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OUTCOME OF PROCEEDINGS

From:	General Secretariat of the Council
On:	26 April 2022
To:	Delegations
Subject:	Special Report No 1/2022 by the Court of Auditors: 'EU support for the rule of law in the Western Balkans: despite efforts, fundamental problems persist' - Council conclusions

Delegations will find attached Council conclusions on Special Report No 1/2022 by the Court of Auditors: 'EU support for the rule of law in the Western Balkans: despite efforts, fundamental problems persist', adopted by the General Affairs Council on 22 March 2022.

Council conclusions on Special Report No 01/2022 by the Court of Auditors:**‘EU support for the rule of law in the Western Balkans: despite efforts, fundamental problems persist’**

1. The Council thanks the European Court of Auditors for its Special Report No 01/2022 concerning EU support for the rule of law in the Western Balkans and takes good note of the conclusions and recommendations therein.
2. The Council recalls its conclusions on Enlargement and the Stabilisation and Association process, in particular those adopted on 14 December 2021. The rule of law is a fundamental value on which the EU is founded, a crucial aspect of democratic transformation, which is at the heart of both the Enlargement Process and the Stabilisation and Association Process, and the key benchmark against which progress towards EU membership is assessed.
3. The Council notes that the objective of the audit was to assess whether EU support for the rule of law in the Western Balkans has been effective, in particular whether it was well designed and achieved the planned results. To this end, the auditors examined the elements of EU assistance and its two intertwining streams of action: (i) financial support, mainly under the instrument for pre-accession assistance (“IPA”), and (ii) political and policy dialogue, with a special focus on the EU’s priorities for the rule of law in the Western Balkans.
4. The Council stresses the relevance of the findings and recommendations of this audit for the further advancement of fundamental rule of law reforms in the Western Balkans, while noting, however, that the focus of auditors’ examination covered the period 2014-2020, notably EU financial support provided under IPA II.

5. The Council takes good note of the overall conclusion of the Court that, while EU action has contributed to reforms, it has had limited overall impact in advancing fundamental rule of law reforms in the region and that a key reason for this is the insufficient domestic political will to drive the necessary reforms. The Council notes positively the Court's acknowledgment of the EU's contribution to reforms in certain areas such as improving the efficiency of the judiciary, the development of relevant legislation, and promoting a proactive approach in the fight against corruption. However, it notes with concern the Court's conclusion that, in practice, EU support has insufficiently tackled persistent problems in areas such as the independence of the judiciary, the concentration of power, political interference, and the fight against corruption.
6. The Council further notes the Court's conclusion that poor financial and institutional capacity, as well as a lack of ownership of reforms, constitute obstacles to project impact and sustainability. The Court finds that, although the Commission and its implementing partners have identified these risks, the mitigating action in the period covered by the report was not sufficient. Furthermore, the Court notes that the pre-conditions for project funding and implementation were not applied in a consistent manner, the possibility to suspend assistance under certain conditions had only been rarely exploited, and the rules for applying political conditionality were not clear. According to the Court, the results achieved by EU support for civil society action on the rule of law were also considered insufficient for meeting the needs of the sector, and have not been thoroughly monitored.
7. The Council takes note of the Commission's replies attached to Special Report No 1/2022 and notes that the Commission has accepted most, and already addressed some, of the Court's recommendations, inter alia by increasing support for media freedom and pluralism, increasing efforts to improve project design and results reporting.

8. The Council notes that the audit did not assess the important developments resulting from the application of the revised enlargement methodology, nor the implementation of the new possibilities provided for under IPA III. The Council takes note of the Court's recommendations with regard to the implementation of IPA III, and stresses the importance of any possible future findings and recommendations to be presented at a time when they can be taken into account in the negotiations of a post IPA III regulation.

The Council recalls that the revised enlargement methodology, with its even stronger focus on fundamental reforms, aims to reinvigorate the accession process by making it more predictable, more credible, and more dynamic, and subject to stronger political steering, based on objective criteria and rigorous positive and negative conditionality, and reversibility. In this context, the Council reaffirms its will to strengthen this political steering by Member States during the EU accession process, in particular by maintaining regular political dialogue with partners.

The Council also recalls that assistance under the IPA III Regulation shall be based both on a performance-based approach and on the fair share principle, and be differentiated in scope and intensity according to the performance of beneficiaries as well as to their needs, with particular attention to the fundamentals. In the case of a significant regression or persistent lack of progress assistance shall be modulated accordingly, including by reducing the funds proportionally and redirecting them in ways that avoid compromising support for improving fundamental rights, democracy and the rule of law, including support to civil society and, where appropriate, cooperation with local authorities. Where progress has resumed, the assistance shall also be modulated accordingly to further support those efforts. The capacities of civil society organisations, including, where appropriate, as direct beneficiaries of assistance, shall be strengthened.

9. The Council therefore invites the Commission, and, where relevant, the EEAS, to implement the following recommendations of the Court: 1) strengthen the promotion of rule of law reforms in the enlargement process by, inter alia, establishing strategic targets per beneficiary; 2) further support and strengthen the capacity of civil society engaged in rule of law reforms and media freedom; 3) make full use of the possibility to modulate financial assistance as provided by the IPA III Regulation; and 4) strengthen result oriented project reporting and monitoring.
10. The Council invites the Commission to inform the Council before the end of the year of progress made in relation to the issues raised by the Court of Auditors' Special Report and to ensure that they are addressed systematically.
11. The Council reaffirms its commitment to enlargement, which remains a key policy of the European Union, in line with the renewed consensus on enlargement approved by the European Council on 14 and 15 December 2006 and subsequent Council conclusions. The Council stresses that the EU continues to stand ready with its assistance and encourages the Western Balkans partners to step up efforts and clearly demonstrate their commitment in implementing rule of law reforms, in the interest of their people.
