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From: Presidency
To: Delegations
Subject: Trust in Public Institutions and the Rule of Law

Delegations will find in the Annex the Summary of the Seminar organised by the Austrian Presidency on "Trust in Public Institutions and the Rule of Law" held on 11 July 2018 in preparation of the annual Council dialogue on the Rule of Law.

Trust in Public Institutions and the Rule of Law

Informal Expert Seminar
in preparation for the Annual Rule of Law Dialogue 2018

Brussels, 11 July 2018

Summary of discussions

I. Executive summary

In preparation for this year's Annual Rule of Law Dialogue in the General Affairs Council, on 11 July 2018 the Austrian Presidency organised an informal expert seminar on the subject of Trust in Public Institutions and the Rule of Law.

At the seminar, it was broadly acknowledged that public trust in all institutions – national parliaments, governments and the judiciary, but also EU institutions and even the media – is indispensable for the proper functioning of those institutions, and thus for the overall functioning of States and the rule of law. **Trust is easy to lose and hard to regain**, and distrust can quickly spread and undermine the reputation even of unrelated institutions, making it more difficult to overcome the current trust crisis.

Participants stressed that the **EU itself relies on a system of mutual trust** based on the common values set out in Article 2 of the Treaty on European Union, both horizontal trust among Member States and vertical trust between Member States and the EU. The successful implementation of various EU policies provided for in the Treaties, the functioning of the internal market, the EU's external action and the legal instruments based on mutual recognition all rest on this concept. **Trust in national institutions and trust in the EU are interconnected** and Member States should therefore have an interest in keeping trust high in the EU as well. Moreover, in order to effectively and fully exercise the rights and freedoms recognised in the Treaties, EU citizens and businesses must also trust public institutions of other Member States.

The effective functioning of public institutions requires the trust of diverse interest groups, and levels of trust vary strongly between them. Trust changes with circumstances (e.g. age) or experiences (e.g. discrimination). For instance, surveys show that young people tend to distrust public institutions more than their older compatriots. In some Member States, this development has led to young people showing less interest in social, public and political activities.

To be trusted, institutions primarily need to be trustworthy. The six areas in which governments need to take action to win back public trust, identified by the OECD in its 2017 report 'Trust and Public Policy', were seen as key factors for trust in institutions: **reliability, responsiveness, openness, better regulation, integrity and fairness, and inclusive policy-making**. It is essential to do the utmost so that everyone can feel that his or her voice counts (ownership, belonging). **Connection with the local level, communication and comprehensibility** (e.g. adding 'citizens' summaries' to legal texts) were identified as further important elements, as were management of expectations, accountability and the acknowledgement of failures. Among the measures already in place in the EU to increase institutions' effectiveness are financial support for digitalisation and training courses for judges, the EU Justice Scoreboard, the country reports of the European semester, and the European structural and investment funds. Citizens' dialogues and 'back to school' projects with public officials or EU meetings in Member States could also help to improve citizens' understanding of both legislative and administrative procedures at national and EU level. Enhanced education on EU matters is necessary, since an understanding of a purely superficial nature could quickly be eroded by Euroscepticism.

The rule of law is also a prerequisite for citizens' trust in institutions. The **EU needs to enforce its rules** and to have the resources and capacity to do so. The **European Court of Justice** has a key role in this regard. Participants felt that, besides the Commission, the Council should also play a stronger role and that the **Annual Rule of Law Dialogue** should also deal with rule of law issues in individual Member States or that the idea of a **possible peer review** on the rule of law in Member States should be further pursued.

Trust is also crucial in **financial management**, which was the reason for the Commission's initiative last May for a Regulation on the protection of the Union's budget in case of generalised deficiencies regarding the rule of law in the Member States.

