit under German law. Recognition would mean tax breaks for the affected media outlets and journalists and could strengthen their economic viability and editorial independence, thereby contributing to media pluralism, particularly in rural areas. It remains uncertain whether the coalition will implement this commitment. The previous government, comprising the SPD, the Greens, and the FDP (Free Democratic Party), had likewise announced plans to provide legal certainty for non-profit journalism but ultimately failed to deliver a satisfactory implementation.

### **State Media Treaty Reform**

In December 2025, amendments to the State Media Treaty for public broadcasters came into force, approved by the state parliaments. The reform aims to advance digitalisation and streamline operations. In practice, it mandates significant cuts: ARD, ZDF and Deutschlandradio must eliminate 16 linear radio stations, two television news channels and one children's channel, while stricter rules on press similarity limit the use of text in digital offerings.<sup>26</sup> Although the reform was widely seen as necessary, the changes also reflect pressure from large private media companies and far-right attacks on public broadcasting. The tightened ban on press-like content risks reducing the visibility of public service information online in favour of commercial media.<sup>27</sup> The cuts are also set against the backdrop of narratives portraying public broadcasters as overfunded, reinforced by the states' rejection of a proposed 58-cent licence fee increase. As a result, public broadcasters face growing financial pressure and have filed a constitutional complaint, which is still pending before the Federal Constitutional Court.

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25 See coalition agreement p. 122, 2025, available at: [https://www.koalitionsvertrag2025.de/sites/www.koalitionsvertrag2025.de/files/koav\\_2025.pdf](https://www.koalitionsvertrag2025.de/sites/www.koalitionsvertrag2025.de/files/koav_2025.pdf).

26 See „Das ändert sich durch den Reformstaatsvertrag“, tagesschau.de, 1 December 2025, available at: <https://www.tagesschau.de/inland/reformstaatsvertrag-in-kraft-100.html>.

27 See Volker Nünning, “Wie ähnlich ist presseähnlich?”, Menschen Machen Medien Verdi, 11 June 2025, available at: <https://mmm.verdi.de/aktuelle-meldungen/wie-aehnlich-ist-presseaehnlich-103239>; Kristian Stemmler, “Kritisch eingeknickt”, junge Welt, 31 October 2025, available at: <https://www.jungewelt.de/artikel/511457.rundfunkstaatsvertrag-kritisch-eingeknickt.html>.

### **Association law and media freedom (COMPACT case)**

In June 2025, the Federal Administrative Court ruled that the ban imposed on COMPACT-Magazin GmbH, which publishes the right-wing extremist and conspiracy-oriented magazine *Compact*, was unlawful.<sup>28</sup> In its ruling, the Court confirmed that association law may, in principle, be applied to press and media companies. However, it set high standards for the conditions under which press and media organisations can be banned as associations. While the decision resulted in the lifting of a ban on a prominent right-wing extremist propaganda outlet, the Court explicitly rejected the Federal Ministry of the Interior's recent practice of using association law to circumvent the procedural and substantive safeguards of media law when targeting politically unwelcome publications.<sup>29</sup> In doing so, the ruling reinforces the protection of press and media freedom more broadly.

### **Limits on state searches and media freedom (Radio Dreyeckland case)**

In 2023, a journalist from the independent, non-commercial radio station Radio Dreyeckland was charged under Section 85(2) of the German Criminal Code (StGB) for allegedly supporting a banned association through an online article linking to an archive website. After his acquittal by a regional court in 2024, the Federal Constitutional Court ruled in November 2025 that the search of his home carried out as part of the investigation violated his freedom of broadcasting and was unlawful, reaffirming the special protection of journalists' private spaces from state interference.

### **Implications and Recommendations for 2026**

Given these developments, especially with regard to the status of non-profit journalism, the Commission should give Germany a formal recommendation to address the existing issues.

**Suggested recommendation:** Advance with creating legal certainty for non-profit journalism.

<sup>28</sup> Federal Administrative Court, Decision of 24 June 2025 – BVerwG 6 A 4.24 –, available at: <https://www.bverwg.de/240625U6A4.24.0>.

