



Aspiration and Reality. On German Development Cooperation

# Rule of Law Cooperation in Practice

Case Studies from the Western Balkans

Pavel Usvatov / Julia Leitz

The rule of law is elementary for a functioning democracy. This is why its promotion is a key component of German development cooperation. But how do projects in the legal field actually work? What are the challenges involved? And what can be said about the effectiveness of rule of law work? Here we look at some case studies from the Western Balkans.

---

### **Development Cooperation in the Legal Field**

Building wells, renovating schools, securing food supplies – these are the kind of things people most commonly associate with the now outdated term “development aid”. In fact, what is now called “development cooperation”<sup>1</sup> is much more multifaceted and goes beyond technical cooperation. One quantitatively rather small but nonetheless very important area is promotion of the rule of law. Germany has been engaged in this kind of development cooperation for decades,<sup>2</sup> with funding amounting to 1.44 billion euros<sup>3</sup> out of a total of 206 billion euros<sup>4</sup> in development funds between 2007 and 2021.

### **The German Rule of Law Promotion**

Rule of law promotion has gained considerable importance over the past three decades and is now not only carried out in conjunction with other development projects, but often in parallel or entirely independently of them, with its own goals and funding.

#### *German Development: From Recipient to Donor*

While conventional German development aid began in the early 1960s,<sup>5</sup> promotion of the rule of law did not become established as a relevant and increasingly independent field until the 1990s. Previously, especially in the post-war years, the Federal Republic was itself in some respects the recipient of development aid in the area of the rule of law: the Western Allies were involved early on in the drafting of the Basic Law, and the establishment of Germany’s constitutional structures in the administration also took

place under their influence. It is precisely the fact that Germany overcame the National Socialists’ “Unrechtsstaat” (unjust, lawless state) that made the country a credible player in the field of rule of law work: the example of the Federal Republic of Germany showed that it was possible to develop a functioning system that is committed to the principles of the rule of law and that works in everyday life. This was confirmed once again in the 1990s with the successful legal integration of the German Democratic Republic (GDR).<sup>6</sup>

#### *Definition and Objective of Rule of Law Promotion*

There is no generally applicable definition of the term “rule of law”, which is why there is no general definition of “rule of law promotion” either.<sup>7</sup> For this reason, the Federal Government defined the area of German rule of law promotion for itself in the “Strategy of the Federal Government for Promoting the Rule of Law”, which was adopted (for the first time<sup>8</sup>) in 2019 as an underlying guideline for its work in this field. This definition is a synthesis of the concept of “rule of law” as defined by the United Nations and the “specific understanding of the concept of the rule of law” shaped by the German legal and constitutional traditions.<sup>9</sup> This understanding “limits and commits state authority to safeguarding individual freedoms and material justice, in particular by recognising fundamental rights, ensuring the administration is subject to the law and effectively protecting individual rights by maintaining the independence of the courts.”<sup>10</sup>

The goals of rule of law promotion are manifold and the Federal Government considers rule of law promotion a “central instrument [...] in the



From recipient to donor: The Federal Republic of Germany, with the help of the Western Allies, succeeded in (re)building a functioning judicial system based on the rule of law after World War II. Since the 1990s, it has itself been intensively engaged in rule-of-law cooperation with other states. The picture shows the Federal Constitutional Court in Karlsruhe. [Photo: © Uli Deck, dpa, picture alliance.](#)

field of crisis prevention, conflict management and peacebuilding”.<sup>11</sup> In addition to the “establishment and promotion of the rule of law in the narrower sense”, the political objectives include the “fight against corruption”, “human rights” and “international humanitarian law” as well as the “promotion of democracy”. Operational objectives include “building and improving structures and procedures of state institutions”, “supporting legal reforms” and “strengthening the independence of the judiciary”.<sup>12</sup>

In addition to promoting the ideals and values of the rule of law itself, work on the rule of law also has to do with other interests, of course. By promoting the rule of law structures, the aim is to create a framework for a better functioning economy

with a view to enabling German companies to invest more easily and with greater security. Economic development can in turn contribute to poverty reduction. A further objective is to improve security in many areas of life through a functioning judiciary and administration. In this way, promotion of the rule of law can serve to reduce the causes of displacement and migration, and it can help advance climate and environmental policy.<sup>13</sup>

