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| From:           | Presidency                               |
| To:             | Council                                  |
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| Subject:        | Rule of Law<br>- Evaluation of mechanism |

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On 16 December 2014, the Council of the European Union and the Member States meeting within the Council adopted conclusions<sup>1</sup> on ensuring respect for the rule of law establishing an annual political dialogue among all Member States within the Council to promote and safeguard the rule of law in the framework of the Treaties. It was agreed that the dialogue would be based on the principles of objectivity, non-discrimination and equal treatment of all Member States and would be conducted on a non-partisan and evidence-based approach. The dialogue takes place once a year at the Council, in its General Affairs configuration, and is prepared by COREPER, following an inclusive approach. Furthermore, it was also agreed that two years after adoption of these conclusions the experience acquired on the basis of the dialogue would be evaluated.

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<sup>1</sup> 17014/14

The first round of the dialogue was organised by the Luxembourg Presidency on 17 November 2015.<sup>2</sup> In the introductory part of the dialogue, the Commission presented the outcome of its annual colloquium on fundamental rights "Tolerance and respect: preventing and combating anti-Semitic and anti-Muslim hatred in Europe" that took place on 1-2 October 2015. Then, during a *tour de table*, Member States shared examples of best practices as well as challenges encountered at national level in relation to the respect for the rule of law. Finally, Ministers also had an opportunity to react to the Presidency non-paper on the rule of law in the age of digitalisation.

The second round of the dialogue took place on 24 May 2016 under the Netherlands Presidency. It was prepared during the seminar on EU fundamental values, immigration and integration, which took place on 2 February 2016 in Strasbourg and brought together representatives from the EU Member States, EU institutions, the EU Agency for Fundamental Rights (referred to hereafter as FRA), the Council of Europe (referred to hereafter as CoE), civil society and academics. The dialogue in the Council was a thematic debate focused on the link between migrants' integration and EU fundamental values. The debate was opened by the FRA's Director, Professor Michael O'Flaherty. Member States and the Commission shared views on the basis of the questions addressed in the discussion paper prepared by the Presidency.<sup>3</sup> Member States presented best practices in the field of integration of migrants.

The conclusions foresee that the Council and the Member States meeting within the Council will "*evaluate, by the end 2016, the experience acquired on the basis of this dialogue*". To this end, the Presidency prepared and distributed a questionnaire<sup>4</sup> in order to ensure an inclusive approach also in the phase of preparation of the evaluation and to have explicit feedback from all Member States when preparing the discussion of Ministers.

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<sup>2</sup> 13744/15

<sup>3</sup> 8774/16

<sup>4</sup> 12205/16

On the basis of the input from the Member States, the Presidency prepared the following summary and invites the Ministers to present their views:

- 1. The replies show that there is a need to **continue and strengthen** the dialogue by having more frequent debates, which should also be more result-oriented and better structured.*
- 2. The **preparation** should take the form of a more systematic process in terms of timing, as well as other accompanying events. In particular, it may be envisaged that, based on a short report of the Commission or FRA, the Presidency would decide on the topic in July, to which broad input would be provided at experts level by the end of September. This process could involve other EU institutions or CoE, but duplication of existing procedures should be avoided. On the basis of the input, the Presidency would prepare the dialogue in the GAC in October/November.*
- 3. As to the **form of the dialogue**, there is a broad understanding that the general debate should take the form of an interactive dialogue allowing for real exchange between Ministers and should be accompanied by thematic discussions focused on specific topics and actual challenges faced by the Member States.*
- 4. As to the **follow up**, a more result-oriented approach to the rule of law dialogue should be envisaged, including Presidency conclusions and reporting thereof.*
- 5. Although the two procedures are parallel, the Council could take note of the EP resolution of 25 October 2016 on the EU mechanism on democracy, the rule of law and fundamental rights.<sup>5</sup>*
- 6. A new evaluation of the dialogue should take place by the end of 2019, which could also be an opportunity to assess whether the Council is ready to turn the rule of law dialogue into an annual peer review exercise.*

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<sup>5</sup> P8\_TA(2016)0409