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NOTE

From:	Presidency
On:	4 October 2021
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 (in its General Affairs configuration) to promote and safeguard the rule of law in the framework of the Treaties¹. 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. Reaffirming these principles, the Presidency conclusions of 19 November 2019 stressed the wish for the dialogue to be stronger, more result oriented and better structured.
3. On 30 September 2020, the Commission published its first annual rule of law report providing a synthesis of both the rule of law situation in the EU and an assessment of the situation in each Member State². The second annual rule of law report was issued on 20 July 2021³.

¹ 17014/14.

² 11225/20 and 11225/20 ADD1COR1 to ADD27.

³ 10341/21 and 10341/21 ADD1 to ADD27.

4. The German Presidency held a structured approach to implement the annual rule of law dialogue. The first horizontal discussion covering general rule-of-law developments in the EU took place at the General Affairs Council on 13 October 2020. The first country-specific discussion addressing key developments focused on the situation in the first five Member States, following the EU protocol order - Belgium, Bulgaria, Czechia, Denmark and Estonia -, took place at the General Affairs Council on 17 November 2020
5. Under the Portuguese Presidency, the second country-specific discussion took place at the General Affairs Council on 20 April 2021. It focused on key developments in five Member States following the EU protocol order: Germany (which had been replaced in the first dialogue, as it was holding the Presidency), Ireland, Greece, Spain, and France.
6. The Presidency is firmly committed to continue the consolidation of this newly structured informal, open and constructive political dialogue on the rule of law in the Council, with the approach set out for both the horizontal and the country-specific discussions⁴. These discussions could continue to make use of the relevant country chapters in the Commission 2021 rule of law report and respect the same principles of objectivity, non-discrimination and equal treatment of all Member States.
7. Consequently, the second horizontal discussion will take place at the General Affairs Council on 19 October 2021. The Commission will be given the opportunity to present its assessment of the general developments in the EU. The political discussion will address the four areas covered by the Commission rule of law report (justice systems, the anti-corruption framework, media pluralism and other institutional issues related to checks and balances).
8. Taking into account continuous COVID-19 measures and their implications, and with the aim of enabling the lessons learned and strengthening EU's resilience also in upholding the Rule of Law, the general horizontal discussion should, inter alia, focus on the institutional checks and balances amidst the restrictive measures in the COVID-19 pandemic with the attention to the roles and responsibilities of the respective branches of power.

⁴ 11094/20 and 7379/21.

9. The third country-specific discussion will take place at the General Affairs Council on 23 November 2021 and will focus on key developments in five Member States following the EU protocol order: Croatia, Italy, Cyprus, Latvia and Lithuania. Each of the five Member States will be invited to present key developments and particular aspects of its national rule of law framework. After each of them, other Member States will be given the opportunity to share their experiences and best practices on the topics discussed in a constructive and inclusive manner.
 10. The Presidency stresses the importance of continuing this dialogue with country-specific discussions taking place each semester, and a horizontal discussion organised yearly, following the publication of the Commission's annual rule of law reports. The Presidency will seek to deepen the dialogue following the principles of objectivity, non-discrimination and equal treatment, on a non-partisan and evidence-based approach, to avoid any risk of applying double standards among all Member States, as well as to encourage the consideration of improving the methodology for future annual reports.
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