#### *Forms of Rule of Law Promotion*

In practice, rule of law work takes many different forms. German rule of law promotion can be roughly divided into three areas, which differ both in terms of the (aforementioned) goals and of methods and resources.<sup>14</sup>

At the macro level, Germany tries to use diplomacy to persuade other countries to introduce, observe and implement rule of law standards locally. This is usually done through persuasion, granting economic or other benefits, or through political support. These efforts ideally culminate in the conclusion of international treaties. The Federal Foreign Office is the lead agency in this area. The exact obligations and their scope are negotiated between the contracting parties and are binding on both sides. Germany's participation in international organisations and treaties under international law is on the same level: it mainly consists of financing certain projects initiated by institutions such as the UN. By promoting the rule of law in this way, Germany is fulfilling its obligations under international treaties.

### **The political foundations are independent actors that carry out projects to promote the rule of law.**

---

Measures at the micro level include what was formerly known as “technical cooperation”, which is now much more multifaceted than it was at the beginning of rule of law promotion. The majority of projects in the field of *technical* legal development cooperation, both financially and quantitatively, are carried out by the Gesellschaft für Internationale Zusammenarbeit (GIZ) on behalf of the German Federal Ministry for Economic Cooperation and Development (BMZ). GIZ's main focus here is on creating and strengthening the technical conditions for the rule of law in partner countries. This includes providing resources for judicial institutions, further training of staff and advising on legislative projects and their implementation. In recent years, GIZ projects have increasingly moved beyond the technical field, which is not without controversy due to the differing tasks of BMZ, the Federal Foreign Office and the Federal Ministry of Justice (BMJ).<sup>15</sup>

BMJ is actively involved on a quantitatively much smaller scale than BMZ, but makes a crucial

contribution. In addition to bilateral cooperation with justice ministries of other states (including the rule of law dialogue pursued by the Federal Government with China and Vietnam), BMJ operates through the German Foundation for International Legal Cooperation (IRZ), which was established specifically for this purpose in 1992.

Secondly, there is the area of non-technical cooperation. This includes the political foundations, which carry out projects as independent actors to promote the rule of law in the countries in which they operate. The focus here is on the level of legal policy (e.g. dialogue between German and foreign political representatives) and the level of civil society. Unlike GIZ or IRZ, the political foundations are not implementing organisations. They organise their work independently and autonomously within the framework of the objectives agreed on with the funding agencies (BMZ and the Federal Foreign Office).<sup>16</sup>

The non-technical area also includes academic cooperation and exchanges, for example through the German Academic Exchange Service (DAAD), as well as through several smaller institutions and research facilities that operate particularly on a regional or country-specific basis and that work in selective fields. Of the non-governmental organisations, one of the many is the German Federal Bar (BRAK), which cooperates with bar associations abroad. An example of a research institution organised under private law is the Institute for East European Law (IOR) in Regensburg with its cooperation partners in Eastern Europe.

### **Effectiveness of Rule of Law Work in the Western Balkans**

As a result of increasing European integration in recent decades, promotion of the rule of law by EU states at national level has been significantly reduced. Since the turn of the millennium, most member state projects in Europe have gradually been integrated into or coordinated with EU development work.<sup>17</sup> The largest donor in the Western Balkans region (Albania, Bosnia

and Herzegovina, Kosovo, Montenegro, North Macedonia and Serbia) is the EU, which provides financial assistance mainly through the Instrument for Pre-Accession Assistance.<sup>18</sup> In the period from 2014 to 2020, EU allocations to the Western Balkans in the rule of law area amounted to 700 million euros – some 16 per cent of the total bilateral EU aid.<sup>19</sup> In 2021, for example, Germany allocated 7.86 million euros to the area of law and justice and 2.1 million euros to the area of human rights in the Western Balkans.<sup>20</sup>

## The success of rule of law promotion is sometimes difficult to measure.

Rule of law promotion is a complex field in which success is sometimes difficult to measure. One of the reasons for this is that the impact of reforms or projects on a broader (societal) level does not become apparent until after a sometimes considerable delay. Furthermore, it is often difficult to establish causality between a particular measure and the success achieved. While the result at the output level (measurable activity or achievement) is immediately visible, for example if a legal database is set up, a publication is issued or a training programme is implemented, the concrete impact of such measures is difficult to determine. It may be possible to measure the outcome (the effect on the target group) of a measure, but its impact can often only be estimated.

