

Press release: *Binding the Guardian* – study commissioned by MEP Clare Daly

Monday, 8 November 2021

On the 8th of November we are releasing *Binding the Guardian*, a study commissioned by MEP Clare Daly, which provides a critical analysis of the European Commission’s annual rule of law reports (2020 & 2021). See press release below.

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Binding the Guardian, a study commissioned by MEP Clare Daly and written by an award winning academic Albena Azmanova, investigates the European Commission’s annual rule of law reports (2020 & 2021). The study questions the Commission’s willingness to protect the rule of law, with reference to its reports on France, Spain and Bulgaria. It investigates the Commission’s failure to properly address France’s increasing use of fast-tracked security laws and discriminatory legislation against Muslim civil society organisations, the assault on political freedoms in Spain, and how it turned a blind eye to the close links between the Bulgarian state and the oligarchic mafia.

Ultimately it finds that the Commission does not fulfil its duties as ‘Guardian of the Treaties’ with these reports as it “fails to give justification for the selectivity of information it has included, is prone to the use of obscure language that condones inherent threats to the rule of law and systemic institutional deficiencies, and is swayed by political bias.”

Though these yearly country Rule of Law reports are not binding, the study finds that “when mishandled, this seemingly innocuous policy tool can do serious damage.” The European Commission would be on stronger grounds with regards to the rule of law in Poland and Hungary had it pushed for governments to safeguarded it in all member-states.

The authors argue that the country reports must be brought in line with the rule of law and sets down a series of recommendations to this end. As well as changes to the methodology and presentation of the country-specific reports, they make the case for the creation of a citizen-centered rule of law platform on which citizens share experiences of rule of law breaches and call the Commission to account for the way it monitors the rule of law.

Clare Daly, Irish Member of the European Parliament in The Left group, said of the findings: “The Rule of Law has become a catchphrase in EU institutions, but instead of being a basis for ensuring that all citizens live in a just society that protects their fundamental rights, it is underutilised, or used selectively as an occasional stick to beat those outside the European mainstream. This partisan and inconsistent application of what should be a universal system robs citizens of a valuable tool for a better life. This study is a call to action, for citizens to claim it as their own”.

The study involved collaboration with national journalists, NGOs, thinktanks and eminent rule of law scholars, including Professors Laurent Pech and Kalypso Nicolaïdis – who

provided personal accounts of rule of law deficiencies and their views on the Commission's response.

You will also find attached a pamphlet extracted from the study's chapter on Bulgaria (also under embargo) which we are launching in Sofia on 5th of November. The pamphlet is available in English and Bulgarian. Please get in touch for more information on this.

For more information on either of these documents, please contact Bethany:
bethanyhoward@hotmail.co.uk

Background

A November 2017 [Open Letter](#) to European Commission President Juncker and European Council President Tusk initiated by Barbara Spinelli, Albena Azmanova, Etienne Balibar, Kalypso Nicolaïdis and others cautioned against the growing tendency of using the rule of law as a tool of political oppression, noting that the European Commission itself has fallen short of its responsibilities for safeguarding the rule of law in the EU. In a co-authored [article](#) Nicolaïdis and Azmanova (2020) argued that 'The EU itself has complied with these principles erratically and selectively, thus violating the spirit of the rule of law. This has been evident in several instances—from lack of concern with the Silvio Berlusconi media monopoly in Italy to France's semi-permanent state of emergency... Often, the EU is content with narrowly reducing the remit of the rule of law to a simple matter of legality—ignoring routine violations of core values, such as the right to peaceful assembly, freedom of speech or even the right to liberty and life itself.'