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From: General Secretariat of the Council  
To: Delegations

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Subject: Questionnaire for the Member States on the evaluation of the Council's  
annual rule of law dialogue - Reply from the Belgian Delegation

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Delegations will find below the reply from the Belgian Delegation to the Presidency questionnaire on the review of the Council's annual rule of law dialogue (document 10905/23).

**Questionnaire for the Member States on the evaluation of the Council's  
annual rule of law dialogue**

**On the purpose and principles that govern the dialogue**

1. Do you agree that the purpose of the Council's annual rule of law dialogue is to be a useful mechanism, creating a space for structured and constructive discussions among Member States and for sharing best practices and lessons learned? How do you consider that this purpose could be further developed?

The rule of law dialogues have indeed proven to be a valuable tool to help us gain insight into each other's legal and institutional frameworks, promote mutual understanding, and identify emerging challenges and share best practices. Moreover, they also offer a useful incitement for Member States to decide or implement useful reforms. The rule of law dialogues should be able to rely on the full support and cooperation of each and every one of us and should be pursued in the future.

2. The principles that have governed the dialogue since the conclusions of 2014 have the objective to make this dialogue stronger, more result-oriented and better structured, its preparations more systematic and its follow-up adequate. Do you consider that those principles have guided the Council well in conducting the dialogue? If not, can you indicate why, and how the implementation of those principles could be improved?

Yes, the dialogue has been carried out on the principles of objectivity, non-discrimination and equal treatment of all Member States and conducted in a non-partisan and evidence-based manner. These principles have been respected by both the Commission, the Council and the consecutive Presidencies and should continue to be the basis of the dialogue.

Since 2014, the dialogue has evolved significantly. We therefore believe that the evaluation should primarily aim for Council Conclusions in which existing practices and working methods are codified.

3. In your opinion, has the dialogue been carried out in a coherent way that avoids duplication, while taking into account the scope and objective of the dialogue vis-à-vis other existing rule of law instruments?

Yes, the discussions are coherent and avoid duplication. However, when other rule of law instruments are activated against certain Member States, it can also be addressed in the dialogue. The different instruments in the rule of law toolbox have to strengthen and complement each other.

In the report itself – as well as in the dialogue - more focus could be put on the link that the four pillars (justice, anti-corruption, media freedom and checks and balances) can have with each other. The links between these four pillars may be indicative of the systematic nature of the weakening of the rule of law in a given Member State, which may be more difficult to demonstrate when the themes are treated separately.

## On the way that the dialogue is performed today and possible improvements

4. Every autumn the dialogue has devoted one session to a horizontal debate on the state of play of the rule of law in the Member States.
  - a. How do you evaluate the way that these sessions have developed since 2020?
  - b. Would it be useful if in each yearly cycle – from July to June – successive presidencies coordinated thematic debates at the General Affairs Council, based on the content from the corresponding Commission annual rule of law report?

Belgium is in favour of continuing the horizontal debate on the rule of law report. However, to allow for a more in depth discussion, organising a horizontal debate once a semester instead of once a year on the GAC could be considered. This in order to discuss during the first GAC the first two major cross-cutting themes (the justice system and the anti-corruption framework) and during the second, the other two themes (media pluralism and other institutional issues related to the balance of power), each time for two hours of discussion.

During these transversal dialogues – as well as in the rule of law report itself - it will be important to focus on the link that the four themes can have with each other. The links between these four pillars may be indicative of the systematic nature of the weakening of the rule of law in a given Member State, which may be more difficult to demonstrate when the themes are treated separately.

Finally, there is also a need to ensure that these dialogues remain attractive to Ministers, in order to guarantee their interest and involvement in these discussions, as well as to encourage their presence at the GACs that will deal with these points.