The effectiveness of rule of law work over extended periods of time can be assessed, however. In January 2022, the European Court of Auditors published a special report on the effectiveness of EU support in the rule of law area in the Western Balkans. A total of 20 projects carried out in the period from 2014 to 2020 were analysed, focusing on the legal and judicial system, anti-corruption and human rights.<sup>21</sup> In summary, the European Court of Auditors concluded that although the measures supported and implemented by the EU had resulted in reforms in the

technical and operational areas, the measures had little overall impact in terms of fundamental improvements in the rule of law.<sup>22</sup> In particular, it noted that too little had been done to develop limited administrative capacity or strengthen political will. According to the report, it is problematic that financing and implementation of projects were “not always” subject to the fulfilment of conditions (“conditionality”). Moreover, EU support for civil society was said to be not sufficiently geared to the latter’s needs and mainly limited to short-term projects.<sup>23</sup> The findings of the European Court of Auditors are particularly relevant to this paper because some projects were implemented by German organisations. Indirectly, therefore, its assessment is also an assessment of Germany’s promotion of the rule of law in the Western Balkans.

### Two Examples of Rule of Law Promotion in the Western Balkans

For this article, two practical examples from Serbia and Albania have been selected because they are typical of (technical) rule of law promotion: they involve advisory work on the introduction of new legal institutions and the formulation of the relevant legal bases, capacity development and support in implementing reforms. The-matically, the focus is on reforms in the area of courts and public prosecution offices as well as fighting corruption – two areas that are at the centre of many rule of law projects. These two examples were specifically chosen because they are not simply success stories (of which there are many) but also offer an opportunity for critical reflection from which lessons can be learned. Both projects were implemented by German development organisations.

#### *An Example from Serbia: Introduction of the Notary Public Office*

In Serbia, the Instrument for Pre-accession Assistance first introduced in 2007 was used to prepare and implement judicial reforms. Various measures served to implement the action plan under Negotiation Chapter 23 to achieve the EU’s *acquis communautaire* and thus support

the establishment of an independent, accountable and efficient judiciary.<sup>24</sup> Under the Legal and Judicial Reform Programme with a funding volume of 7.1 million euros, two German development organisations were involved in these measures from January 2011 to May 2017.<sup>25</sup>

## The setting of notary fees became a political issue in Serbia.

Reforms of a public notary's office play a significant role in increasing the efficiency of the courts in Serbia, as in most states in Southeast Europe. Through their advisory activities, notaries make an important contribution to avoiding future legal disputes and therefore to relieving the courts.<sup>26</sup> In Serbia, a great need for such preventive legal administration and qualified advice was identified, especially in the area of property.<sup>27</sup> For this reason, the project focused on advising the Serbian partners on establishing a public notary's office. In addition to the two German development organisations, experts from the German Notaries' Association and the German Federal Chamber of Notaries were also involved.<sup>28</sup> Some preliminary work had already been carried out as part of a bilateral partnership from 2001 onwards.

In the course of the project, several practical difficulties arose that delayed implementation. For example, it was necessary to clarify the access of existing legal professions to the notary's office and the development of admission requirements. Furthermore, awareness of the role and tasks of the notary's office had to be created among professionals and the public at large. The discussion surrounding the setting of fees became a political issue.<sup>29</sup> Moreover, since a number of legal transactions were to fall under the exclusive jurisdiction of notaries, the legal profession feared a loss of revenue and standing.<sup>30</sup> There was considerable opposition to the law passed at the end of 2014. Having already gone on strike because of the changes in tax law that were disadvantageous

to them, lawyers now additionally demanded the deletion of the relevant provisions in the Notaries Act. They organised a blockade of the administration of justice for several months, resulting in more than 200,000 court dates having to be postponed. As a result of protests, the exclusive competence of notaries for land transactions and certain contracts was removed from the law again in early 2015.<sup>31</sup> The benefits intended to be generated by establishing the notary's office were thus to some extent cancelled out.

There were various reasons for the lengthy duration of the project, some of which were beyond the control of the external actors. They include changing priorities of the Serbian governments between 2001 and 2014. While there was initially considerable willingness to implement reforms, motivation waned over the years and prime concerns changed, not least due to the Kosovo conflict (declaration of independence on 17 February 2008). From 2011 onwards and particularly following the parliamentary and presidential elections in 2012, the reform project was stepped up again.

