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A comprehensive approach to strengthening Rule of Law policy and instruments

The European Union represents a unique, broad, and deep cooperation between its member states. Its proper functioning is based on trust. This is also critical for strengthening competitiveness. Achieving a fully functioning single market and creating an investment-friendly environment is not possible without mutual trust.

For that trust to be maintained and strengthened, all member states must adhere to our common values, notably rule of law, democracy, and fundamental rights. All member states have of their own free will signed up to these values. However, unfortunately, reality has shown the need for an active rule of law policy.

In recent years, we have further developed our rule of law toolbox and put it to effective use. It now includes, among others, the Commission's annual Rule of Law Report, the Council's Rule of Law Dialogue between member states, the General Conditionality Regulation linked to all EU funds, and the horizontal enabling conditions of the Common Provisions Regulation. Moreover, rule of law related milestones have been included in the national Recovery and Resilience Plans, proceedings under Article 7 have been initiated, the Commission has made use of the infringement procedure, and the Court of Justice has developed EU case law.

The Commission plays a crucial role in protecting the EU's common values and the rights of EU citizens. We highly value the work of the outgoing Commission to safeguard and promote the rule of law.

President von der Leyen's speech in Strasbourg on 17 July and the Political Guidelines for the new Commission emphasised two fundamental elements: that strengthening the rule of law is a daily work and duty, and that respect for the rule of law is a must for EU funds.

On that basis, we urge the new Commission to pursue a comprehensive approach for the respect of rule of law. The foundation should be that upholding the rule of law is a general obligation for both current and future Member States.

Regarding specific instruments, experience clearly points in the direction of further linking the rule of law and the budget. We suggest starting there, while staying open to other good ideas.

1. Strengthened application of the General Conditionality Regulation for the protection of the Union Budget

The Conditionality Regulation is a new specific instrument that can already be applied to all EU funding. The Commission should continue to make full use of the regulation in protecting the EU budget against rule of law breaches, including corruption.

2. Cross-cutting conditionality linked to rule of law in EU funding programmes and instruments

Instead of listening to calls to weaken conditionality for administrative reasons, rule of law conditionality should be made stronger. Our taxpayers need to trust that the EU's common funds are used appropriately and responsibly. In addition to the general conditionality mechanism, a comprehensive approach should be applied to spending programmes.

Building on experiences from a performance-based approach, an efficient approach should be explored where funding is linked to rule of law conditions and necessary reforms. This would complement our toolbox and ensure a horizontally consistent approach to different spending programmes.

3. Wider protection of our common values in EU funding programmes and instruments

We must keep protecting the common EU values set out in Article 2 (TEU). To further strengthen this protection, currently included in the Common Provisions Regulation, it should also be explored how to broaden the current application and scope of the horizontal enabling conditions to encompass a wider range of policies by linking them to all the values mentioned in Article 2 TEU.

We could also explore how to broaden the application of horizontal enabling conditions. For example, there is currently no mechanism equivalent to the horizontal enabling conditions in one of our largest spending policies, namely common agricultural funds. We suggest it be explored how a mechanism could be constructed and made a general feature in all areas of the EU budget.

Finally, respect and commitment to promoting EU values is also essential for all partners who aspire to join the Union. In implementing the revised enlargement methodology, we should focus on fundamental reforms and apply fair and rigorous conditionality, as well as the principle of own merits and reversibility in case of setbacks. We should use appropriate tools to make sure that candidate countries show concrete and sustainable compliance with democracy, the rule of law and fundamental rights both before and after they join the EU.

Together we must do everything we can to ensure that the future enlarged Union is even stronger in terms of common values and the rule of law.