<sup>29</sup> See also the ban of the media portal “linksunten.indymedia.org”, David Werdermann/John Philipp Thurn, Medienverbote leicht gemacht, 31 January 2020, available at: <https://verfassungsblog.de/medienvb-leicht-gemacht/>.

## CHECKS AND BALANCES

### General assessment

Recent developments raise serious concerns about the resilience of checks and balances in Germany. Civil society is facing increasing constraints, driven by the persistent lack of clarity in non-profit law (as criticized by the European Commission) and by a progressively restrictive approach to government funding. Public demonstrations, particularly those expressing solidarity with Palestine, continue to encounter substantial restrictions on the right to freedom of assembly.

The growing influence of the far-right AfD party poses additional risks to democratic governance. Beyond targeting civil society actors, the party's interventions are beginning to affect the functioning of the judiciary. In the state of Thuringia, for example, the AfD is obstructing the judicial selection committee, delaying the appointment of vacant judicial positions. Taken together, the current situation of checks and balances must be assessed as regressive.

### Implementation of 2025 Commission recommendations

**Recommendation: Take steps to adapt the tax-exempt status for non-profit organisations with a view to address the challenges which the currently applicable rules present for the organisations' operation in practice, taking into account European standards on funding for civil society organisations. (first made in 2022)**

Since the last report, neither the former nor the current governing coalition has undertaken any concrete legislative measures to reform non-profit law and establish legal certainty for the civil society organisations concerned with regard to their political activities. Although a reform of non-profit law is announced in the current government's coalition agreement, no concrete steps have been taken to date. Statements by politicians from the leading coalition party, the CDU, have frequently focused on reducing funding for the civil society sector.<sup>30</sup>

The Commission should also improve this recommendation by establishing a clear legal basis for the political activities of non-profit organisations regarding their tax-exempt status

**Commission's 2025 assessment: No progress**

**GFF's current assessment: Backsliding**

<sup>30</sup> See Wissenschaftler und Organisationen kritisieren Union, tagesschau.de, 4 March 2025, available at: <https://www.tagesschau.de/inland/innenpolitik/union-ngos-offene-briefe-kritik-100.html>.

## Gaps in the Commission's Report

Climate activists from the 'Last Generation', engaged in peaceful protest, were criminalised through the application of Section 129 of the German Criminal Code, which is intended to target criminal associations. This application of a law designed for serious organised crime to peaceful protesters has raised serious concerns about the right to freedom of assembly.<sup>31</sup>

Amendments to the Asylum Act (Asylgesetz, AsylG) and the Asylum Seekers Benefits Act (Asylbewerberleistungsgesetz, AsylbLG) significantly weakened the legal position of refugees. These changes result in the loss of protected status if refugees travel to their country of origin and an undue exclusion from social benefits, in violation of international and European law.<sup>32</sup>

Internal German border controls were reintroduced, leading to an increasing number of pushbacks that contravene CJEU rulings.<sup>33</sup>

Despite urgent calls, the key points presented by the Federal Ministry of Justice in 2023 for legislation addressing digital violence—often linked to threats or attacks against journalists—have not resulted in a draft approved by the cabinet.<sup>34</sup>

The legal provision for using spyware under the German Code of Criminal Procedure (Strafprozeßordnung, StPO) was expanded, despite several pending constitutional complaints. Notably, humanitarian workers in refugee aid are now at risk of surveillance.<sup>35</sup>

The Commission does not mention the continued use of "pain grips" by police in multiple federal states.<sup>36</sup> Those affected by racist police operations have long experienced this practice, and climate protesters are also increasingly affected by pain grips. From a human rights perspective, this use of pain grips in the context of peaceful assembly is highly problematic and likely to violate fundamental and human rights obligations.

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31 Civil Liberties Union for Europe, Liberties Rule of Law Report 2025, p. 374.

