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From: General Secretariat of the Council
To: Delegations

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

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

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?

Latvia agrees with the statement above. We view the annual rule of law dialogue as a useful mechanism. It shows that there is always room for improvement as regards the rule of law situation both in the EU in general and each Member State specifically. Upholding the rule of law principles is a constant process that refers to all Member States. The dialogue should be maintained and continued.

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?

We agree with the current content, structure and methodology of the Dialogue.

At the same time, it is important to take into account that many of the aspects touched upon in the dialogue are matters of national competence and therefore this needs to be respected vis-à-vis Member States.

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?

We do not see problems regarding duplication. As the dialogue is based on the annual Rule of Law report, it provides definite margins for the discussions.

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?

We support the horizontal discussions. It is useful to reflect on general trends regularly in order to prevent emerging threats to the rule of law.

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?

Currently the horizontal discussions are quite broad. A thematic debate could be a useful way to focus attention on a specific theme.

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?

We support the discussions with five Member States per Presidency. It is useful to learn about the challenges and good practices of other Member States. We support continuation of this approach.

Although the dialogue provides background information about where Member States stand on rule of law questions, we cannot say that this dialogue has provided us with concrete solutions to address the individual and specific recommendations for Latvia.

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?

We could support a more focused discussion by reducing the number of examined countries to four.

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 would like to propose two areas for improvement:

First, it would be greatly appreciated for Member States to have the opportunity to know and discuss recommendations prior to the publishing of the report, as is the common practice for recommendations in other reviewing formats (e.g. GRECO, OECD). This would help to ensure that Member States are not blindsided by recommendations based on misinterpretation of gathered information (that may not have been addressed in follow-up visits) or on mistaken assumptions regarding the legal systems of the Member States (which would render the recommendations unfeasible, and could be cleared up during discussions).

Second, we are wondering if the dialogue could become an ongoing process with the involvement of civil society too, throughout the year.

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

We see recommendations as guidelines for further work. Recommendations should stay non-binding and should not be formalized as sometimes they are close to impossible to fulfil in the short to medium term, due to the fact that they are either too general or demand considerable changes in the national legislative system that may take time.

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?

We are open to discuss proposals to complement the dialogue with other international sources.

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?

Latvia considers that a broader role in the rule of law dialogue should be given to civil society and to the situation of civil society in Member States.

We see civil society as a partner that plays an important role in promoting transparency, accountability, and participation.

We support the proposed options:

- to invite experts on rule of law issues from civil society to participate in the dialogue;
- to present the main conclusions of the discussions to a group of civil society representatives;
- in addition, we propose the inclusion of a separate chapter in the report that would reflect the civil society's views on the rule of law situation in each Member State.

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?

Discussions in the GAC tend to be general, and we do see the benefit of discussing certain technical issues related to the rule of law in other formations of the Council involving the Ministers of Justice or Education.

It is important that the links and coordination between the discussions in the GAC and other Council formations are ensured.