Reduced trust is often blamed on the **media**, but in fact it is **quality information** that is needed to foster trust. The role of independent media was seen as central and in urgent need of support, especially in the new Member States. While social media offer the potential inter alia to increase transparency, promote participation and facilitate transnational communication and networks, they were also felt to pose a number of problems because of echo chambers and algorithms, which show people content that is mainly of their own liking and thus prevent them from entering into a critical debate.

For trust to be maintained, **civil society** is equally indispensable – as a space where people come together to discuss and take informed decisions. Governments in many countries had shrunk the space for it. Both media and NGOs themselves also need citizens' trust and are suffering from smear campaigns by public officials.

Finally, it was pointed out by participants that, according to Eurobarometer results, trust in national institutions is generally lower in the **'new' EU Member States**. Participants argued that in times of **social anxiety**, elections per se do not guarantee good governance, as people are more likely to vote for persons with whom they have a certain affinity than for persons who qualify through competence,

education or experience. Improved **rule of law** with independent institutions, checks and balances was therefore seen as imperative.

II. Introduction

On 11 July 2018, the Austrian Presidency organised an informal expert seminar on the subject of 'Trust in Public Institutions and the Rule of Law'. The participants included representatives of EU Member States' national administrations, EU institutions, international organisations, non-governmental organisations and academics.

The purpose of the seminar was to listen to the views of different stakeholders in preparation for the annual Council dialogue on the rule of law in the General Affairs Council in autumn 2018. Ministers' discussions will be based on a paper to be drafted by the Presidency with input from the views expressed during the seminar. The Austrian Presidency wishes to thank all of the speakers and participants for their active and positive contribution to this effort.

Below is an informal and non-exhaustive summary of the discussions, intended to give an overview of the views expressed by the speakers and participants at the seminar.

In his opening remarks, **Helmut TICHY**, Legal Adviser at the Austrian Federal Ministry for Europe, Integration and Foreign Affairs, recalled the purpose of the Annual Rule of Law Dialogue in the General Affairs Council. The Dialogue was founded in 2014 as another instrument in addition to Article 7 to promote and safeguard the rule of law, based on the principles of objectivity, non-discrimination and equal treatment of all Member States. As EU citizens' trust in national and EU institutions had decreased considerably, the Austrian Presidency decided to propose to discuss at this year's Dialogue the reasons for and possible consequences of this worrying development and look at how public institutions could remedy this situation. The issue of trust would also figure prominently at the Fundamental Rights Forum organised by the EU Fundamental Rights Agency in Vienna from 25 to 27 September this year. With all the challenges the European Union was facing, both from an increasingly interconnected world around it and from within its own societies, it was clear that trust would be needed more than ever – for the proper functioning of public institutions and as a stabilising factor for effective rule of law.

III. Panel 1: Public Institutions – Why Does Trust Matter?

Moderated by Anna SPORRER, Vice President of the Austrian Supreme Administrative Court.

Panellists: Diana WALLIS, Vice-President of the European Parliament from 2007 to 2012; **Tiina ASTOLA**, Director-General for Justice and Consumers at the European Commission; **Marta CARTABIA**, Vice President of the Italian Constitutional Court.

The first session of the seminar dealt with the question of why trust in public institutions matters. **Anna SPORRER**, Vice President of the Austrian Supreme Administrative Court, began her remarks

with a quote from the 'The Analects of Confucius': "*Sufficient food, sufficient military force, the confidence of the people.*" Zigong said, 'If one had, unavoidably, to dispense with one of these three, which of them should go first?' The Master said 'Get rid of the military.' Zigong said, 'If one had, unavoidably, to dispense with one of the remaining two, which should go first? The Master said, 'Dispense with the food. Since ancient times there has always been death, but without confidence a people cannot stand.'" Trust, she concluded, was indispensable, but constantly challenged by different forces – including, sometimes, governments – and the loss of trust resulted in widespread unease. Through data collection, insight could be gained into the factors and functioning of trust in different systems, which may be affected in different ways, with no 'one-size-fits-all' solution.

