

LXXI COSAC

Brussels, 24-26 March 2024

BACKGROUND NOTE

Session IV - Democracy and the rule of law in Europe: the way ahead

Principles and priorities concerning the rule of law and democracy

The rule of law and democracy are a part of the foundations of the European Union, and the rule of law must be fully respected by all Member States and the EU, as it ensures the effective application of Union law, contributes to citizens' confidence in the European Union, and also helps to ensure a level playing field for citizens and businesses, which is the cornerstone of the single market.

The 18-month Council programme drawn up by the current Presidency trio (Spain, Belgium, and Hungary), as well as the specific priorities of the Belgian Presidency, underline the crucial importance of the rule of law as a guarantor of democracy.

Belgium will give priority to protecting democracy, strengthening the rule of law, and promoting transparent and fair European elections.

Belgium will continue to fully support the European Commission in its role as guardian of the Treaties and will encourage it to strictly apply the existing instruments relating to the rule of law.

National parliaments and the European Commission's annual report on the rule of law

The national parliaments of the European Union can help to promote a stronger European culture of the rule of law.

In this context, we are delighted that the European Commission's annual report on the rule of law is being discussed in the relevant committees and/or in plenary session by most of the national parliaments of the European Union.

In any event, the annual report encourages good contacts between the European Commission and national governments/parliaments in order to promote the implementation of reforms aimed at improving the rule of law in the Member States.

In some national parliaments, the competent EU Commissioner presents this annual report in the presence of government representatives and/or experts from the independent national institution specialising in the rule of law and democracy, which is already "best practice".

The fact that several national parliaments have a specific committee responsible for the rule of law and support services specialising in the rule of law and democracy are elements that encourage the establishment of a strong European culture of the rule of law.

To further strengthen the European culture of the rule of law, it would be advisable to continue and refine the recommendations of the COSAC working group set up by the French Presidency, which examined the values set out in Article 2 of the Treaty on European Union.

The concept of the rule of law

In recent years, the rule of law has been called into question in some Member States.

The principles of the rule of law cannot be regarded as secondary. The rule of law must be judged in the same way in all Member States. The fundamental principles and values of the European Union are non-negotiable, and the rule of law should be better protected, in particular by applying the conditionality mechanism and extending the concept of the rule of law to social rights, as well as by strengthening guarantees relating to equality between men and women within the Union.

Respect for the rule of law is also essential for the sound financial management of the EU budget and the efficient use of EU funds. Conditionality is essential to protect the EU budget. In light of the Conditionality Regulation, it is useful for the European Commission to analyse the recommendations of the European Court of Auditors' report 03/2024 in order to ensure the necessary administrative capacity to apply the Conditionality Regulation and to report, on an annual basis, on the effectiveness of the measures taken in response to breaches of the rule of law.

The rule of law and democracy

A strong European culture of the rule of law and citizen involvement is essential.

Promoting the rule of law is synonymous with a better life for European citizens. An annual conference on the state of the rule of law in the EU should therefore be organised, with the involvement of citizens, as suggested by the COSAC working group set up by the French Presidency.

The importance of the European Citizenship Initiative as a significant instrument of participatory democracy in the European Union should also be emphasised.

Strengthening democratic values also means recognising the role of national parliaments. If an EU citizen can ask the European Commission to take a legislative initiative, national

parliaments must be given a similar competence. The green card initiative, which could be formalised, is therefore a step towards strengthening the rights of parliamentarians and their participation in the European legislative process.

It is important that the following initiatives are completed before the European elections: the Action Plan for European Democracy, the negotiations on the creation of a European body responsible for ethical issues, and the new regulation on the transparency and targeting of political advertising. The above-mentioned initiatives represent a step forward in the fight against disinformation by promoting the independence and pluralism of the media and giving the European Union a greater role in the field of cybersecurity.

The rule of law and the enlargement of the European Union

The principles enshrined in the Union's Treaties and in the Charter of Fundamental Rights of the European Union must be all the more protected now that the European continent is plunged into a context of war. These values and principles are non-negotiable and irreversible, and enlargement of the Union should not undermine the Union's acquis in terms of fundamental values and citizens' rights. Compliance with the accession criteria (Copenhagen criteria) remains a sine qua non for all (potential) candidate countries in order to progress towards EU membership. It is important to respect the current enlargement methodology, based on strict conditionality and on the candidate countries' own merits. This implies the implementation of deep and sustainable reforms in terms of the rule of law, democratic institutions, fundamental values, and the fight against corruption and organised crime.

In this context, the results of the Council's discussions on the importance and reinforcement of the rule of law in the context of future enlargements are eagerly awaited.

Discussion points:

- The primacy of European law over national law and the equality of Member States and citizens before European law as a fundamental principle of the European rule of law.
- The European Commission's annual report on the rule of law as a tool for promoting a European culture of the rule of law. What are the most effective recommendations for improving the situation in the areas of media freedom, the fight against corruption, and the independence of the judiciary?
- The conditionality mechanism aims to protect the budget and the NextGenerationEU instrument. Has political dialogue and the possibility of suspending EU financial aid proven effective in regions where the rule of law, democracy and respect for human rights are under threat?
- Does the European Citizens' Initiative have any prospects as a tool for enabling citizens to participate directly in the EU's decision-making process? Is the Green Card

initiative a step towards strengthening the rights of parliamentarians and their participation in the European legislative process?

- How will the European Union ensure that new initiatives, such as the Action Plan for European Democracy, can protect the integrity of the 2024 elections?
- What measures can the European Commission take to protect media freedom in Member States where international comparisons suggest that censorship trends are on the rise? How can the legal protection of journalists in the EU be improved?
- How can Article 7 of the Treaty on European Union be triggered more effectively to respond to serious and persistent breaches of the fundamental values of the European Union by a Member State?