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## NOTE

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From:	Presidency
To:	Delegations
No. Cion doc.:	16007/17
Subject:	Rule of Law in Poland / Article 7(1) TEU Reasoned Proposal - Hearing of Poland on 26 June 2018

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## I. Introduction

1. On 20 December 2017, the Commission adopted a reasoned proposal with regard to the rule of law situation in Poland which it submitted to the Council, thus triggering the mechanism set out in Article 7(1) TEU. This was preceded by a dialogue between the Commission and Poland since 13 January 2016 which continued in parallel to the triggering of the Article 7 procedure.
2. The reasoned proposal (doc. 16007/17) contains a detailed explanatory memorandum as well as a proposal for a Council decision under which the Council would (i) determine that there is a clear risk of a serious breach by Poland of the rule of law and (ii) make recommendations for Poland to bring its judicial reform into line with rule of law standards.
3. On 27 February 2018, the Commission presented its reasoned proposal to the Council (General Affairs), informed on the state of play and on the on-going dialogue with Poland.
4. Thereafter, the Commission regularly informed the Council on the situation in Poland on 20 March, 17 April and 14 May 2018 and on the on-going dialogue with Poland. During the last information item on 14 May 2018, the Commission indicated that, despite some progress, key concerns, identified in the Commission's reasoned proposal, remained unaddressed.

5. At Coreper on 7 June 2018, when discussing the provisional agenda for the meeting of the Council (General Affairs) on 26 June 2018, the Commission requested that a hearing in accordance with Article 7(1) TEU takes place at that meeting. At Coreper on 13 June 2018, the Presidency asked the delegations to express themselves on the request for a hearing. Following discussion, the Presidency concluded that there is sufficient support to hold a hearing at the General Affairs Council meeting on 26 June 2018. It was also agreed that such hearing will be organized over several meetings of the Council (General Affairs) to concentrate on different subject matters. The Commission was invited to identify the most pressing issues for the first hearing in view of the next meeting of Coreper. It was decided that Coreper on 20 June will come back to the modalities and the substantive scope of the hearing.
6. The hearing constitutes a necessary step of the process under Article 7(1) TEU which in its last sentence provides that "*before making such a determination, the Council shall hear the Member State in question and may address recommendations to it, acting in accordance with the same procedure*".
7. This note outlines the modalities of the hearing which will be organized in several meetings. The input of the Commission on the substantive scope of the hearing will be presented and discussed at Coreper on 20 June.

## **II. Modalities of the hearing**

8. The hearing foreseen in Article 7 (1) TEU is, essentially, a peer review exercise, which will enable Council Members to have a more in-depth exchange with Poland on the key concerns identified.
9. At the outset of the hearing, the Commission will have the possibility to report on the key areas of concern covered by this first hearing and provide a latest update of its assessment.
10. Poland will be given the opportunity to make an opening statement with regard to the said areas.
11. Subsequently, delegations, which would like to do so, will be invited to put questions to Poland, related to these key concerns. Poland will be given an opportunity to respond after each question.
12. At the end, the Commission will be given the opportunity to make observations on the responses provided by Poland, and Poland will be given the opportunity to present its own observations and remarks.
13. At the end of the hearing, the Presidency will make procedural conclusions.
14. Minutes of the hearing will reflect the procedural conclusions. In addition, a formal report of the hearing will be made by the GSC.

## **III. Conclusion**

15. Coreper is invited to endorse the modalities as set out in this note.