



EUROPEAN UNION

OSCE Human Dimension Implementation Meeting Warsaw, 22 September - 3 October 2014

EU Statement for Working Session 5: Rule of Law II: democratic law-making, independence of the judiciary, right to a fair trial

Madam/Mister Moderator,

I am honoured to speak on behalf of the European Union.

The European Union attaches great importance to the Rule of Law: democratic law-making, independence of the judiciary, right to a fair trial. Before I make my statement, I would like to make the following recommendations on behalf of the EU:

1. A mentality within all state and government institutions to obey the law, similar to what is demanded of every citizen, should be promoted.
2. Keeping in mind that according to the Copenhagen Document of 1990, “democracy is an inherent element of the rule of law”, we have to ensure that the OSCE, together with the EU, elaborates appropriate tools of cooperation to ensure the best possible exchange of knowledge, competence and practice.
3. Participating States should respect the separation of powers, in particular, although not limited to, the separation between judicial power and executive power.
4. Law making processes should be as inclusive as possible.
5. Legislation should be made accessible to all citizens.



EUROPEAN UNION

6. Legal conflict resolution mechanisms should be accessible to all citizens, in particular, but not limited to, mechanisms to challenge government decisions.
7. The right to a fair trial should be guaranteed.

Madam/Mister Moderator,

The European Union is a Union of values and a community of law. Respect for the rule of law is an essential condition for peace and stability in the consolidation and support of democracy, human rights, and in the fight against impunity. The rule of law implies respect of the law by all, in particular by public authorities.

An effective, impartial and independent judiciary is of paramount importance for ensuring the rule of law and guaranteeing the right to a fair trial. Independence of the judiciary is essential, a prerequisite, to the establishment of the Rule of Law. The 2012 UNGA Resolution on the Rule of Law at the National and International Levels similarly recognizes that all persons, institutions and entities, public and private, including the State itself, are accountable to just, fair and equitable laws and are entitled without any discrimination to equal protection of the law. The EU calls upon all participating States to meet international standards and OSCE commitments and to guarantee their judiciaries are free from any attempts to influence their findings, including by government officials, or those who exercise political power.

All participating States should respect the separation of powers. The EU supports the development of codes of conduct in Parliaments to improve transparency and accountability.

The EU encourages participating States to improve the quality of the legislation, to improve access to the legislative process and to make all legislation accessible to its citizens. Law makers in all participating States must ensure that law-making is an



EUROPEAN UNION

inclusive process, involving broad layers of society. Laws should be clear, consistent and adequately made public.

Rule of law is a responsibility of all, including the European Union and its Member States. We as EU Member States are by no means flawless ourselves and are therefore constantly trying to make new achievements in the field of Rule of Law. We are open for dialogue and criticism on this important topic. The EU considers it important to be a partner in efforts to strengthen the Rule of Law and cooperate on this with others.

The EU fully supports the technical assistance provided by ODIHR in the rule of law area, as a means of assisting states to comply with the numerous OSCE commitments regarding independence of the judiciary and legal practitioners, as well as the impartial operation of the public judicial service. Furthermore, the EU fully supports the trial monitoring activities by ODIHR, since the presence of outside observers encourages compliance. ODIHR's methodology is clear and consistent, which guarantees impartiality and objectivity. We also support ODIHR's work to promote democratic law-making. ODIHR's analyses of national legislation, often together with Council of Europe's Venice Commission, provides valuable assistance that can benefit all states, including those in the EU.

The Candidate Countries the FORMER YUGOSLAV REPUBLIC OF MACEDONIA*, MONTENEGRO*, SERBIA* and ALBANIA*, the Country of the Stabilisation and Association Process and Potential Candidate BOSNIA and HERZEGOVINA, and the EFTA countries LIECHTENSTEIN and NORWAY, members of the European Economic Area, as well as UKRAINE, the REPUBLIC OF MOLDOVA, ARMENIA, GEORGIA, ANDORRA and SAN MARINO align themselves with this statement.

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