32 Civil Liberties Union for Europe, Liberties Rule of Law Report 2025, p. 379.

33 Civil Liberties Union for Europe, Liberties Rule of Law Report 2025, p. 381.

34 Reporters Without Borders, Nahaufnahme Deutschland, 2024, <https://media.reporter-ohne-grenzen.de/produktion/4985/01K6Z6XBC6T0WF1D0GTQKJKEGS.pdf>

35 Anna Biselli, Eingeschleuste Staatstrojaner, netzpolitik.org, 18 January 2024, <https://netzpolitik.org/2024/rueckfuehrungsverbesserungsgesetz-eingeschleuste-staatstrojaner/>

36 Civil Liberties Union for Europe, Liberties Rule of Law Report 2025, p. 376.

## New Issues that Emerged in 2025

### **Shrinking space for civil society organisations**

Civil society organisations that are recognised as non-profit and therefore exempt from certain taxes still lack legal certainty regarding their political activities without jeopardising their non-profit status. Many of these organisations are therefore forced to exercise political restraint for economic reasons when they want to campaign or speak out against anti-democratic tendencies in response to current political developments or general political trends including the rise of far-right parties.

At the beginning of 2025, a parliamentary inquiry consisting of 551 questions submitted by the CDU parliamentary group further intensified political pressure on individual civil society actors. The inquiry implied that non-profit organisations were engaging in impermissible (party-)political activities.<sup>37</sup> Pressure for political moderation is also increasing when it comes to direct government funding for civil society organisations or projects engaged in democratic activities. The Federal Ministry of Education announced that it would increasingly scrutinise projects for the prevention of extremism and democracy education in the ‘Demokratie Leben!’ (Living Democracy) funding programme for alleged extremism.<sup>38</sup> This development builds on a long-standing and problematic practice of vetting civil society individuals and organisations applying for public funding.<sup>39</sup> At the request of the responsible funding agency, applicants are checked for “information relevant to the protection of the constitution” held by the domestic intelligence service, the Federal Office for the Protection of the Constitution (Bundesamt für Verfassungsschutz).<sup>40</sup> In 2020, the Bundestag’s research service already criticised this practice, noting that it lacked a legal basis for the associated interference with the right to informational self-determination of the individuals and organisations concerned, and that its proportionality was questionable given that only a few of the findings were actually relevant for funding decisions.<sup>41</sup>

<sup>37</sup> See Deutscher Bundestag, Drucksache 20/15035, 24 February 2025, <https://dserver.bundestag.de/btd/20/150/2015035.pdf>.

<sup>38</sup> See <https://fragdenstaat.de/dokumente/273092-informationsschreiben-an-zuwendungsempfaenger-im-bundesprogramm-demokratie-leben-zur-antragsstellung-2026/>; critically examined by Ralf Pauli, Prien schießt sich auf Demokratieprojekte ein, *taz.de*, 26 October 2025, available at: <https://taz.de/Bundesprogramm-Demokratie-leben/l6122313/>.

<sup>39</sup> See Deutscher Bundestag, Drucksache 21/2201, 14 October 2025 <https://dserver.bundestag.de/btd/21/022/2102201.pdf>.

<sup>40</sup> Ibid.

<sup>41</sup> See Wissenschaftliche Dienste, Deutscher Bundestag, Fragen zum Haber-Verfahren des Bundesministeriums des Innern, für Bau und Heimat, WD 3 - 3000 - 253/20, 2020, <https://www.bundestag.de/resource/blob/817544/WD-3-253-20-pdf.pdf>.

### ***Misuse of parliamentary inquiries***

Parliamentary inquiries (Kleine and Große Anfragen) are increasingly being used as a tool to exert pressure on civil society, particularly by the far-right AfD.<sup>42</sup> Although parliamentary inquiries in the Bundestag are a legitimate democratic control mechanism, the AfD abuses this tool by frequently phrasing its questions in a suggestive manner. In doing so, it seeks to impose its political narratives on public debate.<sup>43</sup> Its questions also reveal deliberate attempts at intimidation. This method is also noticeable in the Länder parliaments, where the AfD submits a particularly high number of parliamentary inquiries. The necessary responses are often extremely detailed and tie up considerable personnel and administrative resources.

