

The background is a dark blue, textured surface. In the upper left, there is a white star graphic. In the upper center, a green star graphic. In the upper right, a white star graphic. In the lower right, a large green star graphic. The lower half of the image shows the lower legs and feet of a group of people walking, rendered in a dark blue, semi-transparent style that blends with the background texture.

Promoting Rule of Law

Working together
for **human rights** and a
democratic Europe*

Judicial independence and accountability, access to justice and the right to a fair trial are key elements of the rule of law and human rights protection.

Pressure on justice systems continues to rise in many countries across the OSCE region, with concerns regarding respect for rule of law principles, including judicial independence, which is integral to the concept of separation of powers. Political influence over the judiciary and other challenges to the independent and effective functioning of justice systems can erode trust in the judiciary and in public institutions more broadly. They also impact courts' ability to resolve cases independently, fairly and efficiently, with tangible consequences for people's everyday lives. Dialogue between stakeholders, including judges, legal professionals, academia, civil society and international organizations, such as the OSCE's Office of Democratic Institutions and Human Rights (ODIHR), can provide an important space to address some of these concerns, exchange good practices, identify actions and support stronger justice systems across the 15 EU countries covered by this initiative.

OSCE commitments to the rule of law

The rule of law is a fundamental pillar of any democratic society. ODIHR is mandated to assist OSCE participating States to “ensure full respect for human rights and fundamental freedoms, to abide by the rule of law, to promote principles of democracy and (...) to build, strengthen and protect democratic institutions, as well as promote tolerance throughout society”, [Helsinki Document](#) (1992). OSCE participating States have repeatedly committed to upholding the rule of law, ensuring judicial independence and protecting fair trial rights through numerous decisions and declarations, including the [Copenhagen Document](#) (1990), [Charter of Paris](#) (1990), [Moscow Document](#) (1991), [Ljubljana](#) (2005) and [Brussels](#) (2006).

Judicial independence

Across the OSCE participating States covered by this initiative, important trends and challenges to judicial independence have been identified, including political or executive influence over judicial appointments, promotion, disciplinary sanctions and/or court administration. Bodies intended to safeguard judicial independence — such as judicial councils — can themselves become politicized, may not adequately represent the judiciary, or may face political deadlock. Disciplinary systems may be applied in ways that discourage independent decisions, creating a ‘chilling effect’. Public trust in the judiciary also remains a challenge in some countries, including where perceptions of undue political or other influence exist.

Access to justice

Access to justice remains difficult for many. Courts face shortages of staff and resources, and significant caseloads, which lead to lengthy proceedings. Digital tools that could improve efficiency may be incomplete or not uniformly available. Legal aid — support with legal costs for people who cannot afford a lawyer — is unevenly accessible across the states covered by the initiative and is, at times, ineffective, insufficient and/or difficult to access, especially for vulnerable groups, people in detention or those on low incomes.

Right to fair trial

In some jurisdictions, the effective enjoyment of the right to a fair trial is undermined by chronic delays and case backlogs. Cases can drag on for years, raising concerns regarding the right to a hearing within a reasonable time. Enforcement of court decisions can also present challenges, including delays in the implementation of judgments of the European Court of Human Rights. In some contexts, concerns have also been raised regarding the transparency of case assignment and access to timely legal advice, interpretation, or protection in sensitive proceedings including asylum and administrative cases.

Justice system reforms

Reforms of justice systems are frequently characterized by political motivation, accelerated legislative processes with limited public consultation, inadequate impact assessments and insufficient adherence to established international standards. This increases the likelihood of reversals or modifications of prior reforms, producing volatility rather than coherent long-term institutional development. Such measures often recalibrate the institutional balance of power in favour of political actors, thereby diminishing independent checks and safeguards. Once the foundational legal framework governing the administration of justice has been compromised, the restoration of structures fully compliant with rule of law principles presents substantial and enduring challenges.