Diana WALLIS, Vice-President of the European Parliament from 2007 to 2012, acknowledged that public trust in institutions was indeed decreasing, as for the first time she distrusted her country's national broadcaster, the BBC, and observed unease among the people about what they were being told. In the Brexit process, she found there was a battle taking place behind the scenes about the best way to deal with a flawed but democratic decision-making process without creating even greater distrust. She referred to ongoing processes, particularly in the courts, such as Facebook being fined for the Cambridge Analytica scandal. For institutions, particularly those perceived to be distant like the European Union, disconnect could be a real problem: people understand that transnational cooperation can help in a globalised world but do not see the relevance to their own lives. She pointed to the '**3 Cs**' – **connection, communication and comprehension** – as key to fostering trust in the EU with the people, and thus increasing acceptance of EU laws. She suggested measures to this effect, such as European Parliament Committees holding meetings in Member States, adding 'citizens' summaries' at the beginning of EU legislative acts to make them more understandable, and making an effort to include local views. On a positive note, she felt that the EU was seen as a beacon of rights, even in Member States that were critical of it.

Tiina ASTOLA, Director-General for Justice and Consumers at the European Commission, also saw trust in public institutions as essential for the overall functioning of the State and as an element that could help to create trust between different groups of people. At the same time, the rule of law, a core value of the EU, was also a prerequisite for mutual trust between Member States, e.g. for mutual legal assistance/recognition of decisions. However, **trust was easy to lose and hard to regain**. She underlined the importance of effective enforcement systems for EU law, in which the role of national courts applying EU law was crucial: they were the public institutions people turn to with the problems that affect their daily lives. Institutions could rightly only be trusted if they were effective, in terms of efficiency, quality and independence. She referred to Commission efforts to support Member States in improving their national justice systems, such as the EU Justice Scoreboard, the country reports of the European semester, the European structural and investment funds, financial support for improvements like electronic case management, training sessions for judges, etc., the General Data Protection Regulation, and the Commission recommendation on standards for equality bodies published in June. Trust was also crucial in financial management, which was the reason for the Commission's initiative in May for a Regulation on the protection of the Union's budget in case of generalised deficiencies regarding the rule of law in the Member States.

Marta CARTABIA, Vice President of the Italian Constitutional Court, started her intervention by pointing out that some institutions had a lot of power but lacked influence – in one Member State the legislator had to issue fines to civil servants for failure to abide by decisions of the Constitutional Court. Others had more influence than power, such as the Venice Commission of the Council of

Europe whose opinions were being used as argumentation by the European Commission in Article 7 procedures. Even if, generally speaking, the **judiciary** was not the first target of spreading mistrust, it was still affected – distrust, once it began, had a way of 'going viral' and could undermine the reputation of unrelated institutions too, and even spread to other Member States. She agreed that trust was easy to lose and hard to regain. The EU itself was based on mutual trust and could not work without it. On the one hand, **horizontal** cooperation and mutual – though not blind as shown by a number of extradition cases referred to preliminary rulings of the European Court of Justice – trust formed the basis of a number of integration sectors such as migration and the European arrest warrant. On the other hand, **vertical** cooperation and trust between the Member States and the EU was essential for the functioning and implementation of European law, e.g. through the preliminary rulings procedure. She identified **reliability, independence** (no renewable terms!), separation of powers (judges should not be allowed to run for political office) and **efficiency** ("justice delayed is justice denied") of the judiciary as important factors in building trust, and reiterated the idea of the '3 Cs', which were just as relevant to the judicial field. Trust also depended on experience-based knowledge. The Italian Constitutional Court had therefore started to explain its judgements in the media, and judges went on visits to schools, prisons, etc.