### ***Criminalisation of protests***

In the context of demonstrations and gatherings in solidarity with Palestine, there continue to be massive restrictions on the freedom of expression and assembly. At the end of 2024, the Palestine Congress planned in Berlin was dissolved and banned amid a large police presence. On 26 November 2025, the Berlin Administrative Court ruled that this was unlawful and found that both measures were disproportionate.<sup>44</sup>

The police frequently impose blanket bans on the slogan “From the river to the sea – Palestine will be free,” classifying it as the allegedly criminal use of symbols associated with Hamas. While several Higher Administrative Courts have since held that such blanket bans disproportionately restrict freedom of expression and assembly, given that the slogan cannot be unequivocally attributed to Hamas,<sup>45</sup>

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42 Campact, So greifen AfD und Co. die Zivilgesellschaft an, 7 March 2025, <https://www.campact.de/blog/2025/03/afd-angriff-zivilgesellschaft/>

43 Kira Ayyadi, Parlamentarische Anfragen: Die AfD versucht, Zweifel an der Demokratie zu nähren, 25 January 2025, <https://www.amadeu-antonio-stiftung.de/parlamentarische-anfragen-die-afd-versucht-zweifel-an-der-demokratie-zu-naehren-94873/>; Campact, So greifen AfD und Co. die Zivilgesellschaft an, 7 March 2025, <https://www.campact.de/blog/2025/03/afd-angriff-zivilgesellschaft/>.

44 See <https://www.berlin.de/gerichte/verwaltungsgericht/presse/pressemittelungen/2025/pressemittelung.1620365.php>.

45 See Decision of High Administrative Court of Bavaria from 26 June 2024 – 10 CS 14.1062 –, <https://www.gesetze-bayern.de/Content/Document/Y-300-Z-BECKRS-B-2024-N-14713?hl=true> and Decision of High Administrative Court of Hesse from 22 March 2024 – 8 B 560/24 –, <https://www.rv.hessenrecht.hessen.de/bshe/document/LARE240000405>.

case law remains inconsistent,<sup>46</sup> while a decisive examination by Higher Courts is still pending.<sup>47</sup> Most recently, the Bremen Administrative Court upheld a ban on the slogan at a demonstration. In Berlin alone, the police initiated several thousand criminal proceedings against demonstrators,<sup>48</sup> some of which have already led to convictions for using the slogan on the basis of Section 86a of the German Criminal Code (prohibition of the use of symbols of unconstitutional and terrorist organisations).

In early 2025, the Berlin police banned the use of languages other than German or English at a demonstration.<sup>49</sup> After Arabic chants and music performances took place at the demonstration, it was dissolved by the police. Although the Berlin Administrative Court did not object to this yet, this development is a violation of the fundamental right to freedom of assembly. It disproportionately affects demonstrators whose first language is neither German nor English, or who do not speak either language, and significantly impairs their ability to collectively express their views in public assemblies.<sup>50</sup> For protesters in solidarity with Palestine, this means that they continue to face a high risk of state repression when exercising their rights to freedom of expression and assembly.

Restrictions on freedom of assembly were also evident in other contexts in 2025. In the Hessian city of Giessen, tens of thousands of people took to the streets to protest the re-establishment of the far-right

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46 The Mannheim Regional Court, for example, ruled in May 2024 that the expression should be interpreted as promoting freedom of expression and therefore should not be classified as a symbol of Hamas or as the use of such a symbol: Court Mannheim, Decision from 29 May 2024 – 5 Qs 42/23 –, <https://www.landesrecht-bw.de/bsbw/document/NJRE001576952>. Other courts, however, took the opposite view: Regional Court Berlin, Judgement from 18 December 2025 – 502 Kls 13/25, <https://www.berlin.de/gerichte/presse/pressemitteilungen-der-ordentlichen-gerichtsbarkeit/2025/pressemitteilung.1627427.php>, and Judgement from 8 November 2024 – 502 Kls 21/24 –, <https://www.berlin.de/gerichte/presse/pressemitteilungen-der-ordentlichen-gerichtsbarkeit/2024/pressemitteilung.1501343.php>.