Nonetheless, it is also evident that the expectations on the part of the advisors were not always realistic and that "in the context of legal transformation, some things can turn out very differently from what one would actually expect based on the objective circumstances".<sup>32</sup> Many of the stumbling blocks can be traced back to misjudgment or failure to take certain circumstances into account. It was known that the reform entailed disadvantages for the legal profession, for example. So even without in-depth knowledge of the country, it could have been anticipated that there would be resistance from lawyers. Finally, a thorough analysis of the institutional, economic and social framework conditions (in particular various manifestations of corruption) should have led to the realisation that defining the admission criteria for the notary's office and setting the fees, for instance, would be a major challenge and would come up against opposition.

Nevertheless, it can be said that Serbia now has a functioning notarial service thanks to these



Promoting the rule of law in a practical way: The Palace of Justice in Belgrade (picture from 2017) was completely rebuilt with support from the European Investment Bank – also to increase the efficiency of the judicial authorities based there. Photo: © Robert B. Fishman, picture alliance.

reforms. This is an achievement despite the softening of the original regulations. Lessons that German rule of law promotion can learn for future projects from the experience gained in introducing this reform include the need for a fundamental needs assessment and in-depth analysis, not only with regard to the legal context but also in terms of the general situation within society.

#### *An Example from Albania: Judicial Reforms*

From September 2014 to March 2018<sup>33</sup> and from April 2018 to the end of December 2021,<sup>34</sup> the EU-funded projects EURALIUS IV and V were implemented in Albania to support and accompany the judicial reform there. Here, too, a German development organisation was commissioned to implement the projects. A core element was the drafting of the Law on the

Re-evaluation of Judges and Prosecutors (“Vetting Act”). Part of the aims was to strengthen the independence of the judiciary, increase its efficiency, improve access to justice and fight corruption.<sup>35</sup>

### **In some Albanian courts, half of the positions are vacant.**

---

In its reports, the European Commission states that Albania has made progress in implementing judicial reform in the area of vetting:<sup>36</sup> by September 2022, 554 first-instance review proceedings had been completed, with dismissals or resignations of judges and prosecutors in 64 per cent of the cases.<sup>37</sup> The vetting process led not only to numerous dismissals in the lower courts,

but also to the removal from office of judges in the Constitutional Court and the Supreme Court. Moreover, some judges resigned from office on their own initiative prior to the vetting process:<sup>38</sup> soon after the vetting process began, only one of the nine judgeships at the Constitutional Court and four out of 17 positions at the Supreme Court remained filled. As a result, no decisions were taken by either court for more than two years. In 2019, the Supreme Court alone had a backlog of more than 30,000 cases<sup>39</sup> – which continues to this day. The situation was dramatic in the lower courts, too, and remains so. At some courts, half of the positions are vacant because fewer judges and prosecutors can be trained and recruited than have left in the course of the vetting process.

### **In addition to a needs and situation analysis, a risk and legal impact assessment should also be undertaken.**

---

One of the most serious consequences for those affected is the considerable delay in criminal proceedings: in Albania, pre-trial detention (i.e. provisional detention pending judgement) may be extended to up to three years. Added to this is the imposition of pre-trial detention even for minor offences and detention conditions that are in some cases significantly below minimum European standards. The long duration of proceedings is also a major problem in civil and administrative justice. A trial before Albania's most important court of appeal in Tirana takes three to four years, and before the Supreme Court at least seven years.<sup>40</sup> As a result, citizens' access to justice is significantly impaired. They cannot claim violation of their rights within a reasonable time frame, thereby resulting in an enormous loss of confidence: only 1 per cent of respondents "totally trust" the judiciary, 19 per cent "tend to trust", while 74 per cent trust the judiciary to a lesser degree or not at all. With regard to the duration of proceedings, costs of proceedings, enforcement of decisions and

transparency, between 0 and 1 per cent of the respondents say the judiciary is "excellent" or "very good", while 10 to 15 per cent say it is "good", depending on the category. Between 64 and 72 per cent rate performance in these areas as "poor" or "very poor".<sup>41</sup>

These side effects of the reform derive from several misjudgements in the planning of the project. On the one hand, the duration of the project was underestimated (instead of early 2022 as planned, the process is now not set to be completed until the end of 2024), as was the share of office-holders to be dismissed (originally about 30 per cent, now more than 64 per cent). Secondly, no effective arrangements were made to maintain a functioning judiciary. To date, there are not enough qualified personnel to fill many of the vacant positions at courts and in the public prosecutor's office. The reformed High Councils, which appoint (new) judges and prosecutors, did not start their work until the beginning of 2019, almost two years *after* the start of the vetting process. No sufficient procedural basis was created to avoid or at least mitigate a procedural backlog. There was no workable strategy to increase the number of suitable lawyers and their retention. Finally, non-judicial staff such as secretaries and expert advisors were not sufficiently involved in the planning. Pre-service and in-service training did not take place, nor were assignments redistributed.