In the **ensuing panel discussion**, the panellists discussed the difficult **role of the media**, of which they were also rather critical. Fake news created distrust, and the sheer number of sources at our disposal nowadays means that two people are rarely exposed to the same news at the same time. This was encouraged by social media bubbles, echo chambers and algorithms, which showed people content that was mainly of their own liking and thus prevented them from entering into a critical debate, which was a real problem. It was also suggested that people might need to be prepared to pay for good journalism. The panellists, again, emphasised the need for the EU to **connect with people on a local level**, such as through the recently started 'citizens' dialogues' with European Commission officials or 'back to school' projects. In this context, **education** was noted as another area of particular interest: legal professionals in particular needed a solid education in EU matters in order to raise awareness of procedures such as preliminary rulings (and this was also a question of a generational change in national constitutional courts, etc.). However, the need was not limited to the legal profession: the culture of the EU needed to be entrenched in people's minds, as a superficial understanding was quickly eroded by Euroscepticism. Proof of this had been seen in Italy recently.

Questions from the audience brought up the topic of **budgetary decisions affecting the independence of the judiciary**. Panellists suggested that there was a need for comparable data in this area (the Justice Scoreboard might be of use, as well as Council of Europe data) and, while budget cuts were not per se an indicator of reduced independence in times of increased digitalisation, unusual budgetary decisions had to be questioned for political motives. The establishment of a two-tier justice system, with commercial courts verging on the privatisation of this sector of justice, was identified as being potentially detrimental to people's trust. The appointment procedure to the European Court of Justice might also be in need of reform, and the European Court of Human Rights, with its non-renewable nine-year term, nomination by Member States of at least three candidates each and hearings by a selection committee, could be a model. **Access to justice** was another important issue dependent on financial decisions: while the courts were at the centre of the justice system, many other actors were relevant as well, such as equality bodies, ombudsman-style institutions, and legal aid. Among the EU acquis, the Victims' Rights Directive and the Directive on Combating Terrorism were particularly relevant for victims' rights, a topic on which a Commission report was being prepared as well. Reference was also made to the ongoing discussions around an EU collective redress mechanism or representative action in the New Deal for Consumers proposed by the Commission this

April. Crowdfunding was another strategy being used to facilitate access to justice (recently in an Article 50 challenge over Brexit in the UK), and although it could not be the answer to existing deficiencies, it was an encouraging sign of civic engagement. An audience member brought up the idea of more direct access to the European Court of Justice, particularly in the field of migration. Panellists remained sceptical however, due to the possible impact on the Court's caseload, emphasised the need for high-quality national courts in this connection, and underlined the **important role played by NGOs** as important intermediaries in rebuilding trust.

IV. Panel 2: Trust Bearers – Whose Trust Do Public Institutions Need?

Moderated by Gabriel TOGGENBURG, Senior Legal Advisor, European Union Agency for Fundamental Rights.

Panellists: Christos GIAKOUMOPOULOS, Director-General for Human Rights and Rule of Law of the Council of Europe; **Barbara TRIONFI**, Executive Director, International Press Institute (IPI); **Kersty McCOURT**, Senior Advocacy Advisor at the Open Society Justice Initiative; **Ralph BUNCHE**, Regional Director for Europe at Fairtrials; **Christophe HILLION**, Professor of European Law, University of Oslo and Leiden University.

Gabriel TOGGENBURG, Senior Legal Advisor, European Union Agency for Fundamental Rights, started the discussion by identifying **different (groups of) stakeholders** whose trust public institutions need. The population was very diverse in its trusting – examples being that the younger generation did not vote in the Brexit referendum, first-generation migrants had higher trust, especially in local institutions, than the general population, trust decreases when discrimination or harassment is experienced, etc. The media was both a stakeholder of trust in institutions and could also be trusted or mistrusted itself. International and regional organisations trusted the EU as the EU trusted its Member States; and finally, the European Court of Justice expected Member States to trust each other, as already noted by Panel 1.