47 See Max Kolter, Bundesgerichtshof entscheidet doch nicht über „From the River tot he Sea“, [lto.de](https://www.lto.de/recht/hintergruende/h/lg-berlin-502kls2124-hamas-from-river-to-sea-rechtskraeftig), 3 March 2025, available at: <https://www.lto.de/recht/hintergruende/h/lg-berlin-502kls2124-hamas-from-river-to-sea-rechtskraeftig>.

48 See CIVICUS, Monitor Tracking Civic Space – Germany, 9 December 2025, available at: [https://monitor.civicus.org/press\\_release/2025/germany/](https://monitor.civicus.org/press_release/2025/germany/).

49 See Hanno Fleckenstein, Deeskalation sieht anders aus, [taz.de](https://taz.de/Sprachverbote-auf-Palaestina-Demos/!6064999/), 9 February 2025, available at: <https://taz.de/Sprachverbote-auf-Palaestina-Demos/!6064999/>.

50 See GFF, Gegen Sprachverbote bei Demos: GFF verteidigt die Versammlungsfreiheit, [freiheitsrechte.org](https://freiheitsrechte.org/ueber-die-gff/presse/pressemitteilungen-der-gesellschaft-fuer-freiheitsrechte/sprachauflagen), 12 June 2025, available at: <https://freiheitsrechte.org/ueber-die-gff/presse/pressemitteilungen-der-gesellschaft-fuer-freiheitsrechte/sprachauflagen>.

AfD party youth organisation. Although the protests were largely peaceful, police used pepper spray, water cannons, and batons.<sup>51</sup>

### **Implications and Recommendations for 2026**

Regarding the gaps in the Commission's report, the one that most needs addressing through a recommendation is the application of Sec. 129 of the German Criminal Code to the climate movement and the broader trend of criminalising political activism. This would have required a specific recommendation of the Commission, given its significance and the serious threat it poses to political participation. Regarding the new developments in 2025, the Commission should issue new recommendations on the tax-exempt status of non-profit groups and ensuring the freedom of assembly and freedom of expression.

**Suggested recommendation:** Ensure that laws targeting criminal associations, such as Section 129 of the Criminal Code, are applied restrictively and only within the scope for which they were intended and do not unduly limit the right to peaceful protest and freedom of assembly.

**Suggested recommendation:** Take steps to adapt the tax-exempt status for non-profit organisations with a view to address the challenges which the currently applicable rules present for the organisations' operation in practice, taking into account European standards on funding for civil society organisations.

**Suggested recommendation:** Ensure that restrictions on demonstrations and public expression, including bans on slogans or language use, are strictly proportionate, non-discriminatory, and consistent with constitutional rights to freedom of expression and assembly.

51 See Gareth Joswig, AfD benutzt Gegenproteste, taz.de, 3 December 2025, available at: <https://taz.de/Polizeieinsatz-in-Giessen/!6134956/>; Streit über Polizeieinsatz in Gießen, hessenschau.de, 30 November 2025, available at: <https://www.hessenschau.de/politik/streit-ueber-polizeieinsatz-in-giessen-massive-polizeigewalt-oder-notwendiges-mittel-v5,afd-protest-giessen-100.html>.

## CONTACTS

### **Gesellschaft für Freiheitsrechte (GFF) (Society for Civil Rights)**

The GFF is a Berlin-based not-for-profit-NGO founded in 2015. Its goal is to establish a sustainable structure for successful Strategic Litigation for Human and Civil Rights (HCR) in Germany, bringing together plaintiffs with excellent litigators in order to challenge infringements of HCR in court.

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### **The Civil Liberties Union for Europe**

The Civil Liberties Union for Europe (Liberties) is a non-governmental organisation promoting the civil liberties of everyone in the European Union. We are headquartered in Berlin and have a presence in Brussels. Liberties is built on a network of 21 national civil liberties NGOs from across the EU.

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