



EUROPEAN COMMISSION

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Dear Chair,

The Commission would like to thank the Sénat for its opinion on the rule of law in the European Union.

The Commission welcomes the strong commitment of the Sénat to the values of the Union and fully agrees with the importance of promoting the rule of law culture in Member States. Direct dialogue with the Member States and their competent authorities, as well as with all relevant stakeholders in the judicial system, media and civil society, and their close involvement in the preparation of the rule of law report is a key element for fostering the rule of law culture.

The Commission agrees that national Parliaments need to be fully involved. Following the adoption of the 2020 Rule of Law Report, the Commission is engaging in a political dialogue with national Parliaments. It aims to stimulate a constructive debate on upholding the rule of law and to encourage all Member States to examine how challenges can be addressed, how to learn from each other's experiences and how the rule of law can be further strengthened in full respect for national traditions and national specificities.

The Rule of Law Report is at the heart of the new preventive rule of law mechanism aimed at preventing challenges from emerging or deepening, based on monitoring, dialogue and debate at national and EU level. One of the objectives of the European Rule of Law Mechanism is to strengthen the inter-institutional cooperation on rule of law matters. In Council, the Rule of Law report is now at the basis of regular discussions among Ministers. A cooperative approach on rule of law between Member States helps to bring a new dynamic, where Member States are willing to discuss on the good experiences, but also feel encouraged to address challenges. The European Parliament also holds regular debates on the rule of law.

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In December 2017, the deterioration of the rule of law in Poland led the Commission to initiate the procedure under Article 7 of the Treaty on European Union. In September 2019, the European Parliament decided to do the same for Hungary. These were unprecedented steps in the history of our Union. They also illustrate the need to find ways to avoid that situations degenerate to a point where there is no other option left but to trigger the Article 7 procedure.

The European Court of Justice also plays a crucial role in upholding the rule of law through its developing case-law in this area. Where rule of law deficiencies constitute a violation of EU law, the Commission pursues a strategic approach to infringement proceedings, building on the case law of the European Court of Justice. These proceedings are targeted to address specific issues of non-compliance with EU law. The Commission is committed to make full use of its powers and continue to play its role as guardian of the Treaties to ensure the respect of EU law requirements relating to the rule of law. It has brought proceedings before the European Court of Justice on rule of law-relevant issues a number of times and the Court has also been called upon by national courts to issue preliminary rulings on the interpretation of EU law in a number of cases.

The new Regulation on a general regime of conditionality, in application since 1 January 2021, is a historical achievement: for the first time, the Union has a specific tool to protect its budget from breaches of the principles of the rule of law. The Commission is currently preparing guidelines on some aspects of the application of the Regulation. The validity of the Regulation has been challenged by Poland and Hungary before the Court of Justice. The guidelines will take into account the Court's judgment, in so far as relevant.

Finally, the rule of law is a crucial aspect of democratic transformation and the key benchmark against which the enlargement countries' progress towards membership is assessed by the EU. Accession negotiations cover a wide variety of aspects of justice, internal security, fundamental rights and the fight against corruption and organised crime. The Commission is monitoring progress and reporting annually in the framework of the Enlargement Package.

The Commission hopes that these comments address the issues raised by the Sénat and looks forward to continuing our political dialogue.

Yours faithfully,

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Vice-President*

*Didier Reynders
Member of the Commission*