



## EUROPEAN UNION

### OSCE Human Dimension Seminar Warsaw, 21-23 November 2016

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#### EU Statement - Opening Session

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Madam/Mr. Moderator,

We would like to thank the German Chairmanship and the Office for Democratic Institutions and Human Rights for organising this Human Dimension Seminar. We attach great importance to the discussions with civil society representatives and other participating States held within the Human Dimension events. We regret that the Human Dimension Seminar could not be organised, as usual, in spring time, due to the late adoption of the necessary decision on the dates and topic and because some delegations linked it to other issue. A timely adoption of the decision might have facilitated a broader participation in the event.

The European Union attaches great value to the rule of law, democratic law-making, independence of judiciary and the right to a fair trial. The rule of law is the backbone of European democracy, and is one of the founding principles of the EU stemming from the common constitutional traditions of all Member States, including separation of powers.

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 of 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 EU welcomes the adoption by the UN General Assembly in 2015 of the Sustainable Development Goals, through which states pledge to “promote peaceful and inclusive societies



## EUROPEAN UNION

for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels.” These new Global Goals require the rule of law for their implementation.

While the judicial systems of the European Union Member States differ significantly in detail, there is a set of common principles which apply to all of them, as well as to the EU as such. One of these common principles is that the courts must be impartial and independent of the government and the legislator. This principle of independence of the judiciary is one of the values on which the EU is founded and it is expressly mentioned in Article 47 of the Charter of Fundamental Rights of the EU and in Article 6 of the European Convention on Human Rights. Judicial independence is vital for upholding the rule of law, the fairness of judicial proceedings and the trust of citizens and business in the legal system. In its Action Plan on Human Rights and Democracy 2015-2019 the EU commits itself to promote the independence of the judiciary.

Independent, effective and well-functioning justice systems play a crucial role for upholding the rule of law and the Union’s fundamental values. They are also a prerequisite for an investment and business friendly environment. This is why improving the effectiveness of national justice systems is one of the priorities of the European Semester – the EU’s annual cycle of economic policy coordination.

The EU Justice Scoreboard is an information tool aiming at assisting the EU and Member States to achieve independent and effective justice by providing objective, reliable and comparable data on the quality, independence and efficiency of justice systems in all European Union Member States.

The Scoreboard does not promote any particular type of justice system and treats all Member States on an equal footing. Whatever the model of the national justice system or the legal tradition in which it is anchored, timeliness, independence, affordability and user-friendly access are some of the essential parameters of an effective justice system.

The fourth edition of the Scoreboard from 2016 further develops a comprehensive overview of the functioning of national justice systems: more Member States have participated



## EUROPEAN UNION

in the collection of data; new quality indicators have been introduced, The 2016 Scoreboard reveals some positive signs in terms of efficiency of the justice systems.

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 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. Independency 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 should be avoided.

The fight against corruption in the judiciary and prosecutorial service is of great importance. The EU emphasizes the need to abide by the UN Convention against Corruption and other international standards, in particular by ensuring that independent mechanisms are in place to hold judges and prosecutors to account for corruption-related crimes. We recall the decisions on the fight against corruption adopted in the OSCE framework, including MC Decision 5/2014 on the Prevention of Corruption, which calls on all participating States to support measures to strengthen the integrity of the judiciary.

The EU attaches high priority to the involvement of civil society and other independent actors in oversight over judicial and prosecutorial services as a means to improve accountability.

Strengthening the rule of law is the 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 commends the efforts of ODIHR in providing technical support in the rule of law field, as a means of assisting States to comply with OSCE commitments regarding, inter alia, judicial independence. We also support ODIHR's monitoring activities, since the presence of impartial and objective observers during elections encourages States to comply with their



## EUROPEAN UNION

commitments in the area of rule of law. We also support ODIHR's efforts to promote democratic law-making: their analysis of national legislation provides valuable assistance that can benefit all states, including the EU Member States. The EU fully supported the development of the *Kyiv Recommendations on Judicial Independence in Eastern Europe, South Caucasus and Central Asia*, which link the accountability of judges with judicial independence.

We look forward to constructive discussions during the Human Dimension Seminar.

Thank you.



## EUROPEAN UNION

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#### EU Written Recommendations

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1. Participating States should involve all layers of society in law making processes, including civil society.
2. Participating States should make legislation accessible to all citizens. We call upon all States to work towards the Sustainable Development Goals and in particular Goal 16.
3. Participating States should respect the separation of powers, in particular, although not limited to, the separation between judicial power and executive power. We call upon all participating States to meet OSCE commitments to guarantee the independence of their judiciaries
4. Participating States should adhere to the UN Basic Principles on the Independence of the Judiciary.
5. Participating States, which are considering institutional and legal reforms, should seek the expert advice and technical assistance of ODIHR.