Additional challenges to the rule of law

Other challenges include public attacks against judges, lack of integrity and weak institutional response to high-level corruption, pressure on the media and restrictive civic space, as well as lack of gender balance and minority representation in justice systems. These factors make it harder for courts to hold the powerful to account and for citizens to believe the system works fairly for everyone.

ODIHR's work on the rule of law

ODIHR has published two complementary sets of recommendations on judicial independence and accountability: the 2010 *Kyiv Recommendations on Judicial Independence in Eastern Europe, South Caucasus and Central Asia* ([Kyiv Recommendations](#)) focus on judicial appointments, court administration and accountability, while the 2023 *Recommendations on Judicial Independence and Accountability* ([Warsaw Recommendations](#)) set out universal principles for a broader range of issues, including mechanisms for ensuring judicial independence and accountability and ways to balance them effectively.

On request, ODIHR monitors processes for judicial appointments and the evaluation of integrity and/or qualifications of judges, assessing their fairness and compliance with international standards on judicial independence and human rights. In addition, upon request, ODIHR reviews draft and/or existing legislation to assess its compliance with OSCE human dimension commitments and international human rights standards.

To strengthen safeguards for due process, ODIHR promotes institutional reforms to help criminal justice actors (e.g., lawyers, judges, prosecutors, law enforcement) work transparently and in compliance with human rights obligations. The Office offers expert assistance on the reform of criminal procedures and prosecutorial systems, and organizes regular exchanges for officials, practitioners and academics to discuss criminal justice policy issues.

ODIHR observes trials and makes recommendations to participating States on fair trial rights. ODIHR acts as a repository of expertise and successful strategies and methodologies from across the OSCE region and has developed a number of trial monitoring tools designed to assist legal professionals and trial monitors in their work, as well as non-governmental organizations and OSCE field operations engaged in trial monitoring.

Stronger rule of law protects everyone's rights, keeps courts fair and free from undue influence, and underpins democratic stability. Understanding these shared challenges and the efforts to address them is a first step towards informed public discussion and support for improvements that benefit people across the OSCE region.

RECOMMENDATIONS ON JUDICIAL INDEPENDENCE AND ACCOUNTABILITY

(Warsaw Recommendations), 2023

In 2019, in response to numerous requests for guidance on issues related to judicial independence falling outside the geographic and thematic scope of the *Kyiv Recommendations*, ODIHR initiated a comprehensive consultative and expert-driven process to ensure that its recommendations on judicial independence respond effectively to current challenges. The inaugural meeting of a core group of experts convened in Warsaw,

followed by extensive further assessment of the thematic areas in focus. The *Recommendations on Judicial Independence and Accountability (Warsaw Recommendations)* are the result of this review process.

The *Warsaw Recommendations* are intended to deliver a practical tool for stakeholders across the OSCE region who engage with justice systems in different capacities.

The 15 EU countries covered by this initiative are: Bulgaria, Croatia, Cyprus, Czechia, Estonia, Greece, Hungary, Latvia, Lithuania, Malta, Poland, Portugal, Romania, Slovakia and Slovenia.

More information about ODIHR and the EEA and Norway Grants is available at:
<https://odihr.osce.org/project/665539>



ODIHR tools for participating States and practitioners



Recommendations on Judicial Independence and Accountability (Warsaw Recommendations)



Kyiv Recommendations on Judicial Independence in Eastern Europe, South Caucasus and Central Asia



Trial Monitoring: A Reference Manual for Practitioners, Revised Edition



Legal Digest of International Fair Trial Rights



Fair Trial Rights and Public Health Emergencies



Gender, Diversity and Justice: Overview and Recommendations

Iceland
Liechtenstein
Norway grants



OSCE Office for Democratic Institutions and Human Rights

ul. Miodowa 10
00-251 Warsaw, Poland
Office: +48 22 520 06 00
office@odihr.pl

www.odihr.osce.org

Follow ODIHR