Christos GIAKOUMOPOULOS, Director-General for Human Rights and Rule of Law of the Council of Europe, underlined that in order to gain the trust of citizens, institutions needed to be both **democratic and inclusive** – they had to allow every citizen to be part of the system and to feel that his or her voice counted. This feeling of 'belonging' – and, consequently, trust – was weaker where institutions were seen as unable (or unwilling) to secure justice, including social justice. Victims of discrimination or marginalisation, as well as victims of abuse by State bodies or victims of crime, had lower trust in institutions because they felt 'rejected', 'forgotten', 'unprotected' or confronted with impunity. The protection of social rights was therefore instrumental, and initiatives such as the European Pillar of Social Rights and the safeguards enshrined in the revised European Social Charter were important elements in this regard. Giakoumopoulos noted that social rights were key to at least four out of the six factors of trust identified by the OECD (see below the presentation by Andrew Davies, OECD). The protection of all **fundamental human rights** through efficient access to a fair, independent and impartial justice system needed to be ensured for all. It was also important that human rights enjoyed **international protection** since history had shown that the democratic guarantees of just one State were not always enough. This should not necessarily take the form of sanctions but rather dialogue, assistance and peer pressure. Both the EU and the Council of Europe needed to refine and coordinate their tools to this end.

Barbara TRIONFI, Executive Director of the International Press Institute (IPI), noted a tendency in certain countries to blame reduced trust in institutions on the media. **Media** were also recipients of trust and their credibility was deliberately challenged by campaigns against journalists. However, media needed to expose problems in order to trigger positive change, and experience showed that if governments reacted by restricting the freedom of the media, trust in institutions decreased even more in the long run. It was clear that quality journalism needed proper **funding**.

Kersty McCOURT, Senior Advocacy Advisor at the Open Society Justice Initiative, saw **civil society** as the space between the private and the public where people come together to discuss and make informed decisions. Even though governments communicated directly with citizens as well, this exchange with civil society organisations was necessary for trust to be maintained – and governments in many countries had deliberately shrunk its space. Like the media, NGOs themselves also needed citizens' trust, and this trust had also declined in 21 of the 28 EU Member States recently, mainly because of **smear campaigns** and a hostile discourse by public officials.

Ralph BUNCHE, Regional Director for Europe at Fairtrials, said that an over-focus on crime victims was often synonymous with a call for law and order. One should rather look at the whole picture as this was not just about victims and perpetrators. Surveillance measures often targeted mere suspects, and detention affected not only perpetrators but also their **families and livelihoods**. Right to fair trial, detention conditions and the treatment of vulnerable suspects such as youth and foreign nationals were therefore important elements both for citizens' trust in institutions and for mutual trust of Member States. DG Justice was doing important work in this area and should be supported with an increased budget.

Christophe HILLION, Professor of European Law, University of Oslo and Leiden University, recalled that the **EU legal order relied on a system of mutual trust** based on the common values set out in Article 2 TEU. Trust was very fragile and could be damaged by just one Member State, and EU institutions therefore had to ensure that the premises of mutual trust continued to exist. Distrust could have the consequence of reduced exercise by citizens of EU-based rights such as freedom of movement, decreasing use of mutual extradition by Member States and less decentralisation and subsidiarity or the increased use of regulations rather than directives by the EU. A **mere increase in communication** was not what was needed to address mistrust but rather better **explanation** and increased **inclusiveness** of all stakeholders. The European Court of Justice had a key role in increasing trust and so did the **Annual Rule of Law Dialogue**, which should also deal with the rule of law in individual Member States because this was of European interest and could help to rebuild trust.