5. Over the past four years, in addition to that horizontal debate, a steady pace has been maintained in the country-specific discussions. Every Council presidency has decided to keep discussing the development in five Member States, up until the current country cycle restarted during the Swedish Presidency in the first semester of 2023.
  - a. How has this part of the dialogue, in which all Member States can share their rule of law challenges and exchange good practices, helped you with discussing potential solutions?
  - b. In order to achieve deeper reflection and better preparation of the exercise by the other Member States, would reducing the number of Member States that undergo the dialogue in each country-specific discussion to four be helpful? Could this help make the discussion more focused?

For Belgium specifically, the country-specific discussion has been an important motivator to be able to show progress on the recommendations and the points of attention mentioned in the report. This has led to additional awareness creation of the report and the dialogue on the federal and regional level and as an argument to work on improving our own situation.

The discussion on 5 member states at a time is a good number. This way, a full cycle can be completed in +/- 3 years, which is already quite a long time. Reducing the number of Member States per discussion would further lengthen this cycle, which does not seem appropriate.

6. The dialogue has used the Commission's annual rule of law report in this yearly stocktaking exercise. The Commission has improved the exchange with Member States used to draw up the report. What further improvements in terms of Member States' involvement, or other, would be useful?

We are happy with the current exchange between the Member State and the Commission. Member States are already extensively involved in the drawing up of the report through written input, a country visit and a possibility to make corrections on the draft report. This seems to be sufficient. We must also be vigilant not to unnecessarily aggravate the workload.

The readiness of the Commission to brief the national Parliaments and to organise follow up events with stakeholders in the Member State is very appreciated. They help spread awareness and exchange. However, it is important to inform the national contact point of these events.

7. What role should the recommendations of the Commission's annual rule of law report play in the dialogue?

The recommendations have been an important addition and improvement for the rule of law report. The follow-up of these recommendations is a priority for Belgium.

The recommendations should therefore be the main focus of the country-specific dialogues. Questions posed to the Member States on the agenda should primarily be focused on (but not be limited to) the follow-up of the recommendations.

8. Are there any other international sources whose methodology is reliable and fact-checking process rigorous, the use of which you would consider appropriate to complement the dialogue?

In her report, the Commission already relies on other international sources like the Venice Commission, GRECO, the OECD, Transparency International, and the Media Pluralism Monitor.

In order to keep the dialogue in the Council structured and to the point, the discussion should be based on the rule of law report.

9. How could we further involve civil society in the dialogue? Would you be willing to invite experts on rule of law issues to participate in the dialogue? Would it be appropriate to present the main conclusions of the discussion to a group of civil society representatives?

The rule of law dialogue has been set up to act essentially as a peer review mechanism. When contemplating the involvement of other actors, we should thus be vigilant to not lose the intention of this instrument.

However, we are very open to consider ways to further increase the transparency of the dialogue, e.g. by briefing civil society of the discussions.

10. How do you view the relationship between the dialogue that takes place in the General Affairs Council, which tends to be general, and more specific discussions taking place each semester in the Justice and Home Affairs Council, which tend to be focused on a specific area of its competence? Do you see added value in discussing certain technical issues related to rule of law challenges, as identified by the General Affairs Council, in other formations of the Council?

The General Affairs Council should keep the lead on the rule of law dialogue by holding the general and country-specific discussions. One of the essential added value of dialogues at the General Affairs Council is indeed the general overview of all aspects of the rule of law situations in the EU or in the EU Members States it allows, i.e. the four parts of the rule of law report of the Commission. However, the specific discussions in the Justice and Home Affairs Council every semester are an important addition and should be continued. The JHA Council holds the expertise on the more technical aspects of the rule of law report which allows to have a more in depth discussion of certain topics. This also helps to raise awareness of the report and dialogue.

It would be useful to also add specific discussions on the media pillar of the report to the agenda of the Culture/Audiovisual Council as well as in the Education, Youth, Culture and Sport Council configuration (EYCS), in view of the necessity to strengthen the education of the youth with regard to the current and future rule of law challenges.

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