



Brussels, 28 September 2020
(OR. en)

11094/20

LIMITE

JAI 730
FREMP 78
AG 43
POLGEN 154

NOTE

From: Presidency
On: 28 September 2020
To: Delegations

Subject: Annual Rule of Law Dialogue

1. On 16 December 2014, the Council adopted conclusions that establish an annual political dialogue among all Member States within the Council (General Affairs) to promote and safeguard the rule of law in the framework of the Treaties.¹ 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.
2. The Presidency conclusions of 19 November 2019² reaffirmed these principles, while stressing the wish for the dialogue to be stronger, more result-oriented and better structured. In addition, it was noted that these goals could be effectively furthered by undertaking a yearly stocktaking exercise of key rule-of-law developments in the Member States and in the Union as a whole, taking into account both positive and negative trends, and that this yearly stocktaking could make use of the Commission's annual rule of law reports.

¹ 17014/14

² 14173/19

3. The Commission has stated that it will issue annual rule of law reports providing a synthesis of significant developments in the Member States and at EU level, both positive and negative. The monitoring approach will be the same in all Member States, will rely on comparable information and all relevant sources, and will be based on an open dialogue with the Member States. The monitoring will cover four areas: justice systems, the anti-corruption framework, media pluralism and other institutional issues related to checks and balances. The annual rule of law reports will consist of a *chapeau* covering general developments in the EU and 27 country chapters covering specific developments in each Member State.
4. The Commission committed to closely involve the Member States in the preparation of its annual rule of law reports: national contact points have a liaison function, facilitating and accompanying the dialogue between the Commission and the competent national authorities. The Member States are invited to provide written contributions to the Commission's annual rule of law reports. The Commission maintains a constant dialogue with Member States throughout the process and carries out country visits to support the evidence gathering and engage in dialogue with the Member States authorities. Prior to the publication of the annual rule of law reports, Member States are given the opportunity to comment on the analytical parts of the report's respective country chapter.
5. The Presidency intends to hold the annual rule of law dialogue in the framework of the conclusions of 16 December 2014, while making it more structured. Therefore, the dialogue will be organised in two different types of political discussions: a horizontal discussion covering general rule-of-law developments in the EU and country-specific discussions addressing key developments one by one in each Member State. These discussions could make use respectively of the *chapeau* and of the country chapters of the Commission reports.
6. The first horizontal discussion will take place at the General Affairs Council on 13 October 2020. The Commission will be given the opportunity to present its assessment of the general developments in the EU. The political discussion will address the above-mentioned four areas.

7. The first country-specific discussion will take place at the General Affairs Council on 10 November 2020. It will focus on key developments in five Member States, one after the other and using the same approach. Following the EU protocol order, the first five Member States will be Belgium, Bulgaria, the Czech Republic, Denmark and Estonia. Germany has been replaced by the country next in the order, Estonia, so to avoid that the Presidency chairs the discussion on its own country. Each of the five Member States will be given the chance to explain its key developments and the particular aspects of its national rule of law framework. After each of them, other Member States will be invited to share their experiences and best practices in relation to the respective developments.
8. In order to ensure continuity, the horizontal discussions could take place once per year during the second semester, while the country-specific discussions could take place each semester, following the protocol order.
9. Based on the principle of equal treatment of all Member States, the Presidency intends to create a positive atmosphere of trust and cooperation, allowing for an open and constructive political dialogue in the Council. Ultimately, the goal of this dialogue shall be to learn about and from each other, to understand how the rule of law works in every single Member State, to exchange best practices and to reach a common understanding of rule of law principles.