One thing the vetting process did achieve was the dismissal of corrupt officials from the judiciary. Whether the complete dysfunctionality of the judiciary – which has occurred at various times and still persists to some extent – is an appropriate price to pay, is an issue that at least requires extensive discussion.<sup>42</sup> The result has been a temporary or even permanent denial of justice ("justice delayed is justice denied") for thousands of people seeking justice since 2017. In any case, one of the lessons learned from this project is that, in addition to a needs and situation analysis (see Serbia case study), a thorough and critical risk and legal impact assessment should be undertaken and potential contingency plans ("plan B") must be incorporated.



## Conclusion

The rules-based order and the democratic rule of law as a system are being challenged today more than at any time since the Cold War. Even some EU member states are seeing setbacks when it comes to the rule of law, and developments in the immediate neighbourhood and among the EU accession candidates are stagnating at an inadequate level. This makes rule of law promotion all the more important now in particular – and it needs to be all the more effective.

### Even some EU member states are seeing setbacks in the rule of law.

---

For rule of law work to be successful and efficient, it must be strategically and conceptually well prepared. The approach of coordinating rule of law promotion in the EU accession countries at the EU level avoids duplication and enables synergies to be harnessed. The adoption of a strategy to this effect in Germany in 2019, which admittedly still needs to be filled with content, is also a step in the right direction.

There continue to be deficits at the planning and implementation level. In addition to ensuring the effectiveness of individual measures, the key challenges are their efficiency and sustainability, whereby these three categories are closely linked.

In development cooperation, the Logical-Frame-work method has become established, which – put very simply – contains four components, some of which have already been mentioned: input (resources used), output (product or service as a direct result of the activity), outcome (actual added value for the target group) and impact (sustainable benefit beyond the target group).<sup>43</sup> Despite the frequent criticism of the method, it does enable sound planning and implementation of effective measures when applied correctly. The examples described above provide

some indications for project planning. The most important of these can be subsumed under the heading of ex-ante and accompanying evaluation and adaptation.

**Ex-ante evaluation:** Even when formulating the objectives of a project, a critical and careful needs assessment and investigation of the social, economic and political framework conditions must be carried out (for example, will citizens be able to pay the higher notary fees, and will admission procedures to the notary's office be sabotaged by nepotism?). This requires the involvement of experts in these fields, especially local experts. Legal expertise alone is not enough here. The formulation of objectives must be based on the findings thus obtained even if they do *not* correspond to the ideas or wishes of the project's instigator (for example, it will not be possible to implement certain ideas put forward by the consultants against the resistance of the legal profession). The formulation of objectives must be followed by a feasibility analysis. The objective may need to be adapted to reality (for example, the notary's office is not established as a copy of the German model but in an adapted version). The results of the feasibility analysis must be fed into the assessment of whether and to what extent the envisioned objective can be achieved at all given the resources available (for example, the duration and therefore the financing of a project lasting three years is far too short). Finally, a risk and legal impact assessment must be carried out and taken into account when the objectives are identified and during the subsequent planning (for example, if some of the judges are dismissed, there will be a backlog of cases; if not enough judges are trained, the vacant posts cannot be filled and the judiciary may become dysfunctional).

**Accompanying evaluation:** The formulation of objectives is followed by implementation planning and implementation itself. For each element of the project, the steps that were taken in the formulation of the objectives should ideally be repeated "in miniature". Care must be taken to ensure that ownership by local partners and political support are in place (if that does not happen,

then, for example, an institution may become non-functional or be abolished altogether as soon as foreign experts or funds are withdrawn). In case of resistance or even if the partners are passive, project implementation is fraught with risks, and changes in the framework conditions can also lead to problems during implementation. Implementation must therefore be evaluated on an ongoing basis. Drawing on the findings of the evaluation, the implementation process, the plan and, if necessary, the objectives must be adapted (for example, significantly more judges than planned have to be dismissed, resulting in a court's inability to function and giving cause to adapt the plan or objective). However, this presupposes that the client (the funding agency) is also willing and able to accept necessary changes, to extend terms and to adapt objectives. Even the termination of a project must be possible as the last resort without negative consequences for the implementing organisation ("error culture").

