



# Appeal from the European Implementation Network for considering the implementation of the judgments of the European Court of Human Rights in the EU's rule of law cycle reviews

*Strasbourg, February 2022*

## Introductory remarks

The European Convention on Human Rights (the Convention) and the European Court of Human Rights (ECtHR) are key guarantors of the continent's human rights, democracy, and the rule of law. They require states to maintain high standards in the protection of fundamental values. In order to be members of the European Union, states must be signatories to the European Convention on Human Rights and be subject to the jurisdiction of the Strasbourg Court.

However there is now a serious problem with [the non-implementation of the ECtHR's judgments](#). Of the "leading" ECtHR judgments handed down against EU states over the last ten years – i.e. those that identify serious or structural problems - **40% remain pending implementation**. In total, there are **569 leading ECtHR judgments pending implementation concerning EU states**.

The issues raised by these unimplemented cases are often fundamental, including unlawful restrictions on [whistleblowing](#), [freedom of assembly](#), and [freedom of expression](#). In order for them to be implemented, governments often need to carry out reforms to law and/or practices to prevent repetitions of the same violation. In many cases, reforms are not being carried out – leaving intact the threats to core European values.

Meanwhile, the [EU's rule of law review mechanism](#) takes little account of the non-implementation of European Court of Human Rights judgments. Previous rule of law reviews have only identified a handful of the leading judgments pending implementation. Crucially, they do not assess the overall level of non-implementation of ECtHR judgments in EU member states.

There are two reasons why the implementation of the judgments of the European Courts is crucial to protecting the rule of law – and why they should be considered in the EU's rule of law assessments.

First, the judgments often concern issues which are fundamental to safeguarding the rule of law. Most notably, in multiple states the Strasbourg Court has identified serious problems with the executive's control of the judiciary. In addition to judicial independence issues, there are also a range of judgments concerning the protection of fundamental values which are necessary for maintaining a democratic way of life in a country governed by the rule of law. They cover core issues like the protection of free speech,

the right to peaceful protest, and the need for a pluralistic media environment. Judgments concerning these issues need to be implemented if the underlying freedoms are to be protected.

The second reason why implementing European Court judgments is crucial to protecting the rule of law, is that the implementation of judgments is intrinsically a rule of law issue. Court rulings are emblematic of a state which is run by laws rather than by the absolute power of government. Court judgments are also the operative tool by which governmental power is kept in check by the judiciary. If governments are able to exercise power without the limits placed upon them by courts – for instance, by ignoring court judgments - then the rule of law does not exist.

## EIN Appeal

With this in mind, the [European Implementation Network](#) (EIN), which represents 38 members and 10 partners from 25 European countries,

- Calls on to the European institutions to take into account the prevalence of the non-implementation of European Court judgments, and in particular the European Court of Human Rights, in the EU's rule of law cycle review;
- Raises the attention of EU bodies to the EIN contribution to the EU rule of law review consultation process. The EIN contribution sets out the level of non-implementation of ECtHR judgments in each member state through straightforward metrics of assessment. These indicators could facilitate the EU Commission in taking the non-implementation of ECtHR judgments into account in the rule of law cycle review;
- Invites the European bodies to fund projects aiming at supporting the implementation of European Court judgments as a key elements for the protection of Union values, by launching specific calls for proposals under the Union values strand of the Citizens, Equality, Rights and Values programme (CERV).

*The [European Implementation Network](#) (EIN) works with members and partners - lawyers, civil society organisations and communities - from across the Council of Europe region to advocate for the full and timely implementation of judgments of the European Court of Human Rights. Based in Strasbourg, EIN serves as a hub for European civil society organisations and facilitates engagement with the Council of Europe's structures.*