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OSCE Human Dimension Implementation Meeting Warsaw, 10 - 21 September 2018

EU statement – Working Session 4: Rule of law I, including independence of the judiciary, right to a fair trial, democratic law- making

Mr. Moderator,

I have the honour to take the floor on behalf of the European Union.

The EU reaffirms that human rights, the rule of law and democracy are interlinked and mutually reinforcing and that they belong to the universal and indivisible core values and principles. The founding principle of the Rule of Law, along with the respect for fundamental rights, is a cornerstone of the European Union, as stipulated by Art. 2 of the EU Treaty, and the EU attaches great value to the rule of law, independence of the judiciary, right to fair trial and democratic law-making.

In this regard, the EU commends the efforts of ODIHR and OSCE field missions in providing assistance for the development of justice systems that guarantee the respect of everyone's fundamental rights and freedoms in a fair and independent manner. We also support ODIHR's monitoring activities of trials and elections helping States to comply with their commitments in the area of the rule of law.

The proper functioning of a State governed by the rule of law is fundamentally based on public trust in the government, the police and public services, in the legislature and in the independence of as well as the quality and efficiency of the judiciary. A lack of trust can affect people's willingness to contribute to judicial processes. It can lead to avoiding contact with public institutions and the police and it will influence people's willingness to participate in democratic processes such as elections or referenda or to comply with laws.

The rule of law is inextricably linked to the protection of human rights and fundamental freedoms. We recognise that all persons, institutions and entities, public and private, including



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the State itself, are bound by just, fair, proportionate and equitable laws. Every person, institution and entity is entitled, without discrimination, to equal protection by the law. Independence and impartiality of the judiciary is necessary to ensure the rule of law and to guarantee the right to a fair trial for all. Selectivity and the arbitrary exercise of powers in the application of the law needs to be avoided.

A transparent and inclusive law-making process is a driver for political, economic and social development. All States must ensure that law-making is an inclusive process, involving all layers of society.

The respect for the separation of powers is also essential. The EU supports empowering the legislatures in exercising their legislative responsibilities in order to provide transparency and accountability. We call upon all participating States to meet OSCE commitments to guarantee the independence of their judiciaries.

The rule of law and development are strongly interrelated and mutually reinforcing. The advancement of the rule of law is essential for sustained and inclusive economic growth and sustainable development and the full realization of all human rights and fundamental freedoms. The EU supports further efforts towards implementing the Sustainable Development Goals, and in particular Goal 16.

Gender equality is a high priority for the EU. We must ensure that women fully enjoy the benefits of the rule of law, by using law to uphold their equal rights and ensure their full and equal participation, including in institutions of governance and the judicial system. We therefore call on all participating States to establish appropriate legal and legislative frameworks to prevent and address all forms of discrimination and violence against women and to secure their empowerment and full access to justice.

In order to encourage Member States to improve the effectiveness of their judicial systems, every year the EU Justice Scoreboard presents the perception of judicial independence and other comparative data on the independence, quality and efficiency of justice systems. Furthermore, the European Commission's Rule of Law Framework aims at addressing emerging threats to the rule of law in EU Member States. With these measures,



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Member States recognise the need to learn from each other in order to make the protection of fundamental freedoms and the rule of law a reality throughout the EU and beyond.

In the OSCE framework, participating States agreed to enhance their efforts to strengthen the rule of law, including in the effective administration of justice, right to a fair trial, access to court, accountability of state institutions and officials, respect for the rule of law in public administration, and the right to legal assistance.

Strengthening the rule of law is a responsibility of us all, the EU and its Member States included. We are prepared to recognise the challenges that we need to address ourselves and indicate our willingness for dialogue on how to strengthen the rule of law. The EU considers it important to be a partner in the efforts to strengthen the rule of law and cooperate on this important topic with other States.

The EU notes with concern steps taken by some governments in the OSCE region to dismantle the rule of law, by undermining the independence of the judiciary and openly challenging the principle of separation of powers. We would like to reiterate that any alleged wrongdoing must be subject to a fair trial, to due process and a swift and effective remedy, in compliance with the rule of law and independence of the judiciary.

The growing number of journalists and human rights defenders arrested is particularly alarming, as a strong and vibrant civil society and a free press are indispensable pillars of any democracy.

The EU continues to follow with great concern the situation in Turkey with regard to human rights and fundamental freedoms, democracy and the rule of law. In view of the termination of the state of emergency on 19 July, the EU expects Turkey to follow through and reverse all measures that continue to impact negatively on the rule of law, independence of the judiciary and the fundamental freedoms that are at the core of any democratic state.

The EU remains deeply concerned about human rights and the rule of law in the Russian Federation. We have raised many times the detention of Oyub Titiev, Director of the regional Memorial Human Rights Center in Grozny, which appears to be directly connected to his human rights work. His case follows a long line of arrests, attacks, intimidation and



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discrediting of independent journalists and human rights defenders working in Chechnya. We continue to call on the Russian Federation to release Mr Titiev, and give him the opportunity for a fair trial. We also call once again for the immediate and unconditional release of all illegally detained Ukrainian citizens in Russia and on the illegally annexed Crimean peninsula, including Oleg Sentsov, Voldomir Balukh, Emir Hussein Kuku, Oleksandr Kolchenko, Pavlo Hryb, and many others.

While fully recognizing legitimate security concerns of all participating States, we need to remind ourselves that respect for the rule of law, human rights and democracy are not detrimental to security and stability. On the contrary – they are underpinning security and stability, they are mutually reinforcing and are therefore an integral part of the OSCE concept of comprehensive security.

The European Union recommends that:

1. Participating States should ensure full respect for the independency of the judiciary and the separation of powers in line with international standards and commitments.
2. Participating States need to support the involvement of civil society and other independent actors with regards to judicial and prosecutorial services, including through trial monitoring, in order to improve transparency and accountability.
3. Participating States should step up their efforts in realizing the Sustainable Development Goals and in particular Goal 16.
4. Participating States need to establish appropriate legal and legislative frameworks to prevent and address all forms of discrimination and violence against women and to secure their empowerment and full access to justice.

Thank you.

The Candidate Countries the FORMER YUGOSLAV REPUBLIC OF MACEDONIA*, MONTENEGRO* and ALBANIA*, the Country of the Stabilisation and Association Process and Potential Candidate BOSNIA and HERZEGOVINA, and the EFTA country ICELAND, member of the European Economic Area, align themselves with this statement.

* The Former Yugoslav Republic of Macedonia, Montenegro and Albania continue to be part of the Stabilisation and Association Process.