In summary, rule of law promotion is effective if it is based on sound planning, takes account of local conditions and is of a duration<sup>44</sup> that makes it possible to achieve the objectives. Political foundations have a particular advantage here: they maintain a permanent local presence and have long-established contacts in civil society and politics. As a result, they have a very good knowledge of the political and social context in which rule of law cooperation takes place and can make a sound assessment of the requirements and likelihood of success. The Konrad-Adenauer-Stiftung, for example, focuses on promoting the rule of law and has established a global rule of law programme with sector programmes in Southeast Europe and in five other regions of the world.<sup>45</sup>

*– translated from German –*

---

**Dr Pavel Usvatov** is Head of the Konrad-Adenauer-Stiftung's Rule of Law Programme Southeast Europe based in Bucharest.

**Julia Leitz** is a legal trainee in the Konrad-Adenauer-Stiftung's Rule of Law Programme Southeast Europe.

- 1 For a definition of terms, see German Federal Ministry for Economic Cooperation and Development (BMZ): Von der Entwicklungshilfe zur Entwicklungszusammenarbeit (From development aid to development cooperation), in: <https://ogy.de/ez7s> [14 Sep 2023].
- 2 "Praxisbeispiele deutscher Rechtsstaatsförderung" (practical examples of German rule of law promotion) with further literature in: Kötter et al. 2022: Rechtsstaatsförderung: Handbuch für Forschung und Praxis, Stuttgart, pp. 47 ff.
- 3 In 2021, the Federal Republic's expenditure on legal and judicial development worldwide amounted to 31.1 million euros. European Commission 2023: EU Aid Explorer. Recipients, in: <https://ogy.de/3tlv> [14 Sep 2023].
- 4 BMZ 2023: OECD statistics show that Germany continues to be a reliable partner for development cooperation, press release, 12 Apr 2023, in: <https://ogy.de/n25u> [14 Sep 2023].
- 5 The BMZ, which was established partly on Adenauer's initiative, was founded on 14 November 1961, followed by the German Development Service (Deutscher Entwicklungsdienst) in 1963. BMZ 2023: 60 Jahre BMZ – Rückblick und Ausblick. Die Geschichte des BMZ (60 years BMZ – Review and Outlook. The History of BMZ), in: <https://ogy.de/phds> [14 Sep 2023]. On the role of development aid: Walter Scheel's speech at the Evangelische Akademie Tutzing in July 1966, facsimile, in: <https://ogy.de/7j6g> (in German) [14 Sep 2023].
- 6 For a summary on the Federal Republic of Germany in the post-war years: Requate, Jörg 2022: Rechtsstaatsaufbau in der frühen Bundesrepublik, in: Kötter et al. 2022, n. 2, pp. 30 ff.; on the Democratic Republic of Germany: Hagenlocher, Ulrich/Röder, Tilmann J. 2022: *ibid.*, pp. 40 ff.
- 7 Kötter et al. 2022, n. 2, preface, p. VI.
- 8 However, promotion of the rule of law played an important role in the German government's guidelines on preventing crises, resolving conflicts and building peace published in January 2018. German Federal Government 2018: Preventing Crises, Resolving Conflicts, Building Peace, Jan 2018, pp. 92 ff., in: <https://ogy.de/8181> [14 Sep 2023]. Regrettably, in the new guidelines issued by the Federal Foreign Office in February 2023, rule of law is only mentioned twice in subordinate clauses. Otherwise, the emphasis is on the rather general concept of "human rights". German Federal Foreign Office 2023: Shaping Feminist Foreign Policy. Federal Foreign Office Guidelines, 28 Feb 2023, p. 76, in: <https://ogy.de/m0gx> [14 Sep 2023].
- 9 This is based on the UN Charter (1945), the Universal Declaration of Human Rights (1948) and the Secretary-General's 2004 report on "The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies" (S/2004/616): "[...] a principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated,

