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NOTE

From: Presidency
To: Permanent Representatives Committee/Council
Subject: Draft Council conclusions on the evaluation of the annual rule of law
dialogue
= *Approval*

1. During the preparation of the Presidency conclusions of 18 November 2019, all delegations agreed to re-evaluate the annual rule of law dialogue by the end of 2023, taking into account the experience acquired.
2. On 3 July 2023, the Presidency sent a questionnaire to delegations. On 10 July and 19 September 2023, the General Affairs Council had preliminary exchanges of views. On the basis of the input received, the Presidency prepared draft conclusions, which were assessed at expert level.
3. The Presidency considers the outcome of the work carried out as a balanced compromise, which accommodates the concerns of all delegations.
4. In light of the above, the Permanent Representatives Committee is invited to agree on the text of the draft conclusions as set out in the Annex to this Note and to invite the Council (General Affairs) to approve them at its session on 12 December 2023.

**DRAFT CONCLUSIONS ON THE EVALUATION OF THE ANNUAL RULE OF LAW
DIALOGUE**

RECALLING that since the conclusions were adopted in the Council of the European Union and the Member States meeting within the Council of 16 December 2014¹, all Member States have been participating, in the spirit of sincere cooperation, in the annual rule of law dialogue within the Council, in view of their firm commitment to strengthen the rule of law as one of the founding values of the European Union.

RECALLING that the Presidency conclusions of 19 November 2019² were supported by 26 delegations and that, during the preparation of these conclusions, all delegations agreed to re-evaluate the rule of law dialogue within the Council by the end of 2023, taking into account the experience acquired.

RECALLING that, as outlined in the Presidency Note to Delegations of 28 September 2020³, the annual rule of law dialogue has been developed as a political exercise by the General Affairs Council and structured, in practice, in the first semester of every year through one session devoted to successive rounds of country-specific analyses of the situation of the rule of law in five Member States and, during the second semester of every year, through two sessions: one devoted to the general state of play of the rule of law in the Union and the other devoted to a country-specific analysis, always making use of the Commission's annual Rule of Law Report. In addition, the Justice and Home Affairs Council has developed a number of specific thematic debates on rule of law matters.

The Council of the European Union

1. Reiterates that the 2014 conclusions of the Council of the European Union and the Member States meeting within the Council on ensuring respect for the rule of law continue to be valid.
2. Agrees that the Council's annual rule of law dialogue has proved to be useful, creating a space for constructive political exchanges among Member States and for sharing their best practices and lessons learned.

¹ 17014/14.

² 14173/19.

³ 11094/20.

3. Reaffirms the principles listed in the 2014 conclusions, notably: objectivity, non-discrimination and equal treatment of all Member States, a non-partisan and evidence-based approach, without prejudice to the principle of conferred competences, as well as the respect of national identities of Member States inherent in their fundamental political and constitutional structures, inclusive of regional and local self-government, and their essential State functions, including ensuring the territorial integrity of the State, maintaining law and order and safeguarding national security; and undertakes to further uphold them in a spirit of sincere cooperation.
4. Notes that this political dialogue will continue to be developed in a way which is complementary with all EU institutions and international organisations, avoiding duplication and taking into account existing instruments and expertise in this area.
5. Notes that throughout the organisation and conduct of this dialogue the Presidency will continue ensuring that the principles of the dialogue listed in paragraphs 3 and 4 above are fully respected.
6. Underlines that the present content and structure of this political dialogue has enabled it to be stronger, more result-oriented and better structured, and that its preparation has been more systematic. Its present format, including general debates and country-specific sessions, has effectively enhanced it by undertaking a yearly stocktaking exercise concerning the state of play and key developments as regards the rule of law. This facilitates a comprehensive, genuine and interactive political discussion, broadly focused on the rule of law situation in the Member States and in the Union as a whole.
7. Notes that, while considering the present content and structure of the dialogue to be satisfactory, it should be further improved to even better reflect the commitment of the Council to strengthening the rule of law and to contribute to the prevention of emerging and existing rule of law challenges, in an inclusive and constructive manner, through discussion and exchange of best practices and lessons learned.
8. Commits to continue organising a general horizontal discussion in the second semester of the year, and to organising country-specific discussions three times a year, two in the first semester and one in the second semester, each focusing on the situation in four Member States.
9. Commits to devote this dialogue to analysing at least the following four rule-of-law-pillars: the justice system, the anti-corruption framework, media pluralism and media freedom, as well as other institutional issues related to checks and balances; this is without prejudice to the broader scope of this dialogue within the General Affairs Council.
10. Notes that, in practice, this dialogue will continue to be based on the Commission's annual rule of law report, creating synergies between the institutions, and notes the inclusion of recommendations in the report as a way of highlighting specific issues requiring further attention from Member States.

11. Invites the Commission to continue ensuring close involvement of and dialogue with Member States in the preparation of the yearly report, and to continue improving that preparation itself taking into account the principles that govern this dialogue.
12. Notes that this dialogue may also benefit from the considerations of international public law organisations insofar as the Commission's annual Rule of Law Report has taken them into account, and that they constitute ancillary and auxiliary but valuable sources of information, in particular those considerations of the Council of Europe and its bodies, whose value has been recognised, inter alia, by the Council conclusions of 30 January 2023⁴, the Court of Justice and the Commission⁵.
13. Agrees that, in addition to organising this dialogue, the Presidency may also consider the organisation of more frequent interactive exchanges, such as seminars about rule of law issues with relevant stakeholders, notably citizens, civil society, parliamentarians, local authorities, academia, social partners, and journalists.
14. Recognises the horizontal role and responsibilities of the General Affairs Council holding this dialogue; recognises the complementary role of the Justice and Home Affairs Council when holding specific thematic discussions on rule of law-related issues falling within the remit of its expertise, following an inclusive approach, and taking into account, as appropriate, the discussions within the General Affairs Council.
15. Notes that, as a follow-up to this dialogue at the General Affairs Council, discussions on one or more particular horizontal rule of law themes could be organised in the General Affairs Council, when deemed appropriate and necessary.
16. Agrees that all incoming Presidencies will continue convening Member States for the rule of law dialogue within the Council according to the format and frequency agreed above, and agrees to undertake a new evaluation, by the end of 2027, of the experience acquired on the basis of this dialogue.

⁴ 5422/23.

⁵ 11217/19.