In the **ensuing panel discussion**, it was stressed again that trust in national institutions and trust in the EU were interconnected. Member States should therefore have an interest in keeping trust high in the EU as well. However, the EU was not always living up to citizens' expectations. Since the Brexit referendum, it had become clear that EU membership was voluntary. But Member States needed to play by the rules as long as they were inside – including by those rules that were of specific relevance to people's trust, such as the obligation to guarantee the independence of the judiciary. The **EU needed to enforce these rules** and to have the resources and capacity to do so. Its reaction to certain threats to the rule of law was seen as too slow, and it was thought that besides the Commission maybe the Council had to play a stronger role too. Reference was also made to ideas on a possible

peer review of the rule of law in Member States. Finally, it was reiterated that consultation and co-ownership between governments, citizens and civil society and the work of critical media were important factors of trust and needed to be supported because trust would decrease when a government gave the impression that it owned the state. We were currently facing a real value crisis, so we should explain and make people see again the value of democracy, independent courts or even constitutions.

V. Panel 3: Determining Factors – How to Win Back Public Trust

Moderated by Gerhard DOUJAK, Director for Human Rights, Austrian Federal Ministry for Europe, Integration and Foreign Affairs.

Panellists: **Andrew DAVIES**, Senior Advisor, Organisation for Economic Co-operation and Development; **Katherine HAWLEY**, Professor of Philosophy, University of St Andrews; **Alexander MAYER-RIECKH**, Post-Conflict Public Sector Reform Expert; **Sorin IONITA**, Public Administration Reform Expert, Expert Forum Association Romania.

The afternoon session of the seminar focused on determining factors to win back public trust. In his introductory remarks as Chair, **Gerhard DOUJAK**, Director for Human Rights at the Austrian Federal Ministry for Europe, Integration and Foreign Affairs, echoed one of the central messages of the two previous panels, namely, that trust was built in a long-term effort but can be lost in an instant.

Andrew DAVIES, Senior Advisor at the Organisation for Economic Co-operation and Development, explained that trust had been one of the casualties of the financial crisis. The OECD's finding that low trust was hampering economic reform and recovery had provided the incentive for the OECD study 'Trust and Public Policy – How better governance can help rebuild public trust'. Trust in public institutions was closely linked to the performance of government and political leaders. **Competence** and values were crucial factors for the trustworthiness of a public institution. An institution was seen as competent if it provided what citizens needed in a responsive and reliable manner. The institution represented **values** if it acted with integrity and fairness. Finally, institutions needed to work in an **inclusive** manner, letting all affected stakeholders participate, e.g. in the drafting of a new regulation so they would not contest it later. The study concluded that a trustworthy regulatory system provided economic benefits for society as a whole. Davies recommended looking at the experience of the private sector – a brand loyalty built up steadily and based on good experience would hold.

The OECD has identified six areas in which governments need to win back public trust:

- **Reliability:** governments need to minimise uncertainty in the social, political and economic environment;
- **Responsiveness:** trust in public institutions depends on people's experiences with public services such as education, health care and social support;
- **Openness:** open government policies that focus on citizen engagement and access to information may increase public trust;

- Better regulation: proper regulation is important for justice, fairness and the rule of law as well as for delivering public services;
- Integrity and fairness: integrity is regarded as a crucial determinant of trust and essential if governments aspire to be recognised as clean, fair and open;
- Inclusive policy-making: understanding how policies are designed can strengthen institutions and promote trust between government and citizens.

Katherine HAWLEY, Professor of Philosophy at the University of St Andrews, presented the issue of trust from a philosophy point of view, looking at the difference between trust and **trustworthiness**. Trustworthy institutions were a prerequisite of trust. Key factors were **competence, reliability and integrity**. Trust could be destroyed by unfulfilled promises creating disappointment. Institutions therefore needed to understand their own limits and communicate accordingly to **manage expectations**. The way failures were handled was another important element of trustworthiness. Pretending a mistake never happened was detrimental to people's trust. Bad experiences by individuals could only be remedied if the mistake was **acknowledged**. While it was good to provide the opportunity of personal **contacts of citizens** with public institutions and their officials, e.g. by offering open house days, this was not enough if trustworthiness was not fulfilled. A balance between staff motivated to be trustworthy and systems that work towards trustworthiness was key in winning back public trust.