- and which are consistent with international human rights norms and standards. It requires, as well, measures to ensure adherence to the principles of supremacy of law, equality before the law, accountability to the law, fairness in the application of the law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness and procedural and legal transparency". UN Security Council 2004: The rule of law and transitional justice in conflict and post-conflict societies, S/2004/616, 23 Aug 2004, in: <https://ogy.de/h92w> [14 Sep 2023]. In 2012, the member states agreed in a General Assembly resolution to be bound by the common basic understanding of the rule of law. UN 2012: Declaration of the High-Level Meeting of the General Assembly on the Rule of Law at the National and International Levels: resolution / adopted by the General Assembly, A/RES/67/1, 30 Nov 2012, in: <https://ogy.de/b114> [14 Sep 2023].
- 10 Federal Government 2019: Ressortgemeinsame Strategie zur Rechtsstaatsförderung im Bereich Krisenprävention, Konfliktbewältigung und Friedensförderung (Strategy of the Federal Government for promoting the rule of law in the fields of crisis prevention, conflict resolution and peacebuilding), pp. 6 ff.
  - 11 Federal Foreign Office 2019: Rechtsstaatsförderung (Rule of law promotion), 17 Sep 2019, in: <https://ogy.de/q0t4> [14 Sep 2023].
  - 12 See for further goals: Federal Government 2019, n. 10.
  - 13 Wiik, Astrid 2022: Nachhaltige Entwicklung und Rechtsstaatlichkeit: die Agenda 2030 und die SDGs (Sustainable development and Rule of law: the 2030 Agenda and the SDGs), in: Kötter et al. 2022, n. 2, p. 182.
  - 14 See also Kötter, Matthias 2022: Akteurskonstellationen bei der Rechtsstaatsförderung (Actor constellations in the promotion of the rule of law), in: Kötter et al. 2022, n. 2, pp. 14 ff. (with a detailed and slightly different account).
  - 15 In the early years of rule of law promotion in Eastern Europe from 1990 onwards, there was still a clear distinction between legal policy (Federal Foreign Office, BMJ and IRZ, the latter specifically founded for this purpose) and technical rule of law work (BMZ). Trappe, Julie 2022: Unterstützung der Transformationen in Mittel-, Ost- und Südosteuropa (seit 1992) (Support of the transformations in Central, Eastern and Southeastern Europe since 1992), in: Kötter et al. 2022, n. 2, pp. 55 ff.
  - 16 Rinke, Franziska 2022: Rechtsstaats- und Demokratieförderung durch die politischen Stiftungen: Das Beispiel der Konrad-Adenauer-Stiftung (Promoting the rule of law and democracy through political foundations: The example of the Konrad-Adenauer-Stiftung), in: Kötter et al. 2022, n. 2, pp. 98 ff.
  - 17 Only the United States still pursues an independent national agenda with considerable weight and influence and in some cases involving very little coordination with the EU. The US Agency for International Development (USAID) alone spent approx. 403.5 million US dollars in the area of government and civil society in the period from 2014 to 2022, although it is not clear what proportion was allocated to rule of law promotion in the narrower sense. USAID: Dollars to Results. USAID investments and illustrative results, in: <https://ogy.de/ddhv> [22 Sep 2023].
  - 18 Instrument for Pre-accession Assistance – IPA (currently IPA III). European Commission: Overview – Instrument for Pre-accession Assistance, in: <https://ogy.de/n1xe> [14 Sep 2023].
  - 19 European Court of Auditors 2022: EU support for the rule of law in the Western Balkans: despite efforts, fundamental problems persist, p. 4, in: <https://ogy.de/71cw> [14 Sep 2023].
  - 20 In total, Western Balkan countries received over 256 million euros in 2021. European Commission 2023, n. 3.
  - 21 European Court of Auditors 2022, n. 19.
  - 22 Ibid., p. 4 f.
  - 23 Ibid., p. 5, 16.
  - 24 Ibid., p. 21.
  - 25 For data on the Legal and Judicial Reform Programme see Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ): Projektdaten. Beratung bei der Rechtsreform (Serbien) (Project data. Advice on legal reform (Serbia)), in: <https://ogy.de/8hm0> [14 Sep 2023]; German Foundation for International Legal Cooperation (IRZ): Annual reports. Serbia, in: <https://ogy.de/d4rg> [22 Sep 2023].
  - 26 Schalast, Christoph 2005: Rechtsberatung und Rechtsstaat in Transformationsstaaten – Das Beispiel der Notarausbildung und Notarzulassung in der Föderation Bosnien-Herzegowina und der Republik Srpska (Legal advice and the rule of law in transformation states – The example of notary training and notary licensing in the Federation of Bosnia-Herzegovina and the Republic of Srpska), *Zeitschrift für Wirtschaft und Recht in Osteuropa (WiRO)* 11/2005, p. 322.
  - 27 Pürner, Stefan 2016: Beobachtungen bei der Einführung des Notariats in Südosteuropa, *Festschrift "25 Jahre Deutscher Notarverein"* (Observations on the introduction of the notary office in Southeastern Europe, Commemorative publication "25 Years of the German Notary Association"), p. 154, here: IRZ, in: <https://ogy.de/cg5k> [14 Sep 2023].
  - 28 Ibid., p. 157; GIZ, n. 25.
  - 29 "This is open corruption, because the state collects only 20 per cent of the court fees this way, and the notaries collect the rest," said the then president of the Serbian Bar Association Dragoljub Đorđević. Quoted from Ivanji, Andrej 2014: Streik lähmt Serbiens Justiz (Strike paralyzes Serbia's judiciary), *Der Standard*, 5 Nov 2014, in: <https://ogy.de/28nl> [14 Sep 2023].

