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NOTE

From:	Presidency
To:	Delegations
No. prev. doc.:	ST 13622/19 and 14116/19
Subject:	Presidency conclusions - Evaluation of the annual rule of law dialogue

At the General Affairs Council meeting on 15 November 2016, it was agreed that the rule of law dialogue in the Council should be re-evaluated by the end of 2019.

On 16 September 2019, the General Affairs Council had a first exchange of views, following which the Presidency sent a questionnaire to delegations. On the basis of the input received, the Presidency prepared draft conclusions.

At two informal meetings on 24 and 29 October 2019, experts examined the text of the draft conclusions of the Council and the Member States meeting within the Council on the evaluation of the annual Rule of Law Dialogue.

At Coreper on 6 November 2019, a consensus could not be reached on the draft annexed to document 13622/19.

At the General Affairs Council meeting on 19 November 2019, discussions did not lead to reaching a consensus on conclusions on the evaluation of the annual rule of law dialogue. However, the Presidency concluded that the text annexed to this note was supported or not objected to by 26 delegations.

EVALUATION OF THE ANNUAL RULE OF LAW DIALOGUE

RECALLING that on 15 November 2016 the Council agreed that the rule of law dialogue in the Council should be re-evaluated by the end of 2019.

1. we reiterate that the 2014 conclusions of the Council of the European Union and the Member States meeting within the Council on ensuring respect for the rule of law continue to be valid;
2. we reaffirm the principles listed in the 2014 conclusions, notably: objectivity, non discrimination and equal treatment of all Member States; a non partisan and evidence-based approach, without prejudice to the principle of conferred competences, as well as the respect of national identities of Member States inherent in their fundamental political and constitutional structures, inclusive of regional and local self-government, and their essential State functions, including ensuring the territorial integrity of the State, maintaining law and order and safeguarding national security; this approach should be brought forward in light of the principle of sincere cooperation;
3. we reiterate that this dialogue will be developed in a way that avoids duplication and takes into account existing instruments and expertise in this area;
4. we agree that, after five years of experience, the practical implementation of this framework could be further developed, to reflect the commitment of the Council and of Member States to further strengthening the Council's annual rule of law dialogue;
5. we agree that the Council's annual rule of law dialogue, established in 2014 to promote and safeguard the rule of law within the framework of the Treaties, has proved to be a useful mechanism;
6. we note that in the past five years this dialogue in the Council has been conducted on the basis of specific themes, proposed by the Presidency, and that the first evaluation was carried out in 2016;
7. we note that the evaluation of the annual rule of law dialogue carried out at the end of 2019 showed that, in order to better contribute to the aim of strengthening respect for the rule of law in the Union, there is a wish for the dialogue to be stronger, more result-oriented and better structured, for preparations for the dialogue to be more systematic, and for proper follow-up to be ensured;

8. we agree that these goals could be effectively furthered by undertaking a yearly stocktaking exercise concerning the state of play and key developments as regards the rule of law, which would facilitate a comprehensive, genuine and interactive discussion broadly focused on the rule of law situation in the Member States and in the Union as a whole, taking into account both positive and negative trends;
9. we note that such a dialogue in the Council would contribute to the prevention of rule of law problems in an inclusive and constructive manner through discussion and the exchange of best practice, as well as to ensuring proper follow-up and continuity;
10. we agree that this yearly stocktaking could make use of the Commission's annual rule of law reports, which would create synergies between the institutions;
11. we call upon the Commission to closely involve the Member States while preparing its rule of law report and to publish this report well in advance of the Council's annual rule of law dialogue to be held in the General Affairs Council in the autumn, in order to allow Member States to make further observations and to enable proper preparations to be made for the dialogue;
12. we agree that preparations for the dialogue may also include more frequent use of interactive exchanges organised by the Presidency, such as seminars with relevant stakeholders;
13. we note that as a follow-up to the dialogue at the General Affairs Council meeting, follow-up discussions on one or more particular themes could be organised in the General Affairs Council, when deemed appropriate and necessary;
14. while recognising the horizontal role and the responsibilities of the General Affairs Council, which has a central role in the dialogue, we encourage other Council configurations to organise further and more in-depth discussions on rule of law-related issues falling within their competence, taking into account, as appropriate, the discussions within the framework of the dialogue;
15. we note the ongoing discussions among all Member States on the concrete elaboration of the procedure and modalities of a periodic peer review mechanism on the rule of law; we agree that this work should be continued, whilst avoiding duplication and undue administrative burden and ensuring the necessary coherence;
16. we will evaluate, by the end of 2023, the experience acquired on the basis of this dialogue.