Alexander MAYER-RIECKH, Post-Conflict Public Sector Reform Expert, explained that post-conflict and post-authoritarian situations were generally marked by a crisis of trust in institutions. Victims of past abuses, in particular, felt isolated, exposed and threatened by public institutions and would not turn to or cooperate with courts, law enforcement agencies and other institutions as a consequence. To overcome such a climate of distrust, public institutions needed to provide their services effectively and with integrity. Mayer-Rieckh noted that trust was different from predictability as it rested on an expectation that actions were based on a **commitment to shared fundamental norms and values**. He identified accountability, inclusion and signalling as three factors for enhancing trust. **Accountability** was the willingness to be held to account for one's actions and to face consequences for failures in living up to established norms. **Inclusion** meant that institutions needed to promote the representation of and deliver services to all population groups, including minorities, marginalised groups and victims of past abuses. Regaining their trust was particularly challenging. **Signalling measures** could foster trust in public institutions. They represent verbal or symbolical acts expressing a commitment to shared norms and values, such as apologies, memorials, renaming of streets, new uniforms or badges. While particularly relevant in transitional contexts, pursuing accountability, promoting inclusion, and signalling a commitment to shared norms and values will also help to enhance trust in established rule of law settings.

Sorin IONITA, Public Administration Reform Expert at the Expert Forum Association Romania, pointed out that according to the latest Eurobarometer the level of trust in national institutions in the **new EU Member States** in Eastern Europe was alarmingly low at around only 20 %, compared to up to 60 % in countries such as Germany or Sweden. He was sceptical that EU activities to enhance communication and participation would provide a solution and, referring to some populist political

leaders, warned against focusing exclusively on election turnout or results as indicators for a functioning democracy; instead, the focus should be on the rule of law with independent institutions, checks and balances. Democracy had shown that it was not the same as liberalism and modernity, as in times of crisis and **social anxiety** people might aspire to meritocracy and rules but vote for personal loyalty and clientelism ("a los amigos todo, a los enemigos nada, al extraño la ley"). With majority populations feeling threatened, people preferred solidarity and similarity in a political leader over competence and fairness. If we really wanted to address this, we had to solve the social stress. The disappearance of private media and media outlets, especially in Central and Eastern Europe, and the lack of an economic basis to work as a journalist should be recognised as a great concern, as people were left to consume either state-run or social media. To combat this development, he recommended focusing on prevention, strengthening pluralism and promoting debate inter alia by **supporting independent quality journalism**. Concretely, he also suggested developing at EU level indicators of 'bad governance' in three or four areas with high potential for clientelism (e.g. budgetary allocations to local governments or public companies) and monitoring and comparing results across Member States.

In the **ensuing panel discussion**, the panellists emphasised that interference in procedures for appointing, promoting, dismissing or taking disciplinary action against public staff, impunity and lack of accountability for failings and lack of representation of minorities affected trust negatively. When assessing the performance of democratic institutions, it should be considered whether safeguards were also applied in practice. Finally, an in-depth discussion on media, the public discourse and combating fake news was needed at EU level. Finally, the panellists suggested that the **General Affairs Council** should look at what shared values we have, what were the prerequisites of a democracy, and which qualities were important in public institutions and how they should respond to failures.

VI. Closing remarks

In his **closing remarks**, Austrian Legal Adviser **Helmut TICHY** set out the next steps of the Austrian EU Presidency: ahead of this year's Annual Rule of Law Dialogue in the General Affairs Council, which will take place either in October or in November, an outline paper with questions to structure the discussions by EU Ministers will be circulated. After the Dialogue at the Council, the Presidency will seek to draw up conclusions, which should then be forwarded to the relevant Council preparatory bodies for further consideration. He also thanked all participants and in particular the panellists for sharing their wealth of expertise as well as thanking the Council Secretariat, the Commission and the EU Fundamental Rights Agency for their support in the preparation of the seminar.