- 30 Schalast 2005, n.26, pp.321, 323.
- 31 Amendment Sl. glasnik RS Nr. 6/2015, 21 Jan 2015; Pürner, Stefan 2015: Serbien: Rückzieher bei Besteuerung nach Durchschnittssätzen wegen Anwaltsblockade (Serbia: Pull back on taxation based on average rates due to lawyer blockade), IStR-LB, p.38; Idem 2016: Lateinisches Notariat in Südosteuropa: Neue Bedrohungen, unbeantwortete Fragen und anstehende Aufgaben (Latin notary in Southeast Europe: New threats, unanswered questions and upcoming tasks), notar 3/2016, p. 99.
- 32 Pürner 2016, n. 27, p.153.
- 33 Bernhard, Agnes / Hazbiu, Alona / Herbeck, Nathalie 2017: Albanien EU Projekt EURALIUS IV, WiRO 6/2017, p.191.
- 34 Herbeck, Nathalie / Bernhard, Agnes 2022: Albanien (Albania), WiRO 3/2022, p. 95.
- 35 Bakiasi, Megi 2021: Albanian judiciary under construction, Policy Paper, EUROPEUM Institute for European Policy, Feb 2021, p.2, in: <https://ogy.de/6mnj> [14 Sep 2023].
- 36 European Commission 2020: Albania 2020 Report, SWD(2020) 354 final, 6 Oct 2020, p. 5, in: <https://ogy.de/y0jx> [14 Sep 2023].
- 37 European Commission 2022: Albania 2022 Report, SWD(2022) 332 final, 12 Oct 2022, p. 4, in: <https://ogy.de/7733> [14 Sep 2023].
- 38 IRZ 2022: Albanien Länderbericht. Albanien – Jahresbericht 2021 (Country Report Albania 2021), 13 Sep 2022, in: <https://ogy.de/qt6z> [6 Oct 2023]; Stoppel, Wolfgang 2019: Albanien, WiRO 10/2019, p. 315.
- 39 Bakiasi 2021, n.35, p.3; Stoppel 2019, n.38, p.315.
- 40 European Network of National Human Rights Institutions 2022: State of the Rule of Law in Europe 2022. Reports from National Human Rights Institutions: Albania, p.22, in: <https://ogy.de/o86o> [14 Sep 2023].
- 41 Data from the Balkan Public Barometer 2023 of the Regional Cooperation Council, in: <https://ogy.de/xbl1> [14 Sep 2023].
- 42 In any case, the European Commission has advised Kosovo against adopting the Albanian vetting procedure. European Commission 2021: Kosovo 2021 Report, SWD(2021) 292 final/2, 19 Oct 2021, p.4, in: <https://ogy.de/127d> [14 Sep 2023].
- 43 European Commission 2004: Aid Delivery Methods. Project Cycle Management Guidelines, Mar 2004, pp.57 ff., in: <https://ogy.de/ij3s> [14 Sep 2023].
- 44 A planning horizon based on the usual funding period of BMZ, the Federal Foreign Office or the EU of two to three years is clearly too short, as also assessed by the European Court of Auditors.
- 45 Konrad-Adenauer-Stiftung: Supporting the Rule of Law Worldwide. The Rule of Law Programme of the Konrad-Adenauer-Stiftung, in: <https://ogy.de/p5we> [22 Sep 2023].