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### **OSCE Human Dimension Implementation Meeting Warsaw, 16 - 27 September 2019**

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#### **EU statement – Working Session 10: Rule of Law I, including: Independence of judiciary; Democratic law-making; Ensuring equal enjoyment of rights and equal participation in political and public life**

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Mr. Moderator,

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

A survey conducted by the EU Commission in April 2019 in all EU Member States showed overwhelming support for the rule of law. Over 80 per cent of citizens in all Member States recognize the importance of key principles of the rule of law, such as: legality, legal certainty, equality before the law, separation of powers and effective judicial protection by independent courts.

The requirement that government be conducted according to the law as spelled out in the principle of legality is an inherent element of our democratic societies. The EU seeks to develop and consolidate democracy, the rule of law and respect for human rights and fundamental freedoms.

In order to protect those subject to the law from arbitrary use of state power, we need to ensure that legal certainty remains one of the cornerstones of our democracies. The EU supports democratization and fundamental freedoms in partner countries, recognizing the crucial importance of encouraging broad participation in political decision-making and local ownership of development processes. The EU commends and greatly appreciates the work of ODIHR and OSCE field missions in this context. 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.



## EUROPEAN UNION

Furthermore, equality before the law is an important element of democratic societies. All persons are entitled to equal protection by the law without any discrimination. This also includes equality of opportunities to exercise rights, enjoy freedoms, hold political opinions and take part in public life without discrimination. And it also means ensuring equal rights of men and women. The EU encourages all participating States to promote the principles of non-discrimination, gender equality and women's empowerment and calls on all participating States to create an environment that encourages women's participation in politics. We also need to ensure that persons belonging to marginalized groups of minorities, persons with disabilities and persons in potentially vulnerable groups such as youth and senior citizens can enjoy equal rights and equal participation.

The principle of separation of powers aims to prevent the concentration of power by providing for checks and balances to avoid misuse of power and over-reaching by one branch of government over the other. The separation of powers is, in turn, a crucial requirement for judicial independence as it prohibits the executive branch from interfering in the work of the judiciary. The EU will continue to carefully monitor developments in this regard.

Effective judicial protection by independent courts remains another important cornerstone for democratic societies. The fair and impartial administration of justice is essential to safeguard human rights. National justice systems play a key role in upholding the rule of law and restoring confidence especially by preserving judicial independence. The EU notes with concerns attempts to limit the ability of courts and judges to perform their duties free of influence or control by other actors including attempts of undue dismissals of judges. The EU calls on all OSCE participating States to prevent the executive and legislative branches from interfering in the work of the judiciary.

In Turkey, although the state of emergency – which had been established following the failed coup attempt in 2016 – has been terminated, the disproportionate scale and scope of measures taken ever since still raise concerns. Despite repeated calls by the EU, the Turkish government has yet to reverse all measures that negatively affect the rule of law, the independence of the judiciary and fundamental freedoms. Elected mayors have been suspended and thousands of civil servants have been removed from office, while numerous



## EUROPEAN UNION

journalists and human rights activists as well as members of the judiciary and military have been detained, sometimes without indictment, and the capacity of Turkey to ensure an effective domestic legal remedy has been undermined by inconsistent rulings. The EU remains concerned about the human rights situation in Turkey, including the protection of the rule of law, judicial independence, due process, human rights and fundamental freedoms. In this regard, the EU continues to call on Turkey to respect the international standards and obligations to which it has subscribed and committed itself, in order to urgently reverse the negative trends. The EU expects substantial measures to restore legal guarantees to ensure the independence of the judiciary from the executive and to strengthen the independence of the Turkish Council of Judges and Prosecutors (CJP).

The EU continues to follow with concern the developments in the Russian Federation. Freedom of assembly must be guaranteed for all, including those who wish to express their demand to free and fair elections. However, we followed with concern the events regarding the assemblies in the run-up to regional and local elections. Participants in demonstrations calling for the participation of opposition candidates in the Moscow municipal elections were detained, some of them face criminal proceedings. The EU calls for the release of all participants in peaceful assemblies. We call on the Russian authorities to incorporate the recommendations from the OSCE Moscow Mechanism Rapporteur, Professor Benedek, to ensure an effective, transparent and unbiased investigation of human rights violations in Chechnya. We follow the criminal proceedings against human rights defenders and civil activists like, inter alia, Yuri Dmitriev, Kirill Serebrennikov, Anastasiya Shevchenko, Roman Udot, and Alexandra Koroleva, as well as religious groups like Jehovah's witnesses.

### Recommendations

- Participating states should undertake all efforts to safeguard human rights and fundamental freedoms through promoting democracy and the rule of law.
- Participating States should preserve judicial independence and counter any attempts to limit the ability of courts and judges to perform their duties free of influence or control by other actors.



## EUROPEAN UNION

- While recognizing the importance of national ownership in rule of law activities, we encourage participating States to request support in order to improve and strengthen democracy and the rule of law in their respective countries.
- Participating States should further promote the principles of non-discrimination, gender equality and women's empowerment in order to foster peace, sustainable democracy and economic development.

Thank you.

The Candidate Countries REPUBLIC of NORTH MACEDONIA\*, MONTENEGRO\* and ALBANIA\*, and the EFTA countries ICELAND and LIECHTENSTEIN, members of the European Economic Area, align themselves with this statement.

\* Republic of North Macedonia, Montenegro and Albania continue to be part of the Stabilisation and Association Process.